



**Cyfoeth
Naturiol**
Cymru
**Natural
Resources**
Wales

Annual Regulation Report 2016

Future Regulation Group
Evidence, Policy and Permitting Directorate

Report No 1

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Foreword

One of NRW's key roles is to apply the regulatory framework set by Welsh Government. We seek to do this in a way that minimises the administrative costs of regulation on legitimate Welsh business, and makes it as easy as possible for them to do the right thing.

Regulation has played an important part in reducing the quantities of waste and pollutants produced by Welsh businesses. It has helped reduce the number of serious pollution incidents to air, land and water, as well as improving the quality of inland and coastal waters in Wales.

We are working hard to protect the people and natural resources of Wales. We are also seeking to support Welsh businesses and sustainable growth while targeting illegal operators and poor performers.

This is our first annual regulation report. The data in it covers the calendar year 2016, with the exception of compliance and Industry Regulation data which covers 2014-15. The data used in the production of this report is extracted at a set point in time to help maintain a benchmark and preserve inter-year comparability. It is therefore the only data report that we will be producing this year relating to our regulatory activity.

I hope you find this report useful. We would welcome any suggestions for improvements, or the inclusion of other data in future reports if this is practicable.



A handwritten signature in black ink that reads 'Emyr Roberts'.

Emyr Roberts
Chief Executive

Executive Summary

Our purpose is to pursue sustainable management of natural resources in relation to Wales, and apply the principles of sustainable management of natural resources, in the undertaking of our functions, so far as is consistent with their proper exercise.

We have set out how we define regulation in the context of the sustainable management of natural resources and our regulatory principles to help the delivery of this.

We define the role of regulation and how this fits in with our purpose and the legislation being put in place by Welsh Government and builds on our already established regulatory principles and the overall legislative framework we operate under.

Our regulatory principles are:

□ **Deliver outcomes** □ **Be intelligent** □ **Prepared to challenge** □ **Use the full range of tools available** □ **Be flexible** □ **Bring the right skills / expertise together** □ **Be efficient and effective** □ **Be clear on what we do and why**

We explain how our regulatory principles define the themes for our delivery, which are:

- **Outcomes** - We show how effective delivery of regulation and legislation provides a vital foundation for the sustainable management of natural resources, and how long term resilience depends on raising standards by orders of magnitude;
- **Evidence** - We state that we will use regulatory evidence to drive our interventions and innovation, using European Networks and links with other regulators. We set out our position regards data requests from operators;
- **Understanding others** - We set out our commitment to work with and engage with others, through our established stakeholder groups and working with them on future policy changes;
- **Understanding ourselves** - We show the link between our approach and our core organisational values;
- **Tools** - We show how we will use the right regulatory intervention according to the circumstance.
 - We will work from the assumption that those we regulate want to comply with the law and that the responsibility rests on applicants and operators to demonstrate their compliance.
 - We will look to secure a body of clear, accessible and concise guidance materials and work with others to develop this.
 - We will be clear on what compliance means and we want to discuss with operators any problems that they may have in achieving this.
 - We will encourage and support improvement, and recognise those who are compliant.

- We will be clear on our enforcement and prosecution policy and be tough on those that simply ignore the law or take chances by avoiding compliance.
- We will work with the compliant operators to help us deal with the criminals and provide a level playing field;
- **Organisation** - We set out our commitment to have the right skills in place and that our staff understand the Regulators Code. We will work with others to access the right skills as we need them. We will fully recover our costs and ensure that the income from fees and charges is used only to fund formal regulatory activities. We will continue to work on our efficiency and effectiveness, and where possible we will minimise formal regulatory burdens and encourage compliance and growth;
- **Communication** - We state that we will be open and transparent, and use our Regulatory Service Standards. We are committed to develop our website as part of our wider development of our communications strategy;
- We will deliver the principles of good regulation.

Our current responsibilities provide us direct contact with some 1,700 industrial, waste and water sites across Wales. Since 2013 we have granted over 10,000 permits, 65,000 fishing rod licences, 480 tree felling licences and 100 marine licences.

One of the key challenges we seek to address is what is actually meant by regulation. We recognise that this means different things to different groups, but we believe that regulation is about doing something that makes a difference. This is not just about the law, it is broader than this and can include economic and voluntary tools, and the use of information and knowledge sharing. However, we recognise that we must be clear about where things are legally required, and where things are just a good, or the right, thing to do. This is something we aim to do, to help those we are involved with stay the right side of the law.

We must be clear, however, that where legal requirements exist, we are required to apply them. Complementary approaches are simply that – complementary. They cannot simply act as a replacement, where legal provision exist. We will continue to apply the requirements of the law.

Given this broad context for regulation, not all possible approaches can be defined for all circumstances. We have therefore looked to adopt a principles approach, and have defined a set of eight regulatory principles, which also reflect on the principles of sustainable management of natural resources and the ecosystem approach.

Our Regulatory Principles

1. Deliver outcomes

We will deliver outcomes, not just deliver regulation, seeking to deliver shared outcomes where we can.

This ensures that the work we do is rooted in the delivery of outcomes. This clarifies the role of regulation as a tool in the delivery. This allows us to consider outcomes reflecting on societal choice and how we all would want our natural resources and ecosystems to function and be resilient.

For example, by looking at area-based approaches (Area Statements) to deliver the outcome of sustainable management of natural resources, we can through trials understand the most effective way to utilise our and others skills and knowledge. The delivery of such an outcome would provide benefits for the people, environment and businesses of Wales.

2. Be intelligent

We will use all available evidence and will ensure the data we collect contributes to the evidence to inform action to deliver outcomes.

We will ensure that we collect and use data efficiently, seeking this only once wherever possible. We will apply where possible Geographical Information Systems (GIS) principles and use the data collected to deliver action informed by intelligence. This will encourage the use of new types and sources of data, using it with problem solving techniques to create knowledge. Using broad evidence (knowledge, information and data), including that in the State of Natural Resources Report (SoNaRR), will help inform risk based approaches, and highlight the priority areas for action.

3. Prepared to challenge

We will challenge and address barriers where they don't contribute to the outcome.

By reviewing the effectiveness of the delivery of outcomes, we will be encouraged to challenge the way we work and how we deliver. This also looks to encourage us to identify and highlight potential barriers to delivering outcomes, and look for ways to remove these.

4. Use the full range of tools available

We will apply a wide range of tools, including the law to deal with those who act illegally, to protect honest business, society and the environment.

