

## Agriculture (Wales) White Paper Consultation Response Form

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The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation.

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### Confidentiality

Responses to consultations may be made public on the internet or in a report.  
**If you do not want your name and address to be shown on any documents we produce please indicate here**

**If you do not want your response to be shown in any document we produce please indicate here**

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<b>Are you responding as an individual or as an organisation?</b>	<b>Organisation</b>

<b>Are you or your organisation based in Wales?</b>	<b>Yes</b>	
<b>If you are answering as an individual, do you identify as Welsh speaking?</b>		
<b>First half of postcode (4 digits)</b>	<b>CF24</b>	

<b>Please indicate which of these best represent you or your organisation (please select only one)</b>	Farming	
	Forestry	
	Environmental	
	Veterinary	
	Tourism/Hospitality	
	Food and timber supply chains	
	Public Sector	X
	Private Sector	
	Third Sector	
	Trade Union/Representative	
	Research/Academia	
	Other	

<b>If you have indicated that you are a farmer, please identify your main farm activity (please select only one)</b>	Sheep	
	Beef	
	Dairy	
	Arable	
	Horticulture	
	Poultry	
	Mixed	
	Other	

Do you currently have rights to graze stock on a common?	Yes	
	No	

Are you a tenant farmer?	Yes	
	No	

Are you a CAP recipient?	Yes	
	No	

If you responding as an individual, what age bracket are you in?	Under 18	
	18-34	
	35-49	
	50-64	
	65+	

**How to respond**

Responses should be returned by **26 March** to

Land Management Reform Division  
 Welsh Government  
 Cathays Park  
 Cardiff  
 CF10 3NQ

Responses completed electronically to be sent to:  
[AgricultureWalesWhitePaper@gov.wales](mailto:AgricultureWalesWhitePaper@gov.wales)  
[PapurGwynAmaethCymru@llyw.cymru](mailto:PapurGwynAmaethCymru@llyw.cymru)

## Regulatory Reform

1. What are your views on:

(a) The proposed approach to the creation of the National Minimum Standards?

(b) The need for flexibility to amend the National Minimum Standards where necessary? Are there any further considerations which are needed?

Please provide comments to support your view e.g. potential benefits and impacts.

### **(a) The proposed approach to the creation of the National Minimum Standards?**

NRW supports the development of National Minimum Standards as a level playing field for all land managers (not just agricultural businesses) and we offer our experience and expertise to assist with further work on their scoping and their implementation.

Our holistic perspective on regulation, embodied in our Regulatory Principles, recognises the value of a clear, consolidated, easy to understand, coherent regulatory baseline, which is conceived and delivered in concert with economic, voluntary and informational tools. Application of an integrated approach to the National Minimum Standards (NMS), underpinning an outcome focused incentive scheme supported by advisory actions, is likely to increase land manager engagement, and delivery of sustainable environmental, economic and social outcomes while reducing the unintended consequences of regulation. The proposed joint framework between regulation, advice and funding provides a unique opportunity for land-based businesses that also delivers on the ambition of pre-existing initiatives in the sector (such as Working Smarter) in that it provides significant additional support in an integrated approach. A clearly defined set of NMS will enhance the attractiveness of the sector in Wales for private sector inward investment, delivering outcomes in combination with public sector funding via the SFS.

We welcome securing the present regulatory baseline in the first instance by the initial focus on consolidation and clarification of Cross Compliance Good Agricultural and Environmental Conditions (GAECs) and Statutory Management Requirements (SMRs), including measures to address clear gaps in the present domestic legislation underpinning Cross Compliance (e.g. importation of wastes to land, soils - in particular soil health). Doing so is especially important in the context of EU Exit as from a business perspective continuation of a core Cross Compliance-based approach provides some continuity, while ensuring that regulation is in place to guide post-EU Exit pressures on land use and management.

The ambition to bring together other aspects of legislation that are applicable to land management in a single clarified consolidated regulatory baseline will further

increase the utility for farmers and regulators alike. It will also provide an appropriate baseline level to support the development of payments for ecosystem services.

Cross Compliance is part of an outgoing system that has been recognised in Welsh Government's (WGs) previous two consultations as significantly underdelivering for Wales. In using Cross Compliance as the basis for NMS we urge WG to remain fully committed to addressing the shortfalls in the present approach that do not serve the environment, land managers or regulators in Wales to the best effect.

For example, in redefining Cross Compliance in terms of consolidated domestic legislation, shortfalls in the present domestic legislation (e.g. the focus on proving harm) also need to be recognised and rectified, if we are not to perpetuate the problems we presently face as land managers and regulators. Resolving these issues will aid clarity of what constitutes an offence for both the regulators and regulated.

A key issue in this respect is the couching of the nature of an offence in terms of actual environmental harm, with an associated evidential requirement to prove that environmental harm has occurred. For example, the dynamic nature of the environment (particularly river systems) means that by the time regulators arrive on site, evidence of harm may have been dissipated or diluted, making enforcement of existing legislation extremely difficult.

Especially in tackling issues arising from numerous small harms (e.g. water diffuse pollution – a major cause of water body failure under the Water Framework Directive Regulations 2017 or air pollution), each has a cumulative effect which needs to be recognised in how the regulatory floor is defined.

Offences need to be very clearly defined in a manner that is readily enforceable in the field. These definitions should be drafted according to the best evidence available on the linkage between field observation and actual environmental harm.

If the actual harm is likely to be small (as it may be in the case of a minor incident contributing to diffuse pollution), then this can be reflected in the severity of enforcement measures. Wider use of a range of civil sanctions as proposed in this consultation will facilitate this. A lesser enforcement option facilitated by use of a civil sanction against a clear activity-based offence founded on good evidence is, nonetheless, a clear, proportionate signal to improve practices for demonstrable benefits to the environment.

In reframing existing legislation in terms of activities likely to cause environmental harm, the overall harm that the legislation seeks to prevent should not become unclear or lessened. NMS will need to strike the balance between activity-based and outcome-based approaches to regulation.

In developing NMS, a codesign approach with stakeholders (regulators, land managers, advisors) is essential. Buy-in and ownership will be enhanced, and foresight of complex operational issues gained. The previous work of the stakeholder group used to refine the Sustainable Farming & Our Land Consultation and the work of the Wales Land Management Forum Sub-group on Agricultural Pollution could be used as a starting point. However, recognition that the remit of this group may require interim/intermittent expansion to ensure coverage of any revised scope in the NMS.

There are other operational issues with the present approach to Cross Compliance. Examples of specific issues are provided below.

#### **Cross-Compliance Specific Issues**

- SMR 1: Revision of evidence needs for enforcement action.
- SMR 2: Hedge cutting in bird nesting season – presently hard to enforce.
- GAEC 1: Buffer definitions may need revision and embedded into the regulatory baseline e.g. not cultivate or plough land within 1 metre of a hedge, earth bank or watercourse.
- GAEC 2: Incorporate all abstraction uses and impoundment activities in line with ongoing legislative changes, particularly in light of the removal of most water abstraction exemptions.
- GAEC 3: Needs redefining – there is difficulty in the identification of breaches and non-compliance to offer the environmental protection envisaged.
- GAEC 4: Maize stubble needs revaluating in soil cover definition as cover provided is minimal.
- GAEC 5: Needs reappraising to reflect importance of soil erosion prevention and soil health (with benefits for reduced flooding, phosphate loss, fertility loss) and the ability to use when erosion is to watercourses.
- GAEC 7: Adequately protected landscape features (e.g. watercourses, hedges, ponds, field and veteran trees) as these are a key contributor to our growing understanding of ecosystem resilience. Clearly spell out felling licence (NRW) and hedgerow removal (Local Authorities) permissions required as part of the NMS.
- Consolidation of the protection of National Sites Network within cross compliance (SMR 1, SMR 2 and GAEC 7)

Addressing these issues relating to the existing Cross Compliance approach as part of designing the NMS will in our view mark a significant and welcome step forward. We also welcome the recognition that beyond technical review of existing regulations and their delivery, gaps exist in the regulatory baseline (for example wider protection of soils) which should be addressed. While we are keen to explore these potential gaps further with Welsh Government, we appreciate, in line with the Regulators' Code, that the overall regulatory burden on land managers needs to be carefully considered in order not to unduly constrain the sector. However, we believe there is a critical balance to be struck between an overly burdensome regulatory baseline and an inadequate regulatory baseline that through failure to serve as a clear foundation standard for actions and wider investment beyond compliance, fails both farmers and the environment - and in time becomes in itself, a burden.

As a means to guide this balance, it may be helpful to map out all the aspirations of the White Paper against potential regulatory drivers. This should include cross checking the NMS with any legislation not included via Cross Compliance that is considered to be important to underpin the Sustainable Management of Natural Resources (SMNR) and Sustainable Land Management (SLM) and the appropriate interactions.

Greater clarity is needed to understand how Cross Compliance will be brought into NMS; will all the regulations be incorporated, or subsets thereof and will current regulator responsibilities for assessing compliance remain?

NMS will not operate in a vacuum and the linkages to other non-regulatory, non-SFS drivers for better outcomes will be crucial. In particular, linkages to existing standards and certification schemes run by others will be important, e.g. Farm Assured Welsh Livestock, Red Tractor and the UK Forestry Standard. Engaging these organisations (and other similar ones) early in co-design will be helpful.

While we appreciate and agree with an approach that provides a clear consistent regulatory baseline, we wish to explore with Welsh Government and stakeholders the role that spatial data on receptor sensitivity could have in delivery of regulation. Some areas (or catchments) may have greater pollutant (or nutrient) loadings, leading to the same activity causing a different degree of harm in a different location. One approach, in the spirit of clarity, may be to ensure that NMS are set at a level that will constitute a reduction of harm in any location. The alternative approach may be to use a spatial approach to vary requirements according to evidence. The latter could be a further extension of the flexible approach discussed later.

Due in part to the problems with the present regulatory baseline (e.g. clarity, adequate inspection frequency, resourcing) it is widely recognised that there is likely to be a compliance problem on farms across a range of regulation. If this new approach seeks to ensure that the NMS are adequately enforced, then the scale of non-compliance is likely to increase, at least initially. As access to the Sustainable Farming Scheme (SFS) is contingent on regulatory compliance, this poses a problem for widespread uptake of the SFS offer and other benefits that are above the regulatory floor as well as the important advisory and economic support that it will in part provide. Some consideration of investment of resources (including financial) on farm may be required. Funding and/or transitional measures may be appropriate under these circumstances.

Confidence to make the necessary business model and/or infrastructure changes on farm could be boosted by clear information on likely payment rates that could be achieved within the SFS if regulatory compliance is achieved. Such approaches could foster a return on investment model that could attract private investors, at a time when many investors are looking for social and environmental impact via their investments. Welsh Government should seek to fully explore this potential and facilitate such arrangements as far as is appropriate within the scope of correctly managing public money. NRW is keen to develop this proposal further with Welsh Government.

Enforcement, advice and resourcing will be critical to the successful implementation of the NMS. Our present commitments are already not met by resources available and we acknowledge that inspection frequencies may be falling below a level that fully engenders a precautionary approach. We welcome the proposal to explore the issue of inspection rates and frequencies that is fit for purpose as long as that discussion is intrinsically linked to the contingent resourcing issues. Resourcing calculations must include investing in skills and staff training for NRW (and other regulators) as well as programme management, upon which the operation of the whole system depends. Regular inspections on a sensible return frequency represent

a change to the present arrangements. Currently a farm not covered by EPR inspection regimes can, through random sampling go without routine inspection for several years. During this period knowledge of regulation can drift, and farmer stress concerning possible non-compliances can rise. This could also mean that investment to return to regulatory compliance increases with time so that return to compliance may then be uneconomical for the farmer. A change of approach by making inspection inevitable and to some degree predictable could have far reaching benefits. This would not just be in terms of compliance levels but the development of a professional, regular relationship between the regulator and the business. In such a manner it is possible to move away from a reactive focus to a proactive advisory role that is beneficial for both parties and the outcomes being sought for Wales. Being able to use the regulator as a regular advisor and being clearer on the regulatory baseline and actions to address non-compliances can help reduce stress for land managers and build sustainable and economically viable businesses.

**(b) The need for flexibility to amend the National Minimum Standards where necessary? Are there any further considerations which are needed?**

NRW supports the need for flexibility to amend NMS where necessary. It aligns well with the adaptive management principle underpinning the SMNR laid out in the Environment (Wales) Act 2016, as well our own Regulatory Principles.

While all legislation should be drafted carefully and with regard to full regulatory impact assessment, flexibility creates options to address the following:

- Innovations and new practices (both positive and negative) which have in the past led to long lags between laying regulations and changing practice could be addressed, for example minimising the use of cypermethrin-based animal and plant protection products.
- Unintended consequences sometimes arise due to a changing environment from the time the regulation was introduced, for example the increase in drought risk due to a changing climate meant that previous abstraction exemptions allowed for unsustainable abstractions. However legislative change was required to be able to control the impacts we now have evidence of. Flexibility in the NMS would allow such issues to be addressed in a more timely manner, creating a fit for purpose regulatory baseline.
- Our understanding of the environment progresses over time, as do our techniques to manage it sustainably. Regulation needs to keep pace with this. In particular NRW's emerging understanding of ecosystem resilience, stimulated by the Environment (Wales) Act 2016 should be brought into close alignment with future regulation, for example in the manner that the UK Forestry Standard is subject to a five-yearly review.

Provision of such flexibility will open up a route for upward and downward pressures from stakeholders on the level of the regulatory baseline – and as such it will be essential that well defined, fully transparent and predetermined processes are in place to appropriately appraise these differing perspectives against the requirements of SMNR and Well-being of Future Generations.



Flexibility needs to be balanced against the need for regulation to provide certainty as far as possible, to enable long-term farm business planning. A review period for existing regulation would be helpful in this respect.

The SFS development work is proposing a regular review period of measures. It would make sense to coordinate the review of regulation to match this timescale, thereby creating the opportunity to strengthen the linkages between regulation and the scheme to better deliver outcomes. Consideration needs to be given to the link between the review periods and the statutory timescales that are embedded in the Environment (Wales) Act 2016.

2. What are your views on:

(a) How advice and guidance can effectively support farmers to understand the National Minimum Standards; and

(b) The further considerations needed for advice and guidance? For example, what form guidance should take, who should provide it, the scope of guidance and how farm advisory services may support farmers.

Please provide comments to support your view, e.g. potential benefits and impacts associated with the considerations.

NRW recognise that advice and guidance is an essential part of delivering regulation, sitting centrally within our Regulatory Principles. Success of NMS (and the SFS) in consolidating standards and delivering will depend on good advice, guidance, outreach, knowledge development and mentoring.

NRW use advice and guidance in two closely connected ways:

- We proactively provide advice and guidance on the form and function of regulation that we are responsible for delivering.
- We use advice and guidance as part of our enforcement hierarchy, in order to make clear what the nature of a non-compliance is and to provide pointers to address it.

These two roles (information provider and enforcer) could be conceived as conflicting; a farmer may be less likely to engage with the regulator due to fear of enforcement action through doing so. This potential conflict can suggest an argument for delivery of advice on regulation by other third parties – and there is much that we have achieved by working in partnership. However, fear of enforcement could be mitigated by regular routine inspection intervals which would have scope to take on more of an advisory role, as is common in other industry regulation regimes. The advantages of using the regulator with their knowledge of the regulation and enforcement procedures, and how it fits together can be of benefit to the farm business.

Our current approach provides a clear definition between advice and statutory works notices. Advice is advice and it is up to the land manager to seek further advice as to the suitability of advice for their circumstances. Following previous advice from NRW is usually taken into account as a positive factor in later enforcement action.

Exactly what body or bodies will provide advice and guidance on NMS remains to be determined, but it is clear that whatever the arrangement, Welsh Government needs to coordinate the approach with a cross-sector group comprising all participating delivery partners, such that messages are consistent and understood. The design of these messages needs to be achieved in partnership with stakeholders from across the land management spectrum. They will offer insight into the nuancing of messages to reach members of their own organisations, professional and social networks. Co-development of advice and guidance will raise understanding across all parties of what is needed from all perspectives and build trust in the final product, with advocates for why it should be adhered to.

For example, the delivery of advice and guidance on farm woodland management in particular has been an area that has not been adequately addressed through conventional routes in the past (except for the UK Forest Standard). This will need to be addressed to help drive the establishment of woodlands and better woodland management. It will be key to achieving our ambitions of net zero by 2050.

In terms of delivering effective advice and guidance we have listed a number of points based on our experience which are critical to success:

- Understanding the diversity of target audiences including their beliefs, attitudes, motivation and personal values and developing the means to address them is key.
- In defining audiences recognise the pivotal role contractors, machinery rings, machinery retailers and other support industries play in providing advice and guidance the farming industry.
- Multiple engagement formats are needed as farmers engage through a diversity of channels. Demonstrating the business benefits, proving value and relevance are all key hooks, as is ensuring clear and targeted communication.
- Straightforward language is essential; emphasising WHAT the regulations are, WHY they are there and HOW they will be monitored and enforced.
- Provide/support collaborative opportunities to enable spatial delivery at the relevant scale. Messaging may need to reflect diverse environmental contexts which may differ depending on where a farm is located e.g. coastal farms, riparian landowners.
- Collating the regulations, advice and guidance into a central compendium is important, following the model of previous incarnations of CoGAP and When The Inspector Calls.
- This compendium needs an online home (as well as hardcopy) which is easily accessible, perhaps similar to earlier efforts: NETREGS. Such a one stop shop could include information on and links to further resources such as relevant forms for record keeping, regulatory bodies, webinars, newsletters, and tools to assist and provide information on key dates in the regulatory calendar brought together in a single accessible place. This would need to meet the principles of better regulation where there is clear distinction between regulatory requirements and good practice.
- Online training and accreditation; completion thereof could be used to inform the regulators' risk model to the benefit of the regulator and those regulated.
- Develop and maintain peer to peer learning and knowledge exchange networks (farm walks, forums, demonstration farms) and engage with wider social networks.
- Longer term, awareness of NMS (and the SFS) needs to be built into agricultural training courses in colleges such that new farmers (and regulators) are aware of the approach.
- Opportunities to provide one to one advice and support at all stages.
- "Key influencers" such as "early adopter" farmers can effectively demonstrate value and support "active learning" in "real world settings."
- Support self-evaluation, monitoring and self-reporting as part of this process and to develop farmer capacity.
- Work with trusted partners to support communication. All advisors need appropriate technical training – NRW has an important role to "train the trainers" – to ensure consistency and accuracy of message, informed by our operation and strategic experience.

Outreach events may need to take many forms and embed the points listed above:

- Online webinars - have been shown to work well in Covid – but beware of issues due to poor broadband availability and IT skills.
- Traditional on farm consultant/report delivery models have merits.
- Farm walks and demonstration farms are a powerful means of showing by doing.
- A clear timetable of outreach including open farm/farm walk days should be provided.
- Staffed drop-in clinics (e.g. at shows, livestock markets) are effective.
- Seasonal availability of farmers.

While all these elements are important, our experience suggests that local officers who can pull all this together and become the trusted central proactive point of contact for the land management community building trust to achieve greater change are the most powerful and effective delivery route. While there is significant resource involved in this approach, the dividends for compliance are high.

This consultation question on advice and guidance is framed very closely on advice and guidance to support the proposed NMS. Other models of regulation, perhaps most notably the UK Forestry Standard, combine baseline regulation with best practice guidance, clearly signposted to access to accreditation standards and market access. This broader standards approach embedding the NMS is crucial in motivating businesses to deliver beyond compliance, to the benefit of themselves and the environment. We look forward to the opportunity to discussing the merits of this approach further with Welsh Government.

We welcome the ambitious approach that Welsh Government is laying out in this consultation but wish to reiterate that delivering this will not be cheap. Resourcing remains an open question. We welcome further discussion with Welsh Government and stakeholders around the resourcing question.

Even with all these approaches, there will likely be a percentage of the audience that remains unreachable, or who do not wish to be reached. Reaching the unreachable may be important if there is evidence that this segment is responsible for a disproportionate amount of non-compliances, as seen in catchment pilots. In this context mandatory training as a requirement to engage in an activity e.g. purchase of pesticides authorised for professional use requiring the Safe Use of Pesticides course, is a successful model that could be explored. The suggestion of the introduction of mandatory training, if standards are not embraced by all might serve as a powerful behavioural nudge within the community to reach out and encourage those in their community who are not engaging to do so.

All of these elements will be important in the delivery of advice and guidance in the lead up to the introduction to the proposed NMS. Unless low levels of compliance (and hence by inference, SFS scheme eligibility) are deemed acceptable in the introductory/transition phase, guidance will need to be delivered well in advance of the introduction of the NMS in 2024, to allow sufficient time to address any potential compliance issues on farm before they become legal requirements. Without this many farms may be ineligible for entry into the SFS at its launch, with consequent far

reaching missed opportunities for farmers and the environment alike. It will also make SFS seem like a barrier rather than an incentive for change.

3. What are your views on the proposals for civil sanctions to enable proportionate enforcement of regulations? Are there any further considerations which are needed?

Please provide comments to support your view, e.g. potential benefits and impacts associated with the considerations.

NRW is supportive of the proposals for the wider use of civil sanctions in the enforcement of the proposed NMS. We share Welsh Government's aspiration to drive compliance without unduly criminalising land managers.

Civil sanctions, when appropriately designed and delivered, offer a proportionate and transparent approach to enforcement that helps strike the correct balance for a given offence between the deterrence, reformation, retribution, reparation, vindication and protection elements that an enforcement strategy should provide.

We have recognised for a number of years that our limited ability to use civil sanctions (limited by those pieces of primary legislation listed in Schedule 5 of the Environmental Civil Sanctions Order (2010)) has impeded our delivery of proportionate regulation, impacting delivery of our Regulatory Principles and the Regulators' Code. Our more limited ability to use civil sanctions is also at odds with approaches in England and Scotland.

What is also apparent from our past limited use of civil sanctions is that the lesser civil sanctions such as fixed monetary penalties are not cost effective to use, as at present they have similar evidential requirements (Notice of Intent, Written Representation process and so forth) and hence case preparation costs are as high for civil sanctions as for criminal sanctions. Debt recovery costs may also fall to ourselves. Given the lesser severity of offence against which these civil sanctions would most appropriately be used, this has effectively precluded the use of fixed monetary penalties from the category of offences where arguably they would help deliver the best regulatory outcomes.