We will access an extensive toolkit. We will understand the effectiveness of the tools and in what context and when they are best applied. Such tools won't necessarily be limited to legal (formal regulatory) approaches. We will use specific legal tools where the circumstances justify, and where this is the right thing to do.

5. Be flexible

We will be flexible and tailor the approach to the needs of the recipient.

This encourages us to engage and collaborate, and seek to achieve a common understanding of what needs to be done using a wide range of tools, including the use of market mechanisms. Continued and prolonged engagement may instil commitment from those involved to make things happen for wider benefit. We will therefore need to understand the interests and motivations of those we meet. We will engage in conversation, develop mature relations, and avoid simply instructing. We will however still need to recognise that for some, there will be a need for more help and support than for others. We will tailor appropriately, giving thought to those we engage with, considering factors such as behaviours and knowledge, and for businesses we will need to understand their size, skills and capacity. We will look to foster innovation and novelty and be less bound by historical process or old geographical boundaries.

We will think about the spatial scale and timescale for our actions, and what the most appropriate level and time to do things might be. This will encourage us to think about when to act and look at where early intervention or prevention may deliver better outcomes. Being flexible will also allow us to manage and recognise the inevitability of change.

6. Bring the right skills / expertise together

We will ensure we have the skills to use the right tools or work with those who do.

We will work with others when their skills and tools will deliver the best outcome. This includes looking at the tools others possess and assessing if they would enable us to be more flexible and effective. When using our own tools, we must ensure that our teams have the right skills to apply them efficiently and effectively. We will also ensure that we have access to the right skills and knowledge so we can understand others and engage with them effectively.

7. Be efficient and effective

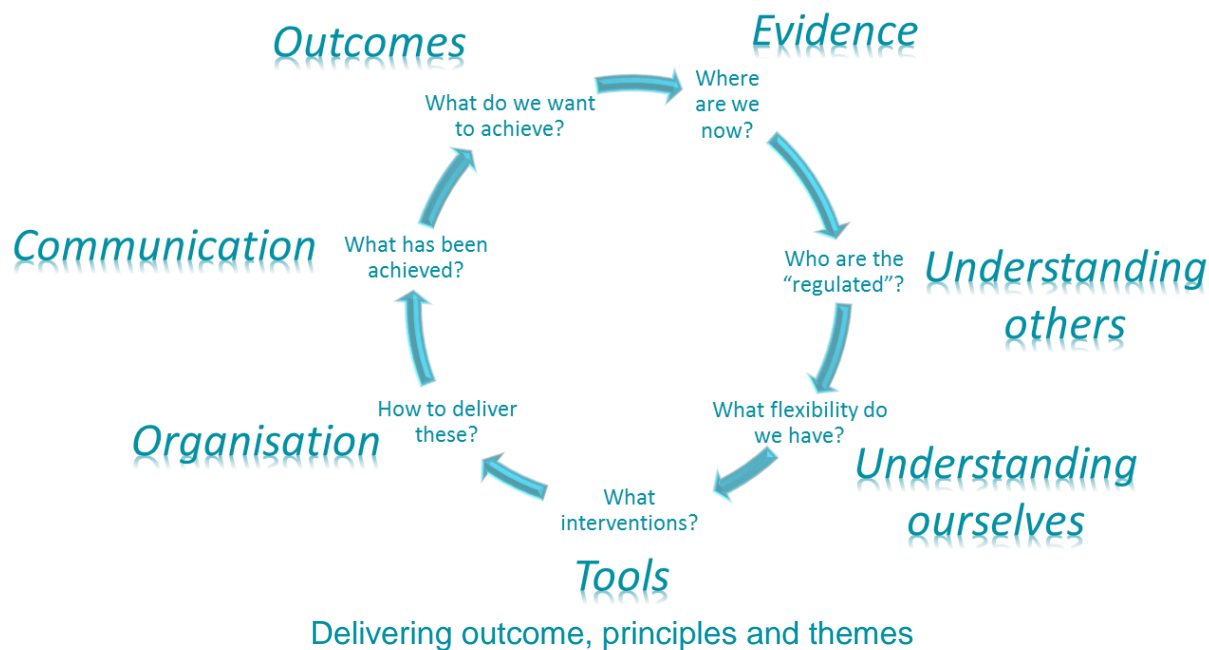
We will deliver in an efficient and effective way, working with others where we can, and where this is a good thing to do.

We will clearly explain what our standards of service are, and how we will measure our effectiveness and efficiency. We will be clear as to how and where we spend our income, and ensure there is the correct balance between costs to business and costs to the tax payer.

8. Be clear on what we do and why

We will ensure everyone understands our role in such a way that it is easy to see the link between what we are doing and why.

We will clearly explain what we do, and why, in a language and style that means something. This will provide for openness and transparency and, where we consult, clarity on how this can inform our decision making.



We will not, and will never be able to do all the possible things that may be asked of us. We therefore need a mechanism which provides a way for us to prioritise our work. One such mechanism is to look at the risks associated with not intervening and looking to undertake some form of formal or informal regulation to mitigate these. We remain committed to taking a risk based approach, but also recognise that this approach needs to be undertaken in the context of sustainable management of natural resources. We therefore need to develop our risk approach further, which historically focused on environmental risks in isolation to other social and economic risks. This will form part of our evidence base for the approaches we take.

This is not about weakening the necessary formal regulation for issues of high risk, but a mechanism to help identify where the priorities are, and where the most effective interventions can be deployed in the most efficient way, using public money and income from those we formally regulate.

Many of our formal regulatory activities take this into account, but we will be extending this to activities that do not yet fully apply this. Our risk based approach needs to be consistent across our formal regulatory activities, so we can target activities presenting the greatest risk. We will review and revise our approach to risk, and ensure that decisions around this are consistent across all the legislative regimes and geography.

Permitting

We work from the basic assumption that those we regulate want to comply with the law, and that their applications for permits and subsequent actions responding to permit conditions are intended to achieve this. This places responsibility on applicants and operators to demonstrate their compliance. Some may need help with this, and we have an important role in helping applicants and operators secure compliance.

Permitting Service

Our Permitting Service consists of nine different regimes, they are; Species Licensing, Felling Licensing, Regulated Industry, RSR, EUETS, Marine Licensing, Waste, Water Quality and Water Resources.

We have 59 different application types. In 2016 we issued a total of 3992 applications. A total of 250 applications were not issued; 68 were returned, 132 were withdrawn, 26 were refused, 22 were returned as not duly made, two were deemed withdrawn/returned.

In 2016 we were informed of four appeals results. The appeals were lodged against our decisions to refuse or not determine licence/permit applications. One appeal was withdrawn and three were dismissed.