The present proposals could address this impasse in three key ways:

- Make a range of civil sanctions more widely available against a wider range of regulations – in this instance as a minimum, the proposed NMS and/or the domestic legislation that already mostly underpins them.
- Provide very clear guidance on the process that must be followed for the use of civil sanctions, seeking to keep administrative and evidential process requirements to a level appropriate to the severity of offence against which they are likely to be brought (e.g. UK Sentencing Council Sentencing Guidance on Environmental Offences).
- Draft the NMS at least in part around activity-based regulation for which compliance can be readily defined and assessed by officers in the field, rather than dependency on proof of harm, which is often challenging in a dynamic environment and when trying to address cumulative issues such as diffuse pollution and its role in Water Framework Directive Regulations 2017 failure. This issue has already been raised in our answer to Question 1. To do this, “potential harm” will need to be carefully defined, perhaps through tying to activities that there is a strong body of peer-reviewed evidence in the public domain of likely harm to the environment from a particular activity. Ambiguity around the legal definition of “significant damage” similarly has implications for

the Water Resources and EIA Regulations and in some cases make them practically unenforceable.

Reframing civil sanctions in a more agile manner able to be used more autonomously will enable them to be used more widely (more akin to a “ticket” system) against lesser offences, but we are clear this must be accompanied by very clear guidance and training on their use to prevent their misuse and ensure transparency. Clear guidance and training will be needed for farmers and land managers on what breaches of the regulatory floor could mean they face civil sanctions.

The proportionate nature of civil sanctions is suited to their use as an escalating scale, if necessary, to sanction repeat offenders and also to represent the differing scale of offence and of the business responsible, all of which play out in terms of the appropriate balance between deterrence, reformation, retribution, reparation, vindication and protection. A system is conceivable where a certain number of ‘points’ (from previous offences) within the civil sanction system could trigger a criminal sanction – an approach used effectively in other regulatory regimes (for example road traffic offences) where it provides clear warning of escalation from further offending.

We understand that Welsh Government wishes to separate the enforcement response against NMS from payment penalties for non-compliance that may result within the SFS. We wish to stress that both of these elements amount to an enforcement response that will be borne by the offender – and as such they should be considered together to ensure that the overall enforcement response is proportionate and fair. To achieve this, it will be important to develop the penalty approach within the SFS in the context of the likely sanctions employed in enforcing the regulatory baseline.

Specific uses of non-monetary civil sanctions also have a role in a proportionate enforcement response. Restoration notices may be particularly useful against Wildlife & Countryside Act S28 offences where these involve land managers managing Sites of Special Scientific Interest (SSSIs). A restoration approach is more likely to result in a positive outcome than a long and costly legal case which may serve to further alienate the land manager from ourselves, which in itself is problematic as land managers on SSSIs are key delivery partners. Some caution may be needed around use of restoration notices in the case of non-compliance, if the issue cannot be resolved, and the onus on restoration falls instead on the regulator.

Higher civil sanctions may also be valuable in a forestry context, providing a more suitable range of enforcement options, particularly addressing the issue of illegal felling of Ancient Semi Natural Woodland. In this case, use of higher civil sanctions may be more appropriate than the present basic reinstatement requirements, better reflecting the high value of habitat lost and the long timescale to even begin to replace this loss.

The revenue from civil sanctions used in this manner will remain within Wales (as opposed to returning to HM Treasury, as is the case with criminal fines) where it can be reinvested in securing environmental benefits. Transparency around how this revenue is use will be important in terms of stakeholder relationships to build trust that the system delivers what it aims to achieve.

Underpinning all of these considerations is the need for adequate resource to enforce regulations and deploy these sanctions, both civil and criminal. At present, due to resource constraints we have reduced attendance at minor incidents, many of which would be suitable for the use of civil sanctions and would serve as deterrents for more serious offences. Without addressing the question of resourcing, the introduction of civil sanctions will not fully realise the potential benefits and may rather result in an erosion of confidence in the enforcement system.

#### **SLM – Future support**

4. What are your views on the proposed purposes for funding in support of the delivery of SLM? Are there other purposes which you feel should be considered?

Please provide comments to support your view e.g. potential benefits and impacts.



NRW supports the proposal that the Bill should contain provisions for establishing Sustainable Land Management (SLM) as the overarching principle for future agricultural policy including future support. NRW supports the proposal that any financial, advisory and regulatory programmes all respond to the challenges of Wales's climate and nature emergencies and that alignment of delivery through SLM to these outcomes is essential. The proposal that all future agricultural and land management support provided by Welsh Government must enable the purposeful delivery of SLM is welcomed. However, the language used throughout refers almost exclusively to farmers. SLM is very much about all the land in Wales. If we are to be successful in meeting our net zero by 2050 ambition, then the lines between food and fibre production will need to be removed.

Application of an integrated approach between the SFS and the regulatory baseline supported by advisory actions, is likely to reduce unintended consequences, increase land manager engagement and delivery of sustainable environmental, economic and social outcomes for the optimal use of resources to achieve the intended outcomes.

WG recognises the link between SLM and the delivery of the Well-being of Future Generations (Wales) Act 2015 goals and the Sustainable Management of Natural Resources (SMNR) as set out in the Environment (Wales) Act 2016. However, we would recommend a formal link is established between SLM and the principles embedded in Environment (Wales) Act 2016 to provide a clearer line of sight to the Act and its requirements. Consideration should also be given to the maintenance and enhancement of ecosystem resilience (as listed as in Section 6 (2) the Environment (Wales) Act 2016) being placed at the core of SLM and SFS. Ecosystem resilience can be measured through five ecosystem attributes: Diversity, Extent, Condition, Connectivity and Adaptability (DECCA). Taking an SMNR approach that considers ecosystems and their interaction with each other is the best method for ensuring actions are effective at delivering environmental improvements. It needs to be integral to the scheme decision making at all levels to achieve multiple benefits in a cohesive manner.

NRW supports the replacement of the Basic Payment Scheme (BPS) and other EU Agri-Environment Schemes with a single direct support scheme (the Sustainable Farming Scheme). It is unclear from the Agriculture (Wales) White Paper whether by singling out BPS and other EU Agri-Environment Schemes, the scope and nature of support outlined within Sustainable Farming and our Land has been curtailed. It is imperative that capital investment to enhance sustainability and woodland creation and management is supported and closely linked to the scheme if Welsh Government's legal commitment to achieve 'net zero by 2050' is to be achieved. The consultation document doesn't set out the future direction of the interaction of the Sustainable Farming Scheme with other support frameworks such as the domestic Rural Development Programme, new structural funds/challenge funds, the Welsh Government Economic Action Plan and Future Wales. A level of clarity of what is funded where and from which budget, is needed to foster confidence in the proposed approach. If the aspiration is supporting not only more sustainable food production but encouraging businesses to diversify into tourism, access to social well-being, fibre production, ecosystem services and environmental services then this wider

context of SLM and SFS needs to be considered, integrated and a gap analysis between the instruments developed.

In the context of a challenging public sector post-Covid budgetary environment, it will be important to ensure that linkages are made to facilitate private investment, where appropriate, in delivering environmental, social and economic outcomes on farms. The strength of the impact investment markets has continued unabated despite (or perhaps because of) Covid. Return on investment models based on a blended finance approach, underpinned by public sector payments for outcomes have proved successful in the rollout of renewable energy (e.g. private investment funds working with property owners to install solar capacity, driven by feed in tariffs). Scope for a similar approach exists courtesy of SFS outcome-based payments as well as Payment for Ecosystem Services (PES) schemes e.g. Woodland Carbon Code. Considering this opportunity at an early stage will enable Welsh Government to put appropriate bounds around such arrangements to ensure that the correct balance of outcomes are delivered for the investor, the environment and particularly land managers. The Feed In Tariff example arguably did not deliver well for many home owners due to a lack of oversight on the terms of the financial arrangements that were permissible. Similar mistakes can be avoided.

The development of a process to ensure the initial farm sustainability assessment, scheme monitoring and reporting provides the necessary evidence to demonstrate the sustainability of farm products needs to link to the statutory responsibility to report on the Sustainable Management of Natural Resources. It will also need to consider potential future ecosystem services and not just the existing value at the review of the business; this will provide greater opportunity for land managers e.g. implantation of water efficiency measures. The establishment of long-term targets that take account of the timescales for change along with the development of a monitoring and evaluation approach, is desirable. We welcome the opportunity to work with WG to develop proposals further, and consideration needs to be given to:

- The role of wider statutory monitoring programmes that also cover the outcomes that are sought through SLM.
- The priorities that are outlined in the Natural Resources Policy (NRP)
- Indicators for the Sustainable Management of Natural Resources and Well-being of Future Generations.
- Long term targets and an appropriately designed monitoring and evaluation approach for each outcome.
- The role of self-monitoring and reporting and the potential for transformation change.

The recognition of the cultural importance of landscapes in the Agriculture (Wales) Bill is supported. 73% of landscapes have attractive views both within the scenic area and looking into the scenic area from outside, offering significant opportunities for recreation and tourism benefits. 2018 figures from Visit Wales put tourism spend at £6.3 billion (and around 10% of Welsh jobs) as visitors come to enjoy our landscape, coast and heritage. Wales's core offer is 'Outstanding landscapes, protected and cared for, accessible, protected natural landscapes – offering meaningful, high-quality and contemporary well-being experiences'. SLM and the Sustainable Farming Scheme should recognise the need to manage change in our landscape and

consideration of the interplay between measures which will be on offer. This should prevent unintended consequences and assist in managing cumulative impacts to avoid negative outcomes. LANDMAP evidence can help inform the analysis of managing landscape change.

Taking an annual statement approach on the budget with proposed estimates of outcomes to be delivered could have a significant impact on the ambition of delivery under the Agriculture (Wales) Bill. Environmental outcomes are not seen within the same timeframes as financial years. For example, some habitats will take several years or decades to restore, therefore longer term objectives and delivery will also need to be included and reported. The loss of a Multiannual Finance Framework with associated minimum spend requirements and dedicated budget has major implications for how SLM and SFS is received and engaged with. To secure support and uptake, funding cycles will have to mirror the timescales of outcomes and the scale of investment needed to change practices by land managers. If the upfront costs are high and the financial planning timeframe is short, it will be hard to convince land managers to invest and change practices due to the financial uncertainty. Going forward we would hope to see SLM assessments published for each main proposal contained within the Bill in the interests of transparency and completeness.

The proposed purposes for funding are very general and it is not easy to recognise where or if they could support delivery towards:

- Enhancing natural hydrological functions of land.
- Natural Flood Risk Management (NFM) - NFM measures that help to protect, restore and emulate the natural functions of catchments, floodplains rivers and the coast to reduce flood and coastal erosion risk and enhance ecosystem resilience.
- Managing and enhancing our designated site network.
- Maintaining, restoring and creating habitats to develop Resilient Ecological Networks through landscape-scale outcomes.
- Future support for coastal land use change should be included creating space for coastal habitats to allow migration inland in response to sea level rise;
- Managing and maintaining water resources for increase farm resilience to climate change and river flows, abstractions, soil, water availability which is important for biodiversity, fisheries, recreation and water quality.
- Protect and restoring natural hydrological function of rivers (restore riparian zones; reconnect the floodplain; restoring/creating floodplain features; reduce livestock; and soil introduction and allowing allow for natural processes of bank erosion, gravel accumulation and woody debris to remain in rivers).
- Supporting collaborative working between farms and farm clusters to deliver ecosystem resilience.
- Control of Non-Native Invasive Species (INNS) which pose a direct and highly significant threat to ecosystem resilience. INNS can adversely affect agriculture and forestry (e.g. cherry laurel or grey squirrel can affect forestry/woodland). INNS were estimated to cost the agriculture sector in Wales £71 million per annum in 2010 and INNS management should feature as a public good in the SFS scheme.

NRW supports powers to provide partnership funding for joint working. However, SMNR suggests the potential delivery partners are significantly wider than those suggested in the Agriculture (Wales) White Paper. It would be good not to limit who could be involved in joint working.