Statutory and Service level timescales on our permit applications and licences range from four months for a Bespoke Permit to 10 working days for a Water Quality Herbicides Simple application. A full list of our statutory and service level timescale can be found on our website.

Compliance

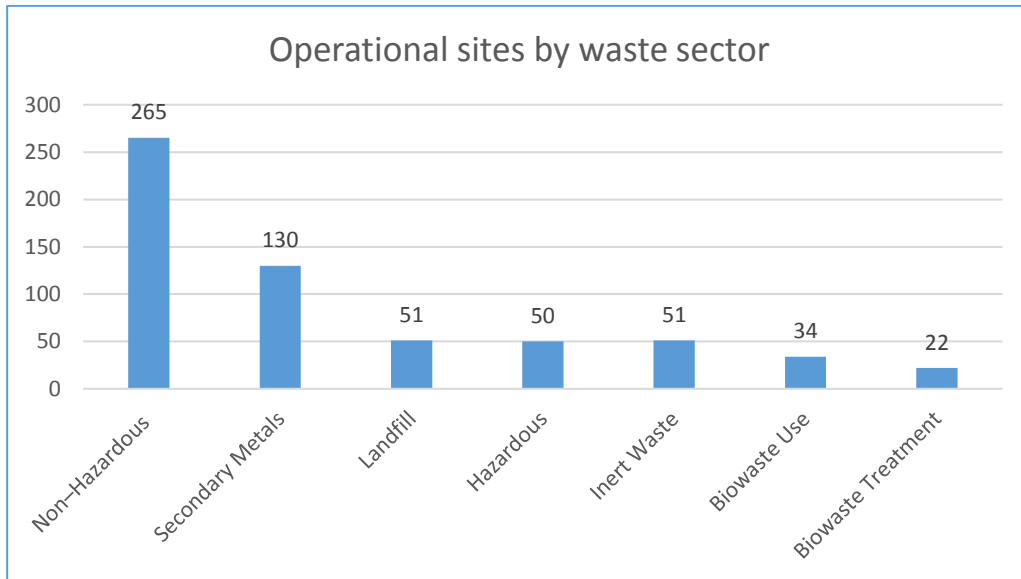
Operator Performance at Permitted Waste Sites

We believe that showcasing good performance in the regulated waste sector and identifying levels and reasons for poor performance will help us further target and address some of the root causes of poor performance and help us sustain and support those businesses that support our aims.

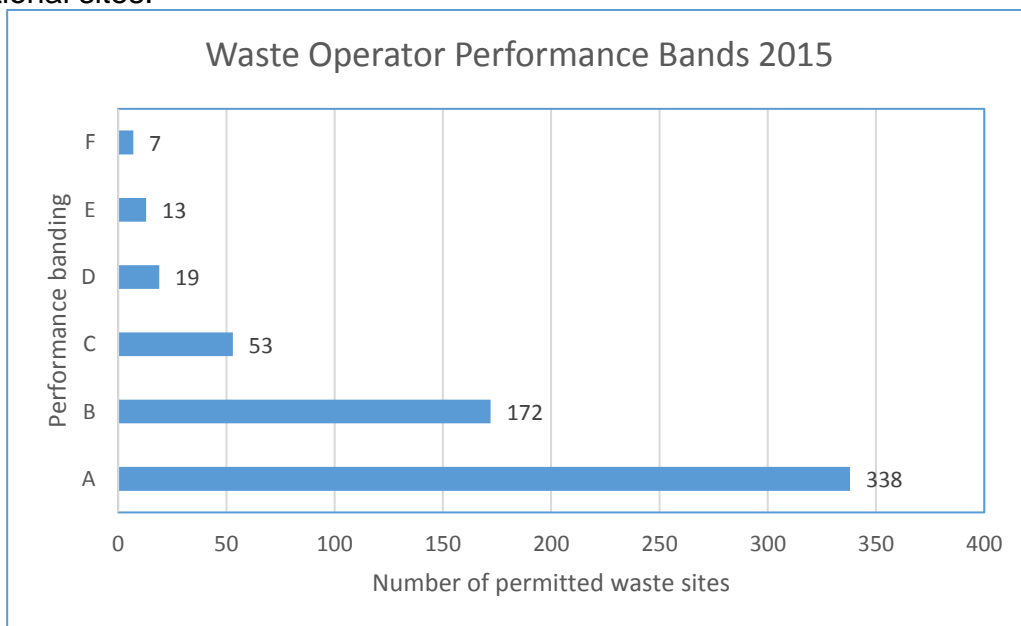
This report looks at permitted waste facility performance in 2015. We have reviewed and assessed data for all types of waste regulated facility and includes both waste operations and installation permits but does not include Waste to Energy facilities. The performance assessment focuses on Operational sites only. There are a number of permits listed within our data systems that are non-operational for various reasons.

There are 761 permitted waste facilities in Wales. Of these 603 are operational. Those that are classified as non-operational may be facilities where no operational waste activities have commenced or the facility has closed. Of the operational facilities 543 have waste operations permits and 60 have waste installation permits. The operational permits in 2015 fall into the following waste sectors:

Sector/Sub-Sector	Total Operational Permits
Non-Hazardous Waste (Storage and Treatment)	265
Secondary Metals	130
Landfill	51
Hazardous Waste Treatment (Storage and Treatment)	50
Inert Waste (Storage and Treatment)	51
Biowaste Use	34
Biowaste Treatment	22



Overall performance is shown for operational sites in the graph below. It indicates that as a total of operational sites poor performance is relatively low 6.5% of operational sites.



It is important that we continue efforts to reduce the number of D, E and F performers in Wales. Poor performance has many impacts including on the environment, communities, reputation of a sector and legitimate waste business. Poor performers are considered to pose a greater risk of incidents that consume a large amount of our resources. Poor performers are also resource intensive in terms of our regulatory effort.

All D, E and F sites have to have a compliance plan in place that details time limited actions agreed with the regulator to ensure that sites work towards improving their performance. In Wales all of the D, E and F sites identified in 2015 had an action plan in place and the majority of them have been subject to enforcement action.

Throughout the 2015 compliance year we have recognised that improvements can be made in many areas and we are always seeking a better understanding of our compliance landscape and what can shape this.

Case Study – Waste Operations

Whilst we were regulating a non-hazardous waste treatment site located in North Wales, it was apparent to us that the operator was struggling to comply with their permit conditions due to the poor site infrastructure and their management of the site.