We support proposals for the provision of the necessary additional support (non-monetary advice, training and Continuing Professional Development) for farmers and land managers to pursue the delivery of SLM. Evidence suggests having funding for guidance and support for farmers through applications is beneficial in terms of engagement, uptake and outcomes which may mean the development of wider skill sets for successful delivery of SLM outside of farmers themselves. Consideration should be given to broadening the provision of advice from farmers alone which may provide opportunities to upskill and employ local people to support SLM delivery.

Training and routes to allow land managers to develop their own business advice and plans may be more beneficial than offering direct business improvement or sustainable land management delivery advice. If the framework is designed to provide the tools to gain skills rather than offering the skills of a third party, this would give land managers more ownership over their decisions and improve resilience. This may also encourage the development of industry led best practice and assurance schemes. Schemes such as these have been successful in other sectors such as the landfill industry and waste sector where assurance schemes, auditing and best practice guidance are in the main part industry led.

Although important to meet Welsh Government's 'net zero ambition', decarbonisation is not the only action type which delivers climate change resilience. Responding to the climate emergency needs to go beyond decarbonisation and seek ways to adapt to our changing climate. Wales has experienced extreme weather events in recent years e.g. the drought conditions of 2018, the devastating floods in February 2020 and further prolonged and persistent flooding throughout the winter of 2020/21. Climate scenarios predict more frequent and intense weather extremes, with sea levels also projected to rise with its associated impacts on rate and scale of coastal erosion. Funding in support of adaptation and increased resilience to the changing climate is needed to deliver Sustainable Land Management in Wales. We would like to see the powers defined to include support for:

- Managing land, water or livestock in a way that mitigates or adapts to climate change.
- Managing land and/or water in a way that prevents, reduces or protect from environmental hazard including costal adaptation.

There is more woodland 'off' farms than 'on' farms in Wales and with the exception of woodland advisory visits from Farming Connect for farmers, there has been limited support for woodland management since 2015. A system of support will benefit Wales' woodland management and economy, and the SFS should play its part.

Consideration needs to be given to the creation of woodland for multiple benefits rather than carbon sequestration alone. Alignment with the delivery of the national Natural Resource Policy would allow landowners to benefit from markets relating to a range of other ecosystem services and benefits including biodiversity/ecosystem resilience, cleaner air and recreation for example. We believe that to gain maximum

benefits from tree planting a suite of options is required. The current forestry approach to all tree planting is missing many opportunities to fit within land managers' farming systems, to enhance biodiversity and the landscape, and often to sequester the maximum quantity of carbon. SLM should consider Agroforestry approaches including:

- Shelterwoods, hedgerows.
- Wood pasture.
- Riparian corridors.
- Field trees

We welcome the approach to significantly reduce and eliminate ammonia. Whilst we are supportive of protection of human health and habitats, NRW would like to see future support to include losses to the wider environment rather than just air and water. The wider environment should include soils, habitats, sensitive species irrespective of their location. We would encourage a more aspirational and holistic purpose on reducing emissions that aims to reduce losses so that the impacts on all habitats, direct and indirect (e.g. knock-on effects in coastal habitats), are reduced. Furthermore, rather than minimising harm, we would encourage language to reflect the objective set out in the Environment (Wales) Act that the resilience of ecosystems is improved or enhanced, as opposed to limiting this to maintaining ecosystems. We would also welcome proposals to plant trees close to agricultural sources to reduce ammonia emissions.

The Agriculture (Wales) White Paper does not explicitly state that it will support Resilient Ecological Networks and whether they will be maintained or restored by the SFS scheme. Facilitation and co-operation between land managers to achieve these networks at landscape and catchment scale needs to be considered. We support Welsh Government's proposal to provide Welsh Ministers with powers to fund "appropriate public access to farmland for leisure or educational purposes". However, we recommend that the term '*appropriate*' needs to be carefully considered and clearly defined, and that:

- Any new development is based on the strategic objectives outlined in the relevant Right of Way Improvement Plan, or another relevant public access strategy, and reviewed regularly to ensure that it reflects current trends in use and public need.
- All proposals for new developments should be required to follow [Least Restrictive Access](#) principles and, where appropriate, be made accessible to all users (known as 'Access to All').
- All new public access should be developed in partnership with access authorities (Local Highway Authorities and/or National Park Authorities) and in consultation with Local Access Forums.

Additionally, there needs to be a mechanism to allow payment to enhance existing public access in line with 'least restrictive access' principles. Landholders have responsibilities in relation to public rights of way and other public access. The new 'public good' payment systems should recognise work carried out beyond landholders' basic responsibilities, particularly if work to path furniture (gates and stiles) makes routes passable to those with protected characteristics (as defined by the Equality Act 2010) or is part of enhancing or integrating existing access e.g. allowing access additional to the defined rights where feasible (e.g. horse

riding/cycling on tracks with public footpath rights). Opportunities to link these proposals with Welsh Government's own Access Reform Programme looking at recreational access legislation should be considered.

The new scheme and NMS should also seek to ensure that landholders are fulfilling their responsibilities under public access law (e.g. not obstructing public rights of way; maintaining structures on PROW, such as gates or stiles and cutting back overhanging vegetation for which they are responsible). This should involve liaison with access authorities (Local Highway Authorities and National Park Authorities) and be clearly set out in the guidance given to landholders and authorities responsible for facilitating payment.

## **Industry and Supply Chain**

5. What are your views on the proposed priorities for industry and supply chain support?

Please provide comments to support your view e.g. potential benefits and impacts.



We are supportive of proposals for wider industry and supply chain proposals that progress the delivery of SLM and help the sector to become more resilient and self-sufficient, supporting the Sustainable Management of Natural Resources and a resilient rural economy. As we have seen during Covid-19, supply chain pressures can lead to concerns about parts of the agricultural sector such as milk. Changes in the food demand side will affect land use in Wales. The SFS could be effective in preparing the farming community for meeting these challenges and building opportunities for enhancing and maintaining biodiversity and ecosystem resilience. Whatever can be done to increase the resilience of supply chains to avoid the risks of sectoral economic shock and on-farm environmental issues is to be welcomed.

Support for industry and the agri-supply chain should only be provided to industry and supply chains that meet other current domestic legislative requirements. It would seem unfair if funding was provided to businesses not meeting legally required national standards when pre farm gate business are expected to meet NMS.

The priorities should be aligned to the outcomes identified for SLM to ensure a systems-based approach between sustainable production and consumption to tackle the climate and nature emergency. Preventing unavoidable waste being produced throughout the supply chain is key to moving towards a circular economy. These proposals could help support the key aim of WG's 'Beyond Recycling - Circular Economy Strategy' to eradicate avoidable food waste. In the strategy WG sets out how eradicating avoidable food waste will be achieved by working with businesses across the whole supply chain, from farm to fork, to minimise waste, maximise resource efficiency and working to limit food waste in all settings. A farm to fork approach will enable sustainable choices to be made more easily.

Other priorities could include:

- Sustainable food processing and distribution.
- Changing patterns and behaviours on consumption to drive sustainable production practice.
- Food loss and waste prevention and application of the food hierarchy.
- Sustainable branding and labelling of food.
- Linking to initiatives around green recovery and green economy.
- Making relevant connections to other plans and strategies (Waste, Water, Clean Air, Climate Change, Well-being etc.).

In addition, the NRP also identifies:

- Improve the resilience of supply chains across agriculture and food, unlocking greater added value and improving processing capacity.
- Support businesses to diversify and take advantage of existing and emerging markets, improving our resilience to risks associated with leaving the EU.
- Increase Wales' share of UK domestic markets (e.g. food tourism), particularly for our high-quality food and drink.
- Collaborative action across agri-food sectors, co-operatives and new market opportunities for products, locally and internationally.

- Continue to coordinate and embed best practice for the sustainable management of our soil resources.

Supply chain support needs to consider the widest possible breadth of stated outcomes of the Agriculture (Wales) Bill, not just agricultural production. One of these outcomes will be increased woodland cover for example, but for this to be sustainable it will need the consideration and inclusion of the fibre supply chain. Factors which will facilitate this wood chain are improved access to farm woods, training on woodland management, forestry machinery rings, equipment to add value to timber and improved local markets e.g. timber stores. We would welcome the opportunity to discuss this further with Welsh Government.

Improving the promotional offer for farmers and Welsh timber producers by effectively evidencing SLM could help Wales lead the way in promoting greener and in turn, more resilient food and fibre production. Marketing could help to drive the demand for sustainable products by consumers (for example low carbon Pasture Fed Livestock). However, the promotional offer should encompass a progressive approach rather than a one-off activity and should illustrate the journey towards more sustainable production above the NMS. This could potentially attract investment from outside the public purse to fund actions that not only maintain but also enhance and restore ecosystems. Reversing the loss of biodiversity is critical for our long-term economic prosperity and an approach that opens the door to funding from private or social enterprise investors should be welcomed.

Greater industry and supply chain responsibility for sustainable production would be beneficial. Procurement procedures can support promotion of Welsh products, food and fibre throughout Wales. More could be done to help link local producers, processors and suppliers with local consumers and public bodies e.g. schools, and to encourage seasonal menus. The Vale of Glamorgan Council is currently trying to supply local schools with local produce but are having difficulty as local growers are not always able to 'guarantee' supply.

Local supply chains are currently hindered due to the lack of facilities, e.g. small-scale abattoirs, local livestock markets, loss of creameries, which make it harder for smaller businesses to operate. Encouragement/support of processing industries around farming would help stimulate less intensive farming methods, reduce food miles, support animal welfare and deliver high quality sustainable products.

Support for collaborative approaches between farmers and land managers and across the supply chain, for example co-operatives and shared supply contracts, will be essential to the delivery of these proposals. For example:

- There is potential in Wales to develop a farm woodland co-operative model using European examples which can be used to support farm woodland management to share machinery, sell timber in a group to reduce costs etc. Schemes have already been successfully conducted in Wales such as the Coed Cymru led timber store project in Pembrokeshire.
- In Wales, there are examples of farming co-operatives e.g. Calon Wen which is a co-operative of 20 organic farms which sell milk nationally, and innumerable machinery rings.



Supporting Welsh farmers by promoting local produce and shortening the supply chain could lead to a reduction in the carbon footprint of the supply chain, helping to meet WG's 'net-zero by 2050' commitments and further reward for delivering SLM and SMNR. These proposals could help reduce food waste and support the provision of locally available food which could link to other well-being outcomes.

### **Collection and sharing of data**

6. What are your views on the proposed purposes for collecting, sharing and linking data?

Please provide comments to support your view e.g. potential benefits and impacts.

NRW are supportive of the need for the collection and sharing of data. In addition to the four primary reasons stated in the case of change, NRW would like to include the delivery of the statutory reporting requirement of the State of Natural Resources Report (SoNaRR).

Data needs to be integrated with other current environmental, social and economic data which is held and managed by various agencies, records centres and other Non-Government Organisations. This will be required to enable the reporting against Well-being of Future Generation goals, and Sustainable Management of Natural Resources. The current approach is very poor and disjointed with little or no consistency within or across organisations. Examples include:

- Stock levels/movements relating to SSSIs
- Deployments/manure spreading/Water Treatment Works sludge can all be deposited within an unsustainable timescale on the same land without combined control or knowledge.

NRW agrees that coordinated and centralised data collection and sharing, including methodological and systems co-design, is important to improve efficiencies and to provide a more integrated system of monitoring, regulating compliance, analysis and mapping trends as well as evidenced based decision making. A more joined-up approach to data should encourage collaboration between stakeholders, supporting shared resourcing and outcomes, and avoiding duplication.