Our officers worked with this operator to try to improve the situation, however after several failed advice and guidance attempts, we took enforcement action against the operator in order to minimise the risk to the local environment. The operator was subsequently prosecuted and the court ordered them to comply with their permit. During this time, the operator decided to sell the site to a local Waste Management company that had the assets and experience needed to operate the site. We saw this as an opportunity to work with the new operator in order to enable them to comply with the site permit from day one. This resulted in a poor performing site becoming a compliant site and the infrastructure being vastly improved, allowing for a competitive and thriving waste business and greatly reducing the risk to the local environment.

The site continues to perform well and the relationship with the new operator remains good. We have learned that engaging with new operators at the earliest possible opportunity can achieve results without the need for enforcement action. The photographs below show the site before and after.



Before



After

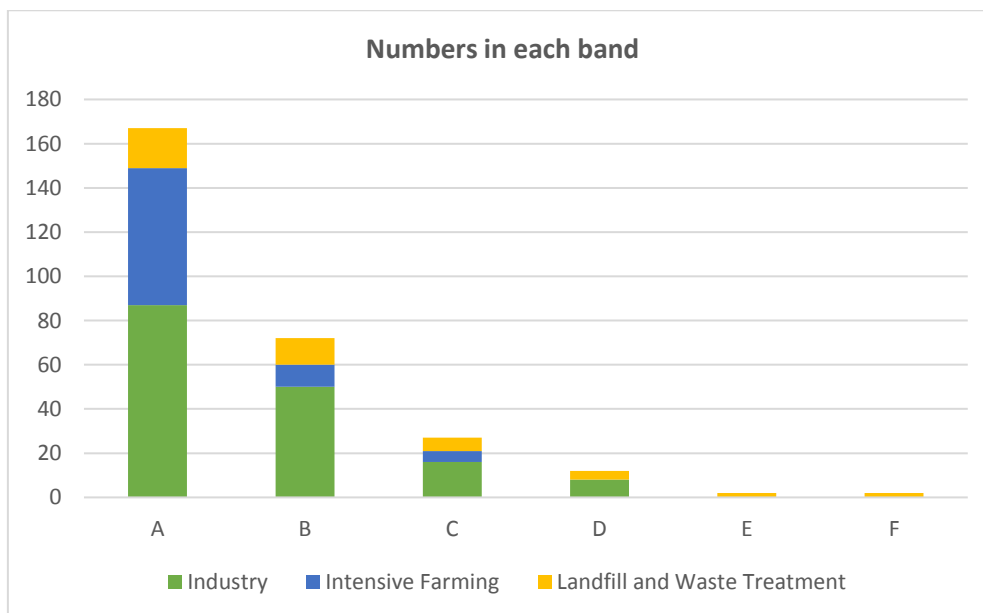
Operator Performance at Industry, Radioactive Substances and Intensive Farming Sites

We regulate just over 200 industrial sites and a further 77 intensive agriculture sites under Schedule 1, Part A (1) of the Environmental Permitting Regulations. In addition approximately 100 sites holding permits for non-nuclear radioactive sources are regulated, and NRW is joint Competent Authority with the Health and Safety Executive for 78 sites falling under the Control of Major Accident Hazard Regulations, (COMAH).

COMAH sites are regulated in a different way as there is no permit to regulate against. Officers work with the HSE to assess the site's safety report and progress against any recommended actions. There is also a rolling programme of emergency exercises to test the Higher Tier COMAH sites' off site plans which officers will be involved with. COMAH sites will not be looked at in any further detail.

Regulation includes assessment of emissions monitoring and other reports submitted by operators, as well as site inspections and audits. Under the Industrial Emissions Directive permitted sites must be inspected at risk based frequencies with the highest risk being visited annually and the lowest risk every three years.

Looking at all 282 sites, including landfill, waste treatment and intensive farming, 167 sites were Band A performers. This represents 59% of the EPR Schedule 1 sites regulated. However, 16 sites were in Bands D, E and F – 6% of sites. The following chart illustrates the distribution of sites in each band.



Intensive Farming

There are 77 intensive poultry farms in Wales falling into Schedule 1 of EPR. These are regulated by the local Natural Resource Management teams. 65 of these sites are members of the Farm Assurance Scheme which involves an annual audit by an accredited auditor, external to NRW. Achieving a Band A or B score from these audits entitles these sites to reduced subsistence fees. NRW officers carry out inspections every three years with an on-going inspection programme continuing for 2017-18. 15 sites had non-compliance recorded against them following Farm Assurance audits in 2015 and follow up work is planned.

Radioactive Substances

There are 94 sites in Wales holding Environmental Permits to hold non-nuclear radioactive sources on site. 58 were inspected during 2015 under a risk based programme where the highest risk sites are visited annually and lower risk sites visited either every 2 or 4 years.

Security of radioactive sources is an important aspect of this inspection work and officers work closely with the Counter Terrorism Security Advisors to ensure that sites maintain their security standards.

Although no non-compliance was identified at 83% of the inspected sites, two sites are in B and D which is concerning for this sector. Several sites have more than one permit, but for the purposes of this report the data is limited to site information.

Industry

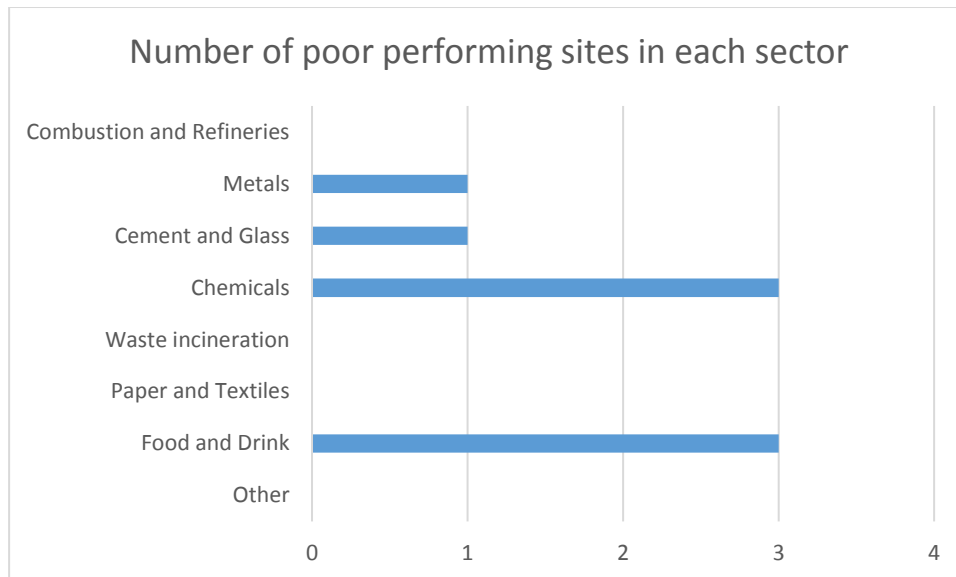
There are 161 sites holding Environmental Permits for industrial Schedule 1 activities falling into 6 sectors as listed in the Environmental Permitting Regulations, and "Other" which includes gas utilisation plants, directly associated activities and a carbon activity.

The varied nature of the sites regulated makes it difficult to compare sectors against each other. The cement and glass, paper and textiles, and waste incineration sectors have very few sites so cannot be looked at in any statistical way. The chemicals sector appears to have a high proportion of band A sites, but this is partly a reflection of the nine low impact sites it contains which need a low level of regulatory input.

Of the sectors with larger numbers of sites, combustion and refineries was the best performing sector with 75% of sites in Band A; metals and surface treatment had the fewest band A sites at 28%.

Poor performing Sites – Industry Regulation

There were no sites in bands E or F in any industrial sector in 2015, and only 8 in band D, meaning that only 5% were categorised as “poor performers”.



The reasons for poor performance varied within and between the sectors. Two of the chemicals sites had incidents resulting in emissions to air which were assessed as Category 2 – significant. Two other Category 2 non-compliance assessments were made, one in the metals sector where a site failed to dispose of hazardous waste correctly, and the other for a site in the food and drink sector which caused a significant odour off-site. Appropriate enforcement action is being pursued for these incidents. The remaining four poor performers had sufficient non-compliance events assessed at Category 3 to take them into Band D.

Improving Sites – Industry Regulation

Two sites improved significantly during 2015 moving from Band E to Bands B and C respectively. One other moved from Band D to Band C. These improvements can be attributed to officers working with operators to ensure that action was taken when non-compliant issues were identified.

During 2015 there were more poor performing industrial sites than the previous year, although none were in Bands E or F. The reasons for poor performance varied, two sites suffered incidents where emissions could have caused an impact off site; others had multiple issues that cumulatively put the site into Band D.

The common factor between all was a failure in management to ensure that the permit conditions were met.

The best performing sites tend to have good environmental management systems which are incorporated into the general management system for the site, so procedures take into account the permit requirements.

There were a significant number of breaches of administrative permit conditions such as submitting monitoring reports on time or notifying emission limit breaches within the specified time. The reasons for these may be lack of awareness or training, but again the root cause is management. Many more sites would be Band A performers if they complied with these conditions.

Water Industry Regulation

We are currently not able to provide data for 2016 in this report, we have set up a Water Technical Group and are developing a system for reporting our Water Industry Regulatory Work which will be included in future annual reports.

Enforcement

We will ensure that our enforcement and prosecution policy is regularly updated to reflect our understanding of the behaviours of those we regulate, and what can be done to bring them into compliance.

At the extreme end of compliance are those that simply ignore the law, or take chances by avoiding compliance. We recognise that those that actively ignore the law have an impact, not just on people and the environment, but also by damaging the competitiveness of legitimate businesses and their ability to grow. Therefore, it is not just in our interests to eliminate these, but also in the interest of other legal business. There is a clear role (and benefit) for the compliant to help us deal with criminals, and we will actively seek this support and help. We will also work with other law enforcement agencies, as criminals are likely to be ignoring more than just environmental law.

Enforcement means any action we take where we suspect an offence has occurred or in some cases is about to occur. This may range from providing advice and guidance, serving notices through to prosecution, or any combination that best achieves the desired outcome.

In some cases, under the Environmental Damage Regulations 2009, enforcement action may be required in the absence of any suspected offence, but in most cases an activity that leads to 'environmental damage' under the Regulations will also constitute an offence under environmental legislation.

Within this overall approach, where an offence has been committed and the delivery of advice and guidance has not or will not achieve the necessary outcome, we will normally consider issuing some form of sanction as well as taking any other preventative or remedial action necessary to protect the environment or people. We aim to use civil and criminal sanctions in a manner that is appropriate to the offence, as described in our Guidance on Enforcement and Sanctions.

The options we have available include: providing advice and guidance, issuing a warning; statutory enforcement notices and works notices; prohibition notices; suspension or revocation of environmental permits variation of permit conditions; injunctions; carrying out remedial works; civil sanctions; other civil and financial sanctions including Fixed Penalty Notices; issuing a formal caution; prosecution and orders ancillary to prosecution; and sanctions used in combination.

Accountability means that we take responsibility for our decisions and will justify them where appropriate. Our notices and enforcement and sanctioning paperwork include relevant information on how to appeal and complain. We will support periodic Government reviews of our regulatory and enforcement activities and we will report on our enforcement and sanctioning activities as required by legislation.

Enforcement Undertakings

In Wales the Environmental Civil Sanctions (Wales) Order 2010 and The Environmental Civil Sanctions (Miscellaneous Amendments) (Wales) Regulations 2010 came into force on 15 July 2010. The Order permits Natural Resources Wales as a regulator to impose civil sanctions in relation to offences specified in Schedule 5 of the Order. It sets out the procedure relating to the sanctions such as the provisions for non-compliance, administration costs, appeals and a requirement to provide guidance. The Regulations amend a number of other Statutory Instruments which permits the regulator to impose specified civil sanctions in relation to breaches of those regulations. Civil sanctions are not meant as a substitute for the criminal law but are intended to provide a more proportionate, more effective approach for operators who are generally compliant, with criminal prosecution remaining available for the most serious offences.

Although civil sanctions in the Order have transferred to Natural Resources Wales, civil sanctions are not currently available for legislation formally administered by the Countryside Council for Wales or Forestry Commission Wales. NRW have recently been audited, by the Better Regulation Delivery Office, against its implementation of the Regulators Code. The audit established that NRW are a competent regulator and therefore retained its access to continue to use civil sanctions

Civil Sanctions are available for certain sections of the following legislation;

- Salmon and Freshwater Fisheries Act 1975
- Salmon Act 1986
- Environmental Protection Act 1990
- Water Resources Act 1991
- Water Industry Act 1991
- Land Drainage Act 1991
- Environment Act 1995
- Water Act 2003
- Sludge (Use In Agriculture) Regulations 1989
- Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (England and Wales) Regulations 2000
- Hazardous Waste (Wales) Regulations 2005
- Producer Responsibility Obligations (Packaging Waste) Regulations 2007

Civil Sanctions are dealt with using the following types of notices or penalties

Compliance notice - A regulator's written notice requiring actions to comply with the law, or to return to compliance within a specified period, to secure that offence does not continue or recur

Restoration notice - A regulator's written notice, requiring steps to be taken within a stated period, to restore harm caused by non-compliance, so far as possible.