The agri-food supply chain and assurance bodies also request data from farmers. Consideration should be given to the potential for external authorisation so data can be shared between the centralised data collection and other data systems which can save additional effort from the farmer and may provide a fuller picture of the pressures on and impacts of agricultural land use. The development of 3<sup>rd</sup> party applications which interface with the system to enable the collection could then be developed outside of the programmed work. For example, Making Tax Digital is the government gateway access which relies on third party applications that are used by the customer. These applications can also access banking details from other systems. This could minimise some of the data errors by utilising direct uploads rather than data entry.

In addition to Welsh Government's proposed purposes, we recommend that improved data collection and sharing should also be used for:

- Statutory reporting and environmental monitoring for national trend analysis and policy decision-making
- Monitoring environmental change (particularly climate and biodiversity issues) should also feature in the data collection and sharing as a key purpose
- It would be of huge benefit if evidence collected on farm, such as soil analysis could form part of a national database to inform policy decisions and gather a clearer picture of soil quality and health in Wales
- To support informed SLM choices/decisions within and outside of the SFS. This could help inform land use change (and management) needs to support the resilience and productivity of farmers/sectoral businesses, reduce food waste,

reduce pollution and flood risk, enhance biodiversity and the health of our natural assets, support decarbonisation and wellbeing benefits, including the wider green markets

- Public access information, notably bringing together Local Authorities' definitive maps of public rights of way (as proposed as part of Government's access reform programme).
- Animal disease control.

Consideration of spatial data to enable place-based decision making to influence investment, innovation, business model decisions, targeting services and incentives where they are most needed at the relevant scale (e.g. a failing catchment) is important. Additionally, we suggest data should be used to facilitate aggregation of land to scale up collaborative opportunities for ecosystem services/public goods. For example, in order to tackle INNS effectively and sustainably, action needs to be undertaken at appropriate spatial scales. This may be at a farm level for early infestations of INNS, in a catchment or it may be necessary to gain cooperation across multiple farms to be able to address a wider INNS issue. The Farm Sustainability Reviews could potentially provide an opportunity to gather information about the distribution of INNS and to be able to develop a more coordinated approach to tackling INNS at appropriate spatial scales.

The environmental information NRW holds could support all of these proposals<sup>1</sup>, for example:

- Data from some of NRW's routine and ongoing monitoring of the environment and protected sites.
- SoNaRR 2020 evidence and recommendations can be used within the scheme for prioritising actions. Data collected within the scheme will be important for monitoring actions leading to environmental change and can be incorporated into future SoNaRR reports.
- NRW is pleased to be making a major contribution to the collection of LIDAR data for use in Welsh Government's Living Wales project. This will lead to improved SLM outcomes.

The ability to collect, share and link data should be for all land management including woodland/forestry and not just farms or those within the SFS. This will be necessary to ensure regulatory compliance and a level playing field to achieve NMS and aid the understanding of and embedding SMNR.

A holistic 'whole systems' approach needs to be taken to inform long term decision making including identifying trends to support the payments for public goods model and ensuring no "double funding". We agree and support the proposals to share data on the supply chain, rather than simply the producer. This will allow better management and targeting of action to transform the sector.

It is essential for land managers to have some ownership over data collection. This would help build an understanding and appreciation as to what it is showing and the outcome of measures and establish trust in the data collected and the decisions made based on that data. Sufficient support and training will be required for

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<sup>1</sup> [Wales Environmental Information Portal](#)

farmers/land managers to provide the detail required. Improved data can support monitoring and regulatory compliance through:

- Highlighting patterns, which could be acted on sooner.
- Support many other statutory data collection obligations such as the groundwater monitoring network which heavily relies on access to sampling of private water supplies on farms.
- A potential platform to replace some of other data sharing channels that Wales may be losing access to as a result of EU Exit.
- A more comprehensive and centralised data system will help us tackle diffuse agricultural pollution issues and understand the cumulative impacts of on farm activities. A central online farm and land management program could be very useful for recording and monitoring down to field level what actions and management are taken. The new Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 require farms to record levels of nutrients they are applying to fields, and what the crops are, so this could be a useful resource for recording the data if it is simple to use and accurate.
- To enable robust monitoring and evaluation and evolution of the NMS and SFS.
- Data collection and sharing could also improve some of the problems depicted which are a result of poor communication between regulators, and between regulators and the land management sectors.

We support proposals around targeted and risk-based monitoring. However, WG may wish to consider bringing this in as a tiered approach to account for the initial stages of the scheme where there will be little data available for some farms. We will need a way of gathering a baseline before moving to risk based inspections. Desk-based types of data such as remote monitoring will need sufficient ground truthing to ensure that the system is a true record.

There is a need to ensure data sharing is supported by appropriate Memorandum of Understandings and data sharing agreements. There can also be sensitivities around the sharing of some data, in particular sensitive environmental data. If data is not shared, then it can be difficult for regulators such as NRW to set strategic direction. We would also hope that safeguards would address some of the current constraints making sharing of non-sensitive Integrated Agricultural Control System (IACS) data/information possible. More transparency for all would benefit all parties as long as personal data is held in compliance with General Data Protection Regulation (GDPR).

A coordinated approach is needed to link up relevant databases making sure all responsible bodies and those expected to collect and enter the data have co-designed together in a format and manner that facilitates sharing. Data will need to be collected and presented in a consistent manner though a customer focused system that delivers for land managers, regulators and policy makers. All data collected needs to be set to an agreed resolution and metadata in line with government standards and if necessary, Aquabook compliant<sup>2</sup>.

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<sup>2</sup> [Aquabook guidance](#)

7. What are your views on the establishment of a national database for farms and livestock?

Please provide comments to support your view e.g. potential benefits and impacts.

An accessible national database would be invaluable from a regulatory perspective, enabling efficient and effective targeting of higher risk farming operations for inspections and/or advisory visits by NRW. However, it is fundamental that the ability to use and share the data for the purposes we need is included in development, procedures and when signing up. It would reduce the resources required to obtain data and increase accuracy and effectiveness of the farm inspections and advisory visits themselves. Any simplification of data requirements or storage that farmers can use to demonstrate compliance with regulatory requirements, for applying for funding or to provide evidence of action for a Payment for Ecosystem Services scheme or assurance schemes, is to be welcomed.

Similarly, the ability for assessment bodies and regulators to share information through an integrated system would aid the ability of delivery partners to work collaboratively to build knowledge and deliver shared outcomes. It would increase consistency with other regulators and also provide accumulative information across species. The system would need to be practical and deliver cross regulator and user needs so must be designed in partnership.

Collecting livestock data would enable better traceability of livestock especially for animal disease control and Bovine Tuberculosis (TB) movements and restrictions. This could help provision of advisory support for environmental issues that could occur. It could also help in terms of in-combination and accumulative effects, allowing the development of measures such as those illustrative in the Nitrogen Futures Project<sup>3</sup>.

Consideration needs to be given to data that we already collect as part of current schemes to determine its wider uses. For example, aggregated field data is used in the delivery of SoNaRR.

Information on the structure of holdings including the number and location of high-risk structures, such as slurry stores or agri-chemical storage tanks, that exist in Wales would be of huge benefit to NRW and those that need to consider in combination and accumulative impacts (policy makers and Local Authorities etc.).

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<sup>3</sup> [Nitrogen Futures Project](#)

A national database of farms, all land use and livestock will provide an up to date understanding of the land-based businesses including farms, their holdings and limitations. This is required to understand the existing situation and to assess the capacity of the land to rear livestock/grow crops, water demands and to be used for crop need driven nutrient management. This will aid limit setting to achieve soil health, the delivery of spatial measures for SFS and define the baseline against which progress towards SLM and SMNR can be measured. It will enable the delivery of Payment for Ecosystem Services approaches such as nutrient offsetting.

Additionally, a national database could improve SLM and inform place-based collaboration at the appropriate scale, including:

- Increased collaboration between landowners within a catchment from source to sea
- Undertake actions or projects e.g. improve riparian woodland for increased shading, habitat, natural flood risk and infiltration of groundwater, improvements in water quality etc.
- identification of farms or land that could join patches, create habitat stepping-stones, corridors and networks of habitat.
- Identification of opportunities for sharing water supplies.

*Thinking about the SFS:*

8. In terms of the future scheme, what are your views on the proposals to enable the data we collect on a farm to be used by farmers to track progress and demonstrate their sustainability credentials?

Please provide comments to support your view e.g. potential benefits and impacts.

We support the proposals to allow farmers access to their farm data which is collected as part of the scheme. As a regulator we see benefit, and examples of successful behaviour change, following sharing of information with those we regulate. We would also support the sharing of specific data that NRW collects on farms with those farmers for their own use for continued compliance and improvement. Any data collected as part of the scheme should be available both to the farmer, land manager and NRW. This includes data collected by national monitoring schemes, e.g. Glastir Monitoring Evaluation Programme/ Environment and Rural Affairs Monitoring & Modelling Programme or any future schemes.

The powers provided in the Bill should enable the data to be used not just to track progress under the future SFS scheme, but also to support the identification of SLM opportunities at farm, regional and national scales, for funding under the scheme.

Aggregated data should also be used to support the promotional offer for farmers' produce. This could be an incentive for continued compliance and improvement and helps demonstrate the benefits of supporting landowners to the public. Consumers or investors can have greater influence on how land is managed, helping to ensure core values are built and embedded across land management and build towards a common goal. This could also provide the evidence to coordinate policies across multiple organisations.

Outcomes from many 'payment for results' schemes show that having access to monitoring data or monitoring their own farm has a positive impact on farmer engagement. Access would give farmers and land managers more control over their own business, increasing ownership and more open and collaborative working between the farmer/land manager and the regulator. Self-monitoring and reporting could have a transformative role in achieving environmental outcomes. This could also help to drive production from just complying with the regulations to pushing for best practice. Benchmarking can be used to illustrate the benefits of changes in land practices, demonstrate progress and support positive change. For instance, a farmer could gauge the effectiveness of improvements they have made by referencing our on-farm assessment or monitoring data.

Any standardised baseline self-assessment/reporting to demonstrate sustainability needs to have rigorous scrutiny built into its design, balanced with the end user requirements including farmer/land manager and the monitoring body. There would need to be a clear way of assessing/scoring farms based on performance. This could be resource intensive if rigorous scrutiny is not built into the design. There is also a risk of unfair treatment if farm visits are not uniformly visited and assessed.

If the data collected was sufficiently consistent, robust and inclusive of all risks, the ability to share information around performance enables approaches such as earned recognition to be deployed. Data could be used to target pan organisational inspections, reduce inspection likelihood or give preapproval for funding of innovative

projects. In doing so the burden on the public purse is reduced as is the bureaucratic burden to the business.

Progress on farm with environmental outcomes such as soil health and water quality may be very slow in being able to be evidenced. Recognition of Continual Professional Development (CPD) via courses such as those run by Lantra could also be used as a method of demonstrating credentials and be considered as part of earned recognition.

Sufficient support will be required to help land managers provide the data. Access to broadband and levels of IT capacity within the sector are important considerations which will require sensitive and targeted support as part of the development of these approaches and beyond.

*Thinking about regulatory compliance:*

9. What are your views on the proposals for improving the monitoring of regulatory compliance?

Please provide comments to support your view e.g. potential benefits and impacts.