Fixed monetary penalty - A low level fine fixed by legislation that the regulator may impose for a specified minor offence.

Enforcement undertaking - An offer, formally accepted by the regulator, to take steps that would make amends for non-compliance and its effects.

Variable monetary penalty - A proportionate monetary penalty which the regulator may impose for a more serious offence.

Stop notice- A written notice which requires an immediate stop to an activity that is causing serious harm or presents a significant risk of causing harm.

As a result of relevant Environmental offences being committed we have been offered Enforcement undertakings on 18 occasions by the offender or their legal advisor. Out of these 14 were accepted, 3 were rejected and 1 is still under assessment.

Once an offer is received it is assessed by the investigating Officer and Legal Services and a recommendation is made to the Local Enforcement Panel before endorsement by the Wales Enforcement Panel.

Out of the three that were rejected, 2 were rejected due to the offender's previous enforcement history and 1 because it was for an offence not covered by civil sanctions and specifically enforcement undertakings.

Of the 14 accepted cases 6 cases were for offences under the Producer Responsibility (Packaging) regulations 2007, 1 was for an abstraction offence under the Water Resources Act, but the majority of cases (11) were under Section 4 of the Salmon and Fresh Water Fisheries Act 1975, essentially for river pollution incident that either killed or harmed fish or food for fish.

In these 11 cases the primary offence was committed under Regulation 38 (1) (a) of EPR 2010, for which there are no civil sanctions available to NRW. However in these cases, evidence from the investigation was obtained that showed harm to fish, and therefore an offer of an enforcement undertaking could be made and accepted.

As a result of these cases being dealt with by way of an enforcement undertaking NRW has received £28,058.79 in recovered costs and has agreed charitable donations of £245,626.49.

This money has been divided between 20 different organisations in Wales, 5 Wildlife Trusts, 9 Rivers Trusts, 2 Hospices, 2 Angling Clubs, 1 Canal Trust and one school PTA.

We have issued six Notices of Intent to Issue a Fixed Monetary Penalty. One of these was subsequently withdrawn. The other five were paid prior to the Fixed Monetary Penalty being issued. Paying under the Notice of intent stage means that the recipient pays half the amount of the penalty. Therefore we received 2 x £150 from two companies and 3 x £50 from three individuals.

Enforcement Undertakings

Case Reference Number	Proactive / Reactive	Offender Name	Type of Offender	Offence		Date Accepted or Rejected (date form returned to offeror) - Information/Updates	Charity Donation	Recipient (Where restoration from the alleged offence(s) is not possible, action that will secure equivalent benefit or improvement to the environment.)
				Act	Section			
W/SE/WDC/12/1454	Reactive	Celsa Steel Service UK Limited	Company	Producer_Responsibility_Obligations_Packaging_Waste_Regulations_2007	regulation 40(1)(a)	Registered with Valpak Compliance Scheme & Nominated person to oversee compliance	£1,800.00	Gwent Wildlife Trust
W/SE/DQC/13/1589/V2	Reactive	John Liscombe Limited	Company	Producer_Responsibility_Obligations_Packaging_Waste_Regulations_2007	regulation 40(1)(a)	Registration with Valpak Compliance Scheme and adoption of robust methodology for calculation of packaging calculations	£9,000.00	Gwent Wildlife Trust
W/SE/DQC/13/1597	Reactive	The Authentic Curry Company Limited	Company	Producer_Responsibility_Obligations_Packaging_Waste_Regulations_2007	regulation 40(1)(a)	Registration with Compliance Scheme and adoption of robust methodology for calculation of packaging calculations and reminders	£3,356.02	Brecknock Wildlife Trust
W/SH/EM/3/14/58	Proactive	Team Precision Assemblies Limited	Company	Salmon and Freshwater Fisheries Act 1975	section 4	Stopped all discharges. Implemented action plan to rectify problem and resolve long term problems with robust countermeasures	£2,500.00	Carmarthenshire Rivers Trust
W/SE/15/1718	Proactive	Clarks UK Limited	Company	Producer_Responsibility_Obligations_Packaging_Waste_Regulations_2007	regulation 40(1)(a)	Registered with compliance scheme and implemented a spreadsheet to calculate obligation for future years.	£2,798.64	Ty Hafan Children's Hospice
4209	Reactive	P B Gelatins	Company	Salmon and Freshwater Fisheries Act 1975	section 4	Undertook repair works. Improvement work to effluent pumps. Daily checks of pump performance and condition. Undertook a full drain survey.	£20,000.00	South East Wales Rivers Trust
4197	Reactive	Dwr Cymru (Afon Gwilli)	Company	Salmon and Freshwater Fisheries Act 1975	section 4	Full environmental survey undertaken. Telemetry alarms fitted. Storage tank on regular cleaning schedule. Clean up of waterbody.	£12,500.00	Afonydd Cymru
3992	Reactive	Langdon Mills Farm	Company	Salmon and Freshwater Fisheries Act 1975	section 4	Employed consultant to review actions already put in place and recommend any further action.	£5,000.00	Pembrokeshire Rivers Trust
3960	Proactive	Rhug Estate	Company	Salmon and Freshwater Fisheries Act 1975	section 4	Not to undertake work in the future without NRW permission in the future	£750.00	Corwen and District Angling Club
4354	Reactive	Dwr Cymru (Ty Gwyn)	Company	Salmon and Freshwater Fisheries Act 1975	section 4	Carried out remedial works	50,000 (10,000) & 20,000	£40,000 to Welsh Dee Trust, £10,000 to Wrexham and District Fly Fishing Club, £20,000 to North Wales Wildlife Trust
4355	Reactive	Dwr Cymru (Alwen WTW)	Company	Salmon and Freshwater Fisheries Act 1975	section 4	Improving and upgrading of works. Changed from aluminium coagulant to an iron based coagulant. Sludge in the lagoon was removed.	5,000 & £27,000	£5000 to Welsh Dee Rivers Trust & £27,000 to the Marine Conservation Society
4412	Proactive	Glasnant Morgan	Individual	Water Resources Act	Section 24/25		£0.00	Improving the habitat in the river by reducing the gradient leading up to the impoundment and creating pools for fish to rest in as they make their way upstream. This will be achieved by repositioning large stones which are already on site
4039	Proactive	Hempel UK Limited	Company	Producer_Responsibility_Obligations_Packaging_Waste_Regulations_2007	regulation 40(1)(a)	Registered with Veolia Compliance Scheme.	£2,436.88	Monmouthshire & Brecon Canal Trust
7390	Proactive	Heatpak Limited	Company	Producer_Responsibility_Obligations_Packaging_Waste_Regulations_2007	regulation 40(1)(a)	Registered with Compliance Scheme and created the role of Compliance Manager	£3,130 & £3130	Osbastoc CiW School PTFa & Hospice of the Valleys
7627	Proactive	Richard Williams`	Individual	Salmon and Freshwater Fisheries Act 1975	section 4	Stream diverted. Any future works will be sanctioned in advance by NRW	£11,500.00	Meet the costs of construction of a fish pass

Our Data

Our Contravention, Offence, Legal, Information and Notification System (COLINS) is a new online IT system which was developed to replace the legacy systems that were in place until January 2016. All our staff that investigate potential offences or have a specific permitting role within the Customer Care Centre now use the new system

COLINS as a system is still in its infancy and it is to be expected that there are a number of teething issues, we have undertaken a review and have identified a number of learning issues with the system. We are working to improve on these and we expect that the 2017 Regulators Report will be able to provide a more detailed picture of our enforcement activity.

In 2016 we recorded 538 Regulatory contraventions on COLINS, of this 538 records 64.8% relate to waste and water regulation, 10.6% relate to fisheries and shell fish regulation and 15.8% of the records have no charge identified (but from the information reported are likely to be either waste or water regulation), 4.3% of cases are Wildlife and Countryside offences and 2.8% are attributable to Forestry offences

Regulatory Contravention	Total
The Control of Pollution (amendment) Act 1989	2
Environmental Permitting Regulations 2010 (Waste offences)	199
Environmental Permitting Regulations 2010 (Water offences)	61
Environmental Protection Act 1990 (Waste offences)	65
Forestry Act 1967	15
Salmon and Fresh Water Fisheries Act 1975	48
Sea Fisheries (Shellfish)1968	9
Silage, Slurry and Agricultural Fuel Oil Act 2010	2
Water Resources Act 1991	22
Wildlife and Countryside Act 1981	23
EU ETS (Emissions Trading System)	3
Nitrate Vulnerable Zone	1
Producer Responsibility Regulations (Packaging)	1
Transfrontier Shipment of Waste Regulations 2007	1
Hazardous Waste Regulations 2005	1
No Charge Identified	85
Total	538

Enforcement Outcomes

The information provided below **shows** our enforcement outcomes from 1st January 2016 until 31st December 2016. A number of cases will have commenced before 2016 but were completed within the year, there will also be cases that were commenced during 2016 that are either still under investigation or in the court system, and these will be recorded in our 2017 report.

No Further Action

Any case that was investigated and found to be unsubstantiated, or that an offence had occurred but there was either no identifiable offender or insufficient evidence found will be recorded as no further action.

NO FURTHER ACTION 2016	
Total number of cases	40
Total Number of Offenders	58
Total Number of NFA	60

Advice and Guidance

We aim to provide advice and guidance to assist an operator or individual to come back into compliance at any point. In the context of enforcement we will normally provide advice and guidance after an offence is committed or where we consider that an offence is likely to be committed. Where we provide compliance assistance of this type it is without prejudice to any other enforcement response that may be required. This compliance assistance may be either verbal or written, but will be recorded. In the event of continued or further non-compliance(s) this may influence the subsequent choice of response.

We will also seek, where possible, to achieve a lasting solution to the problem that caused offences to be committed

ADVICE AND GUIDANCE 2016	
Total number of cases	94
Total Number of Offenders	107
Total Number of A&G	153

Fixed Penalty Notices

A Fixed Penalty Notice is a financial penalty for an offence, imposed by the regulator, which if unpaid can be dealt with by way of prosecution in the criminal courts. FPNs are available to us for a limited number of offences. Where a Fixed Penalty Notice is served, payment of the penalty discharges the liability. Where this happens a record of the payment of the FPN will be kept and treated in the same way as a record arising from a warning.

Where a Fixed Penalty Notice is imposed by us but not paid, the recipient will normally be prosecuted for the original offence.

FIXED NOTICE 2016	
Total number of cases	17
Total Number of Offenders	20
Total Number of Notices Sent	22

Other Civil Sanctions

Certain schemes impose specific civil penalties for specific offences. In the EU Emissions Trading Scheme, both in relation to stationary installations and aviation, the legislation sets out civil penalties in the form of financial penalties.

In the Carbon Reduction Commitment (CRC) Energy Efficiency Scheme, the legislation sets out various civil penalties, in the form of financial penalties, publication of breach, determination of an annual emissions figure, the requirement that extra allowances be surrendered, placement at the bottom of the performance league tables and blocking of a registry account.

In both of the above schemes, the level of the financial penalties is generally set out in the legislation. For certain penalties, the imposition of the penalty is mandatory. For others, a power is given to waive or modify the penalty but only in accordance with the limited discretion set out in the legislation.

GREENHOUSE GAS EMISSIONS 2016	
No. of Charges	3

Warning

A warning is a written notification that we believe an offence has been committed. The notification can be either a warning letter or a site warning that is normally issued on-site or otherwise as a result of a compliance visit to a permitted site or activity.

It will be recorded and may, in the event of further non-compliance, influence subsequent choice of sanction.

WARNINGS 2016	
Total number of cases	90
Total Number of Offenders	100
Total Number of Warnings	113

Formal Caution

A formal caution is the written acceptance by an offender that he has committed an offence and may only be used where a prosecution could properly have been brought. To this extent it differs from a formal warning as described above, which is simply a record and warning about an offence that has been or may be committed. The formal caution is a formal recorded criminal sanction which will be produced in court if there is further offending. It differs from the imposition of a civil sanction as the circumstances which led to the offence have been considered to be appropriate for a prosecution and, indeed, a repetition of similar offending would be likely to lead to such a response.

Formal cautions are intended to be a specific deterrent to an offender and are suitable for cases where, although a prosecution could be initiated, other factors mitigate against this. We must however consider the test under the Code for Crown Prosecutors, namely whether there is sufficient evidence and also the public interest factors involved.

Where a formal caution is not accepted we will normally prosecute for the original offence.