NRW supports improved monitoring and the sharing of monitoring data to assist WG and other organisations to regulate more effectively. It would be useful for regulatory bodies to understand how their existing systems could be enhanced and adapted to provide information on the performance of the scheme and the state of Wales' environment, whilst continuing to provide their regulatory requirements. Partnership working to design the system will be needed to ensure that data sharing is made as easy as possible across different organisations. The potential is huge but would need to be inclusive of all potential environmental risks. Regular inspections on a sensible return frequency represent a change to the present arrangements, where a farm not covered by Environmental Permitting Regulations (EPR) inspection regimes can, through random sampling, go without routine inspection for several years. During this period knowledge of regulation can drift, and farmer stress concerning possible non-compliances can rise. A change of approach by making monitoring of regulatory compliance inevitable and to some degree predictable could have far reaching beneficial effects.

As well as monitoring farm level compliance the data should be able to provide environmental status and impact assessment that can be fed into wider environmental monitoring such as the Water Framework Directive Regulations 2017. Collecting once but using more than once to understand local and spatial impacts should be a requirement of any system.

A simple to use system needs to be in place for farmers. Many are currently having issues with the Rural Payment System. It is not allowing them to input images which means they are not being paid for the work being done.

There needs to be sufficient review of those farms that self-monitor. Inspection regimes should consider risk-based approaches so that high-risk sites and/or poor performing sites are inspected more often. The monitoring of regulatory compliance will need to be adequately resourced.

Experience of previous schemes has shown that farm advisors do not always have the necessary skills to assess habitats, therefore providing comprehensive reliable information as a baseline is essential to inform both regulatory compliance and farm audits. An updated Phase 1 habitat survey would create a good robust baseline dataset for assessment of habitats, ecosystem resilience and their services. There needs to be consistency of data collection across the range of locations, types and sizes of farms.

Any use of remote sensing would require quality assurance/ground truthing e.g. to mitigate issues of resolution and scale. Remote sensing should not be relied on alone for baseline data. For example, currently available satellite imagery is not able to accurately identify some semi-natural habitats and is particularly unreliable for grasslands (70% of farmland). Simple field-based measures for both advisers and farmers should be developed to assess habitat change and could be used as part of ground truthing. Some best farming practices can require extensive physical observation of changes or compliance on site. Consideration should be given to the

appropriate development of “drone” use to over fly persistent or suspected problematic catchment areas.

Whereas the environmental damage from point source emissions from farms are relatively easy to identify and act on, much of the persistent and long-term damage is caused by diffuse causes and sources. Monitoring, and thus confirming, the damage caused by diffuse emissions and the effectiveness of mitigation measures needs more intense data collection than that collected by routine monitoring at designated sample points that are often too distant from causes and sources. The role of remote sensing data and use of drones to better understand where diffuse pollution is coming from would help to focus action to mitigate impacts.

10. What do you think needs to be considered in future to enable regulators to effectively monitor regulations?

There needs to be clarity over what is being monitored and for what purpose. Effective regulation must be clear, simple and unambiguous. Legislation needs to be enforceable i.e. clear terms and conditions, easy for the regulator to deliver, and for land managers to interpret. Consideration needs to be given to the ease of use of enforcement tools. Data security, ICT and systems resourcing, efficiency, ease of use and appropriate governance (partnership agreements, MoU's, appeals procedures) are essential considerations.

There is a need to consider the use and availability of all relevant evidence. Existing and future technological support that could make regulation simpler and/or more efficient such as Earth Observation needs to be considered. However, there needs to be a programme of work to determine whether technological solutions can provide the relevant evidence to effectively monitor regulations that would be legally acceptable for enforcement if required. Effective regulation requires appropriate resourcing to obtain sufficient staff numbers, undertake adequate training for staff and set inspection regimes that are worthwhile and help enforce the regulations. There also needs to be investment in the officers who will assess NMS.

When tracking progress of the scheme or regulatory compliance, it will be important to use indicators that are fit for purpose for comparison with standards. It is important to link with other existing regulatory drivers, standards and indicators, for example as set out by Water Framework Regulations 2017 or the Environment Act 2016.

## **Forestry and woodland**

11. What are your views on the proposed amendments to forestry legislation?

Please provide comments to support your view e.g. potential benefits and impacts.

NRW welcomes the proposed amendments to the forestry legislation in the White Paper including the statement that the forestry proposals will ensure that WG will retain the power to control EIA thresholds. These will support our regulatory process and our remit to deliver SMNR but are likely to result in increased resource implications.

We will work closely with Welsh Government to agree the circumstances in which these proposed forestry amendments should be used and to publish suitable guidance to landowners and land managers. These additional powers will all take extra NRW resources and applicants may be required to grant NRW more time to process their felling licence applications, particularly for more complex cases. There may be an increased monitoring and enforcement requirement that will need to be considered.

**Conditions for felling licences** –These conditions will supplement the powers we already have to set restocking conditions. We envisage using these powers to set enforceable conditions when there is a clear need to do so, particularly under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 and where there are likely impacts on UK and European species and e.g. red squirrels, as well as species in the UK National Site Network of SACs and SPAs. We acknowledge that the use of these powers needs to be strictly controlled, proportionate and appropriate in line with our regulatory principles and full methodologies would have to be developed. The powers will not be used for known topics such as a general ban on felling during the bird nesting season or harvesting and haulage method statements as these are covered by our balancing duty in S1(3A) of the Forestry Act 1967.

**Amend, suspend and revoke** - This will bring felling licences in line with our other permitting regimes. The ability to amend will also be important as we seek to streamline our regulatory processes, taking on board more of what applicants tell us, but this also means that we must be able to take appropriate action where that information is found to be false or incomplete. As with applying conditions, there need to be rigorous controls on when and how these powers will be used and the circumstances in which we may refuse a request for an amendment will also need to be considered. The terminology in the Act must give NRW the option to say 'no' to amendments.

**Exemption clause for Ash Dieback** - We welcome this development so landowners can take the action they require on their diseased ash and anticipate and prevent catastrophic failure of trees that may have severe safety implications. We support landowners having long-term plans in place so they can deal with the ash on their properties in a risk-based, proportionate and planned manner, and consider the environmental implications of their work as well as the safety considerations. Welsh Government guidance will need to clearly define high risk zones and there will need to be a strong communication campaign. We welcome the opportunity to help Welsh Government to produce and scrutinise its guidance. Consideration should be given to providing funding for replacing ash trees which is the most common standard tree

species in hedgerows and its loss is likely to have a negative impact on biodiversity, habitat networks, landscape and carbon storage.

We welcome **additional protection for Ancient Semi-Natural Woodlands (ASNWs)**, which will give additional options for inspecting officers where ancient woodland has been felled and should enable more felled ancient woodland to be reinstated with an equivalent ecological value to the woodland that was lost. The additional options will also provide more of a disincentive to individuals considering felling ancient woodlands.

12. What are your views on how the Welsh Government can support landowners in Wales to benefit from carbon markets for planting trees?

NRW welcome the intention to provide payments to farmers who choose to deliver positive benefits. It is also important to communicate how woodland creation and management aligns with National Natural Resource Policy challenges, opportunities and priorities in addition to societal benefits including carbon sequestration, habitat resilience, provision of amenity and improvement of public health outcomes. Analysis shows that woodland creation and management can play a role in reducing aerial deposition of ammonia on sensitive natural plant communities and freshwater ecosystems.

This is an excellent opportunity to encourage and support landowners and managers in Wales to plant trees and benefit from carbon markets. Trees should be viewed as key assets (economical and environmental) for timber which capture carbon and at the same time have the potential to deliver a wide range of public benefits e.g. biodiversity, water quality, air quality and flood risk management, from a land holding. A future Sustainable Farming Scheme could capture 'treescapes' such as hedgerows, shelterbelts and in-field trees at a farm level and cumulative carbon could be part of a carbon budget for a holding which could be embedded in the promotional offer for farmers' produce. This could also provide the stimulus for collaborative projects for carbon markets to offset the costs of small-scale woodlands, agroforestry schemes and natural regeneration which do not benefit from the economics of scale of larger productive woodlands.

There is an opportunity for Welsh Government to promote investment in carbon markets across the Welsh business sector and to link interested businesses with their local Woodland Carbon Code (WCC) schemes. There are lessons for future schemes from the Glastir Woodland Creation scheme (Native Carbon mixture) which is verified to UK Forestry Standard and can be registered and validated for the Woodland Carbon Code scheme. This provides an additional source of carbon sequestration payments for land managers, and to ensure that the right tree is planted in the right place at the right time for the right reason.

England are supporting landowners to create woodland, by making funding available via Woodland Carbon Guarantee (WCG) auctions which complements traditional funding channels such as woodland creation schemes and farm subsidies. Whilst the WCG offers long term financial support to landowners by guaranteeing a minimum fixed price to enter market, ideally landowners should be encouraged to seek future higher price offers from private investors who can eventually purchase the carbon units, thus removing long term government spending commitments.

There is also potential to introduce a mandatory reduction of carbon emissions across business sectors which are linked to an increased reporting of emissions and Carbon Offsetting. The potential for Woodland Carbon units to be credited as part of a UK Emission Trading Scheme needs to be considered.

There needs to be guidance and support for landowners and managers, project developers and agents to link woodland creation schemes with the woodland carbon markets. There appears to be only limited publicity and promotion in Wales on the carbon market, and there is no use of the Welsh language. It is important to emphasise the Welsh needs, priorities and demonstrate the integration with the

delivery of the Sustainable Land Management Framework to promote the use of 'Brand Wales'. Wood Knowledge Wales has carried out research on carbon capture for timber construction e.g. social housing in Wales and if implemented could provide opportunities for long term carbon capture.

It is important that there is also financial support, guidance and advisory support to manage the impact of grey squirrels and deer on woodlands. Woodland creation schemes will be severely hit by grey squirrel damage between 15-40 years after planting (as seen in the National Forest in England) and will not achieve the expected/desired level of carbon sequestration if this issue is not addressed at a landscape scale.

There is also a need to define the carbon market more broadly than woodland creation and should recognise that other land use and habitats e.g. peat and marine (blue financial initiatives), capture significant quantities of carbon and deliver other environmental services and benefits.

## **Tenancies**

13. Do you think the dispute resolution procedures described in the proposals should be extended to FBTs?

Please provide additional evidence to support your view e.g. the extent to which this is a problem currently, the likely benefits and impacts.

NRW welcomes the support for commitment to schemes which extend beyond the life of the current tenancy, particularly in the case of Farm Business Tenancies (FBTs). However, the consultation only makes reference to dispute resolution to access Welsh Government Financial Assistance. Although Payments for Ecosystem Services are developing slowly, NRW envisages that money from other sectors will provide a significant contribution to meeting Welsh ambitions for Sustainable Management of Natural Resources. Consideration should be given to dispute resolution being made available for other types of funding that supports the delivery of Sustainable Land Management.

Without this commitment there is a possibility that:

- Any gains for biodiversity and ecosystem resilience that have been funded by the public purse will be lost with a change of tenancy or ownership. For most habitats and species, the measures taken to maintain and restore biodiversity are only effective if taken over a longer time scale and beyond the current proposed funding cycle.
- Longer-term projects such as tree planting, where the financial gain may not come to fruition until after the end of the tenancy agreement, may not be attractive to nor taken up by tenants thus limiting the potential for tenanted land (over 25% of Wales) to support Welsh climate change targets.
- Short-term tenancies may result in poor management and limit the potential for Sustainable Land Management delivery due to the tenant not being able to have a long-term approach to business investment or the viability of the land and associated ecosystems, habitats and species. For example, this is a frequent issue on cattle (mainly dairy) farms, often on Council holdings, where infrastructure improvements are required under The Water Resources (Control of Pollution)(Silage, Slurry and Agricultural Fuel Oil) (Wales) Regulation 2010/The Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 which have implications for the management of nutrients and the delivery of SLM and SMNR.