CAUTIONS 2016	
Total number of cases	50
Total Number of Offenders	59
Total Number of Charges cautioned	75

Prosecution

The sanction of prosecution is available for all criminal offences by law. The legislation which establishes the penalty provisions gives the courts considerable scope to punish offenders and to deter others. In some cases imprisonment and unlimited fines may be imposed.

Where we decide that a criminal sanction is appropriate we will assess the case in accordance with the requirements of the Code for Crown Prosecutors before commencing a prosecution.

We recognise that prosecution is a serious matter which should only be embarked upon after full consideration of the implications and consequences.

Where it is decided that a prosecution is the most appropriate choice of sanction, we must meet the test set out in the Code for Crown Prosecutors, to determine whether there is sufficient evidence and be satisfied that the prosecution is in the public interest.

PROSECUTIONS 2016				
Outcome	Guilty	No Evidence Offered	Proved in Absence	Grand Total
No. of Charges	90	34	18	142
Fines	£208,136.00	£0.00	£31,385.00	£239,521.00
Costs Awarded	£104,628.60	£0.00	£9,248.00	£113,876.60
Victim Surcharge	£3,682.00	£0.00	£547.00	£4,229

Orders imposed by the Court ancillary to prosecution

The Code for Crown Prosecutors requires us to apply for compensation and ancillary orders, such as anti-social behaviour orders and confiscation orders, in all appropriate cases. Listed below are the ancillary orders that a court may make following a conviction:

Disqualification of directors;

The court has disqualified two directors.

Confiscation of assets - Proceeds of Crime Act 2002;

See table below

Anti-social behaviour orders;

No orders have been made by the court.

Forfeiture of equipment used to commit the offence;

The court have ordered forfeiture in one case.

Disqualification from driving;

None.

Compensation;

See Proceeds of Crime 2002 tables below.

Vehicle seizure;

None.

Remediation – under the Environmental Permitting Regulations.

The court has made two orders under Regulation 44 Environmental Permitting Regulations 2010.

We may also consider a person's competence to be the holder of some Environmental Permitting Regulation permits or the desirability of a person continuing to be a registered waste carrier or broker.

Proceeds of Crime (Asset Recovery Incentivisation Scheme-ARIS)

NRW is what is known as a PoCA enabled body, this means that we are a public body directly involved as an investigator, prosecutor and enforcement authority and as such we are allowed to make an application at the crown court for a confiscation order. The expression 'confiscation order' is a misnomer as the order itself does not confiscate any property but, instead, requires the defendant to pay over a sum of money. This sum is termed the 'recoverable amount'. This will be either (a) the full amount of what the court has found to be his benefit from his criminal conduct or (b) the value of the defendant's remaining assets called the 'available amount'. Confiscation is only available upon conviction of the defendant after plea or trial.

All our asset recovery confiscation receipts are remitted directly from the courts to the Home Office which pays us back up to 37.5% of the recovered sum. The Government immediately retain 50%. The payment is made in the financial quarter following the date of the receipt of the recovered funds. E.g. money paid into court funds during January, February, March of 2015 (being quarter 4 of the financial year) are not in fact received by the designated body, NRW, until the end of quarter 1 of the following financial year, i.e. June 2015. The remaining 12.5% share is received by the courts service for enforcement purposes.

We are encouraged to re-invest incentive monies in asset recovery activity or increasing financial investigation capacity. The Home Office requires agencies to account for their spending in this area. Any monies not spent are required to be returned to the Home Office.

As this is our first Regulation Report the last three financial years of confiscation data has been included in the report.

2013

Date of order	Defendant	Benefit assessed	Amount of order	Payment made	Amount outstanding
04/03/2013	1	£35,000.00	£35,000.00	£35,000.00	
18/03/2013	2	£213,525.59	£213,525.59	£213,525.59	
04/03/2013	3	£14,751.00	£14,751.00	£15,194.22	
TOTAL			£263,276.59	£263,719.81	

Defendant number 3 also paid interest in the sum of £443.22 in addition to the full payment due to late payment of the order.

Tax year 2013/14

Date of order	Def	Benefit	Amount of order	Payment made	Amount outstanding
07/05/2013	1	£63,750.00	£63,750.00	£64,738.22	
06/06/2013	2	£56,110.64	£2,000.00	£2,003.73	
06/06/2013	3	£9,835.75	£9,835.75	£9,835.75	
19/07/2013	4	£1,569,801.85	£218,702.74	£9,349.81	£209,352.93
19/07/2013	5	£1,569,801.85	£78,427.39	£47,032.39	£31,395.00
30/01/2014	6	£39,144.00	£39,144.00	£39,144.00	
TOTAL			£411,859.88	£172,103.90	£240,747.93

Defendants numbered 1 and 2 also paid interest totalling £991.95 in addition to the full payment due to late payments of their orders.

Defendants numbered 4 and 5 have served default prison sentences for failure to pay the full order which included an amount for "hidden assets". Court action to recover outstanding amounts is continuing.

Tax year 2014/15

Date of order	Defendant	Benefit	Amount of order	Payment made	Amount outstanding
19/06/2014	1	£1,548,989.00	£23,517.54	£23,517.54	
26/09/2014	2	£1,727,367.00	£95,091.00	£95,091.00	
26/09/2014	3	£1,727,367.00	£158,520.85	£165,652.45	
14/11/2014	4	£3,440,652.04	£227,906.09	£228,994.62	
13/03/2015	5	£60,000.00	£60,000.00	£60,000.00	
TOTAL			£565,035.48	£573,255.61	

Defendant number 3 also paid interest in the sum of £7,131.60 in addition to the full payment due to late payment of the order.

Defendant number 4 is still to appear at court for further enforcement proceedings. Interest of £1,088.53 has been paid with a sum of £19,224.45 interest still outstanding.

Tax year 2015/16

Date of order	Defendant	Benefit	Amount of order	Payment made	Amount outstanding
01/05/2015	1	£874,392.97	£400,000.00	£42,435.85	£357,564.15
19/10/2015	2	£60,000.00	£60,000.00	£60,000.00	
03/07/2015	3	£30,000.00	£30,000.00	£31,551.78	
TOTAL			£490,000.00	£133,987.63	£357,564.15

Defendant number 3 also paid interest in the sum of £1,551.78 in addition to the full payment due to late payment of the order.

Of the 17 orders shown above, 14 have been paid in full with 5 defendants paying interest payments over and above the orders due to late payment.

Total order amount: **£1,730,171.95**

Total amount recovered to date: **£973,157.78**

Published by:
Natural Resources Wales
Ty Cambria
29 Newport Road
Cardiff
CF24 0TP

0300 065 3000

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