14. Do you think there will be instances where landlords may require the same access to dispute resolution as described above?



Please provide additional evidence to support your view e.g. the extent to which this is a problem currently, the likely benefits and impacts.

This would provide a structured approach to discussions as well as consistency and timescales for resolutions of issues across Wales. NRW suggest government-backed deposit protection schemes (Deposit Protection Service, My Deposits and Tenancy Deposit Scheme) may provide lessons/learning regarding dispute resolution.

15. Do you think it would be appropriate to allow joint landlord/tenant SLM scheme agreements?

Please provide evidence to support your views e.g. the extent of the need, the likely benefits, drawbacks and impacts.

NRW would support the introduction of joint landlord and tenant agreements. Tenants need better access and incentives to join schemes as currently short-term tenancies and restrictions on what can be done under a tenancy agreement can act as a barrier. NRW would also support proposals for agreements beyond the life of a tenancy.

- **Statutory sites** - NRW have found the ability to have both joint tenant and landowner management agreements on statutory sites to be an invaluable way of achieving positive management in the long term. For example, appropriate grazing management can be necessary to maintain and enhance condition of sites but if the owner does not keep livestock a tenant is needed.
- **Landscape scale projects** require collaboration and cooperation between all those with an interest in the land in order to deliver wider benefits. Where larger scale projects are viable, it should be possible for co-operatives to enter into agreements. This would allow far larger landscape scale improvements.
- **Common Land** - Common land supports a high concentration of priority habitats but because of the many issues surrounding its management, it is often problematic to attain good management on commons. SLM scheme agreements on commons are likely to require actions that impact on landowners' and graziers' rights. These actions could potentially be undermined in situations where either the landowner or the rights holders are not included in the agreement. There could be benefits in considering leasing/licensing of rights (under The Commons (Severance of Rights) (Wales) Order 2014) as part of the agreement to achieve SLM/SMNR where, for example, conservation grazing would benefit habitats/species, but rights are not currently being utilised. Under Schedule 1 (1) Commons Act 2006, permanent transfer of rights of common to NRW and Commons Councils in furtherance of nature conservation is permitted.
- **Forestry** – Tenancies are not written in a way that works well for long-term commitments for forest and woodland creation. Often the tenant has the risk but not the income, or the landowner has the final say on land-use change. For example, the National Trust has set compulsory targets of 30% planting on their properties.

## Animal Health and Welfare

16. What are your views on the proposals for additional powers for Welsh Ministers to:

- a) Establish Movement Control Zones to control the movement of animals, semen, embryos, animal products, animal by-products and/or other things that can spread infection e.g. equipment and utensils, in the event of a significant, new animal disease threat, where there is currently no or limited power to do this?
  
- b) Specify 'animal', 'farmed animal', 'livestock', 'pet animal' and 'animals intended for agricultural purposes', beyond the current rigid traditional definitions to ensure animal disease control measures can be applied appropriately and flexibly to any species of kept animal where there is a potential disease risk?

Please provide comments to support your view e.g. potential benefits and impacts.

### **a) Establish Movement Control Zones to control the movement of animals, semen, embryos, animal products, animal by-products and/or other things that can spread infection e.g. equipment and utensils, in the event of a significant, new animal disease threat, where there is currently no or limited power to do this?**

NRW supports the establishment of Movement Control Zones to decrease the risks of environmental harm associated with new animal disease threats. Disease threat and control needs to be considered across borders. Animal health and welfare and biosecurity considerations need to be a priority to prevent the spread of disease. These may need to be considered in relation to current disease threats such as TB. Although we are supportive of the establishment of Movement Control Zones and associated civil sanctions this could cause disparity unless the NMS and civil sanctions apply to all land managers and Keepers of Animals. For example, backyard poultry keepers versus agricultural poultry businesses

In Wales, there are already examples of the impact on biodiversity and ecosystem resilience caused by non-native invasive species (INNS) and pathogens being imported on live materials. With increasing global temperatures there is a possibility that these two types of pressures and demands will increase in the near future.

**b) Specify ‘animal’, ‘farmed animal’, ‘livestock’, ‘pet animal’ and ‘animals intended for agricultural purposes’, beyond the current rigid traditional definitions to ensure animal disease control measures can be applied appropriately and flexibly to any species of kept animal where there is a potential disease risk?**

There is potential that changes to definitions outlined in the consultation document could have significant implications for the conservation and insurance sector. It will be necessary to consider the impact of changes outside of the purely agricultural context before implementation. Consideration of traditional definitions should not be limited to disease control measures only. Consideration of their impact on the environment and the delivery of Sustainable Land Management should also be included. For example, while pheasants are being bred and contained in pens, pheasants are considered “agriculture” rather than “game”; however once released they become “game” which is a valid approach for disease control. NMS and SLM delivery may need a whole system approach.

## **Snares**

17. What are your views on the proposal for a power to enable increased controls covering such matters as the manufacture, sale and use of snares? Do you think such a power is required? If not, why not? If so, what matters do you think the power should be used to address?

We would welcome the proposal to amend the Wildlife and Countryside Act to give Welsh Ministers the power to regulate the use of snares. The improper use of snares and failure to comply with the code of conduct not only risks animal welfare standards but also the capture and killing of non-target species. Further consideration will be needed on how such an identification and licensing regime would operate in an effective manner and this would need to be developed in partnership.

### **Integrated Impact Assessment**

18. What are your views on the impacts we have identified in the integrated impact assessments? Are there any further impacts that should be considered?

Further considerations for the Integrated Impact Assessment (IIA) are listed below:

### **Health**

- Over a quarter of Welsh farmland is tenanted, and it is unclear from the Integrated Impact Assessment whether there is a disparity between tenanted and owned farms in the proposals.
- A key contributor to prioritising one's own health is time availability. Do the proposals consider the impact of time availability on farmers' health?
- The availability of sustainable water supplies.
- Will the assessment of economic conditions affecting health include the multiplier impact on the wider rural economy?
- The NMS need to be flexible enough to respond to our climate emergency if they are to help deliver a healthier Wales (one of the Wellbeing Goals, WFGA 2015). The flexibility should not however be so onerous as to lead to negative mental health impacts on land managers and others who must comply with the standards.
- Moving towards a Sustainable Land Management scheme could result in more regenerative systems which could lead to for example better soil health, enhanced ecosystems, and nutrient rich food, whilst improving the health of the population.

### **Landscape**

- Landscape is identified as a significant wellbeing resource with 25% of Wales designated as National Park or Area of Outstanding Natural Beauty (AONB). These landscapes are key for our visitor economy and form part of Wales' core offer: 'Outstanding landscapes, protected and cared for accessible, protected natural landscapes – offering meaningful, high-quality and contemporary well-being experiences' (Welcome to Wales: Priorities for the visitor economy 2020-25 Visit Wales).
- We recommend that the IIA looks at impacts of the proposed SLM on the designated landscapes' Special Qualities which are the essential elements which make these areas unique. The proposals to enhance landscape through SLM should aim to support the work of the National Parks and AONB's as well as improving the quality of the wider landscape where:
- Tranquility is an essential wellbeing resource referring to areas free from noise and light pollution and visual intrusions. Wales' tranquil areas have reduced by 6.8% between 1997-2009. With concerns over expanding farm units becoming industrialised in scale, and the increasing volume of large vehicles servicing these units, there is a further risk to tranquility in some areas. Mapping of tranquility has been carried out by NRW and its predecessor body the

Countryside Council for Wales (CCW). Measures to reduce light pollution on farms and rural developments are inexpensive. Light pollution mapping already exists as part of the tranquility maps above. The IIA could usefully include an assessment of the impact on tranquility, including Dark Skies. It is increasingly recognised that Dark Skies provide benefits for wellbeing and ecosystems. Brecon Beacons and Snowdonia National Parks hold International Dark Sky Reserves status. Measures to reduce light pollution on farms and rural developments are inexpensive.

- The visual impact of large agricultural buildings and associated infrastructure, such as slurry storage or access tracks, can be negative but this has to be balanced with not sighting them where they would then cause a different environmental or health impact. Site selection, design and colour and screening issues can have an impact on visual amenity especially considering sensitive receptors such as walkers, cyclists or horse riders enjoying our National Trails or Wales Coast Path.

## **Social**

- Keeping rural skills alive, e.g. tree planting, hedge laying, stone wall building, whilst creating opportunities to improve physical/mental health of rural communities by reconnecting them to the land is to be supported. This will ensure we do not lose the local knowledge that the aging farmer population has, e.g. sheep hefts, sources of springs, disappearing species. There is a need to encourage neighbouring farmers to work together and become less isolated.
- The interaction of proposals on the historic environment needs to be considered as farmsteads are important from a landscape and historic environment. Undertaking these measures would have a potentially positive impact on these important rural features.
- Fisheries contribute to cultural and social wellbeing through recreation and engagement with nature and the Welsh landscape and will need to be considered as part of the IIA.

## **Economic**

- The structure of previous schemes has potentially limited the ability of land businesses (farming and forestry) to access other sources of funding. It is worth considering how these proposals might limit the ability for business to engage with green market payments and how this affects economic wellbeing.
- Wider societal benefits of the proposals should also be noted e.g. reduced drinking water treatment needs will reduce the cost of to the consumer, as will better water quality to protect Bathing Waters.
- The scope of the assessment of impact on other businesses needs to include the fibre supply chain as well as the agriculture food chain. A SFS scheme



alone will not deliver on woodland creation targets. There needs to be additional woodland creation schemes through the National Forest.

- The animal health and welfare proposals have the potential to require additional costs of proactive engagement with vets. It may be necessary to consider the impact on that sector as well as economic impact of delivery.
- The delivery of the compliance co-ordination of the National Minimum Standard has the potential to have a significant impact on public sector bodies. Without addressing this the successful implementation may not be possible.
- The delivery model for the proposals have the potential to impact on public sector bodies and the third sector. This will need to be considered as the proposals develop.
- The change in practices associated with some of the proposals could result in management of slurries and manures needing alternative approaches. Consideration of linking manures and slurries into the waste regulation system is needed.
- Fisheries, inland and marine, contribute significantly to the rural economy of Wales. The economic benefits of protecting and enhancing Welsh fisheries is not considered.

### **Environment (including Biodiversity)**

- Climate change mitigation and adaption needs to consider woodland management as well as woodland creation (p38).
- The impact of the proposals on odour is not considered.
- The agricultural sector is the third largest user of directly abstracted water (non-household sectors) and uses 11% of mains water (non-household sectors). Water efficiency needs to be considered by the IIA and its link to ecosystem resilience and societal health through the provision of clean and affordable water assessed.
- Action consistent with SLM that would help promote habitat connectivity (p99 of the IIA), should also consider ecosystem needs, both terrestrial and water, as these may be greater than the landscape needs to achieve sustainable management. Details on how this will be achieved, the benefits it will secure for example for water, and how their effectiveness will be evidenced to further decision making, is needed.
  - The IIA states that ‘Improved efficiency can not only improve farm business resilience’ (p40). This is equally relevant to water use as to fertiliser use. Water should be included in a definition of resource and its efficient use made a requirement. The considerations within the IIA will have a greater impact when considered collectively and in terms of ecosystems and their associated resources, habitats and species.

- The important links between water security, drought and climate pressures, which are an element of the IIA, need to be made.
- Water needs to be considered as a resource, of equal value to soils and ASNW that are mentioned in the IIA. Water is a finite resource that needs to be used efficiently for the benefits of its users and associated ecosystems. Climate change will increase the value of water as a resource and if it is not given equal status then misuse will cause further environmental impacts and contribute further to the nature emergency as associated ecosystems are impacted. A water audit will help to establish a long-term water use plan. Private water suppliers in particular need to establish efficiency of water use measures to maintain farm resilience.
- When referring to resources and the wish to use them efficiently the IIA must also consider the interaction between resources and their relevant ecosystems. It is only by considering the resource and the features it sustains collectively that resource use levels can be set at a sustainable level that continues to protect and sustain the associated habitats and species.
- Restoration of natural hydrological function to catchments to mitigate for drought (the emphasis is mostly on flooding) and linkage with other sectors need to be considered in the IIA.
- In the section on potential benefits to water quality (IIA p40), further detail is needed on how actions consistent with SLM will reduce harm to the water environment and how this they will contribute to tackling point source and diffuse agricultural pollution so that Wales can achieve its objectives under Water Framework Directive Regulations 2017. Where reducing harm to waterways is mentioned (p40), it should be noted that this is not only water quality but should consider water quantity, ecosystem connectivity, and water dependent habitats and species which are impacted by agricultural diffuse pollution.
- Ammonia is mentioned, but not in terms of the toxicity to aquatic habitats and fish.
- Phosphorous is not the only contaminant impacting upon surface and groundwater quality that derives from agricultural sources. The other contaminants such as nitrogen pesticides, sediment and plastics need to be considered.
- Bathing waters and recreational use of water - The effect of bacterial loading on the coastal and estuarine ecosystems from agricultural practices and impacts on recreational use of water environments within the landscape (e.g. angling, open water swimming, kayaking etc.)" needs to be considered by the IIA' at the end.

### **Biodiversity and ecosystem resilience**

- We fully support the IIA's aspiration 'Our proposals explicitly address the need to reverse the decline in biodiversity and increase levels of ecosystem resilience'. All ecosystems, terrestrial and water must be considered as well as the interactions between ecosystems and different resources and ecosystems. For example, the movement of water (above and below ground) from terrestrial to riverine ecosystems. The biodiversity benefits of the restored floodplains from ERAMMP makes reference to habitats, including reed beds and fens, but does not recognise the importance of the riverine ecosystems in their own right.
- The impact assessment also needs to consider the:
  - Suitability of land to be managed in different ways that will improve the health and ecosystem services of riverine habitats.
  - Hydromorphology - opportunities to allow natural physical river forms and processes, to protect and restore connectivity, ecosystem resilience and prevent biodiversity decline. (i.e. positive impacts)
  - Negative impacts of river engineering (or physical modification of natural forms and processes) on habitat quantity and condition, connectivity and ecosystem resilience. Ecosystem resilience - Ensuring that 'environmental well-being' reflects latest biodiversity and ecosystem resilience thinking including Diversity, Extent, Condition, Connectivity and Adaptability (DECCA), and Resilient Ecological Networks.
- We support the proposals (P100-101) for action to benefit pollinators. However, actions that protect all aspects of their lifecycle including overwinter requirements not just summer feeding. As the climate and nature emergencies intensify this will be a valuable resource to sustain our native species. This needs to be built in to the IIA.
- There is no mention of statutory protected sites. Current management on approximately 50% of the area of Sites of Special Scientific Interest is funded through Glastir. The loss of this funding would have a detrimental effect on the condition of the protected sites. Consideration needs to be given to how this is to be addressed and included in the IIA.
- There is no mention of geodiversity in the consultation. Farmland contain a significant proportion of Wales' geodiversity features (found in disused quarries, rivers, streams, natural outcrops, active or static landforms etc.) The impact on these features need to be included in the IIA.
- Aquatic habitats (rivers, lakes etc.), associated riparian habitats (stream/riverside corridors as well as wetted/aquatic/in-channel habitats) and species (e.g. fish) are hardly considered in the Environmental section of the IIA. This needs to be addressed.
- The need to adapt to climate change has not been fully considered through the IIA, most of the focus is on carbon sequestration. For example, riparian tree zones will benefit climate change mitigation through the creation of habitat

for terrestrial and aquatic species (including fish) and shade, lowering water temperatures, restore ecosystem functionality with floodplains, resilience of rivers towards nutrient pollution and preserving the soils resource and protecting water quality. These types of issues will need to be considered in the IIA.

- The IIA needs to consider the direct and downstream impacts of land management decisions and actions, including on the marine environment. Consideration needs to be given to the spatial links, action at prevention, source, pathways then receptors. This will maximise opportunities to address the climate and nature emergencies through building resilience in terrestrial, freshwater and marine environments and improving the Well-being of local communities and cumulative benefits through partnership working to deliver more collectively than through individual actions alone.

### **Children**

- Consideration needs to be given to children of those who are directly impacted by these proposals in line with Well-being of Future Generations (Wales) Act 2015.
- Children that are not directly impacted but could benefit from the increased societal benefits such clean air, affordable clean water.

### **Welsh Language**

19. We would like to know your views on the effects that the White Paper proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

There is a high correlation between land managers/farmers and spoken Welsh language and culture, particularly in north-west and south-west Wales. There is a risk that without support of the Welsh language:

- Smaller farms could become less viable and sold as smallholdings with land being amalgamated into larger businesses, leading to less diversity of management which could have negative consequences for ecosystems.
- People leave rural areas as demand for rural skills and jobs decline with negative impacts on rural communities.
- The diversity of colloquial Welsh spoken across Wales could be lost.

20. Please also explain how you believe the proposed policy could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Whilst many farmers are fluent in Welsh, many may not be familiar with the standard of technical Welsh sometimes used in formal documents. It is important that documentation is tailored to the audience including the use of plain Welsh language. Having Welsh speaking scheme advisers would benefit local Welsh farmers and potentially reduce a barrier to securing an agreement.

The cost of producing bilingual guidance should not compromise on the quality of the guidance that meets the audience's needs and which supports successful delivery of the National Minimum Standards and the Sustainable Farming Scheme.

The White Paper proposals should comply with the Welsh Language (Wales) Measure 2011. Both Welsh and English- speaking land managers/farmers should be treated equally and as such there should be no disadvantage to either in any part of the proposals. <https://www.legislation.gov.uk/mwa/2011/1/contents/enacted>.

### **Any other comments**

21. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

## **Transition impact and risks associated with the scheme**

Since the EU referendum, the uncertainty around funding has resulted in annual extensions to current agri-environment contracts and a growing reluctance within the sector to engage in long term delivery against the climate and nature emergency actions. This is potentially due to the fact that change will be coming and there is a worry that acting now could potentially limit engagement later.

There will be a significant period of time before the Agriculture (Wales) Bill comes into effect and any required transition period is completed. During this phase there will be no impetus for delivering against the outcomes that Wales seeks to achieve SLM and SMNR. It will be necessary, if land-based businesses are to have some security, to invest and incentivise the desired actions by farmers and land managers during this period to move Wales towards its Well-being goals.

SoNaRR2020 identifies the food system as one of the key systems where transformative change at a societal, economic and ecosystem level is essential for managing and reversing the climate and nature emergencies. Changes made now will be pivotal to Wales' response to those emergencies. Whilst the challenge is highlighted in the Minister's foreword to the consultation, it does not feature much in the Agriculture (Wales) White Paper. There is an opportunity to reinforce that message and ensure that the Bill and subsequently the SFS are geared towards that transformative change. As such there may be a need for some form of support for businesses who are willing to make those transformative changes and restructure their business to adopt Sustainable Land Management practices. Actions on the ground can take time to plan and will need investment in the short-term which is unlikely to be possible as cash flow changes occur. There may be a need for transitional support to facilitate change.

There is a risk that ambitions and objectives for the Agriculture (Wales) Bill may be adversely affected by the requirements of the UK Internal Market Act 2020 (IMA). The IMA seeks to limit intra-UK barriers to trade that could arise due to regulatory divergence. This could impact on Agriculture (Wales) Bill proposals by requiring Wales to align with other Devolved Administrations.

The loss of a Multiannual Finance Framework with associated minimum spend requirements and dedicated budget has major implications for how SLM and SFS is received and engaged with. To secure support and take up, funding cycles will have to mirror the timescales of outcomes. Funding uncertainty and yearly stipend from UK Government will limit what can be achieved even if the funding level remains the same and in line with WG aspirations. For maximum effectiveness support would need to be available longer term.

## **Wider environment**

The delivery of SLM through NMS and SFS needs to be mindful of drivers and requirements that are developing outside of the Agriculture (Wales) Bill Framework



e.g. Habitats Regulations Assessment requirements (under the Conservation of Habitats and Species Regulations 2017) for phosphate failing SAC river catchments which will need to consider neutrality or betterment.

### **Resources and funding**

Resourcing to the appropriate scale and set against agreed service levels is fundamental to being able to deliver the SFS as well as advice and guidance, compliance, and enforcement. Creating clarity about funding, justifying that and being transparent about the costs is essential as failure to adequately resource risks undermining the potential benefits which these proposals could deliver. Resources need to be risk based and proportionate for the outcomes required.

The potential to deliver data sharing may be limited by ICT capacity and the constraints of the public sector bodies that need to engage.

### **Regional variation**

The wider picture of the state of Wales' environment and the significant environmental legislative drivers that underpin our understanding and ability to seek improvements should be linked to both the Agriculture (Wales) Bill and the IIA. SLM delivery needs to reflect the regional, landscape and local needs. Measures that ensure sustainable land and water resource management, including the delivery of carbon neutral farming and land management systems, is required. These tailored measures are needed to support local distinctiveness and addressing local landscape priorities, especially within our National Parks and AONB's to support their Purposes and Special Qualities.

Evidence bases such as River Basin Management Plans (RBMP) and groundwater classification should be used alongside SoNARR and NRW's Area Statements, when identifying local and national priorities, spatial and temporal delivery and in supporting collaboration at a catchment, habitat network or landscape scale. To deliver effective measures to achieve improvements to water, a spatially targeted and collaborative approach will need to be facilitated.

### **Social Capital**

Educating, informing and improving understanding (more widely) about the value of SLM and the role it has for the climate and biodiversity and future of Wales needs to be considered. If society does not respond to the need for SLM then they are unlikely to change their consumer habits and choices which will impact on farmers and land managers abilities to be economically viable and achieve SMNR.

The advisory offer for both the NMS and the SFS is directed at the business itself. With the high average age of farmers and the reliance on contractual staff it may be necessary if we are to realise the benefits of the proposals to consider engagement with wider delivery mechanisms e.g. contractors.

### **Collaborative working**

A more coordinated approach is needed in order to deliver public goods for some outcomes and types of land. For example, a particular concern is how NMS could apply to commons and the need for special provisions such as off-wintering of upland livestock. Establishing Commons Councils would ensure that commoners could benefit from the future land management scheme with benefits including tree planting (where compliant with UKFS). There is interest in planting on commons even in the current climate of limited funding and these are potentially very large applications.

### **Partnership working, land managers and the private sector**

We welcome the proposals to develop and support partnership working. It would be beneficial if this approach was extended across all the outcomes set out within the White Paper. A channel that allows for and encourages private sector investment, for example a partnership that involves offsetting a company's carbon footprint, would help the sector become more self-sufficient and less reliant on government funding.

To facilitate the use of third sector money, it will be necessary to have collective knowledge, information on land, environment and ecosystem actions to optimise delivery and provide value for money for all.

In addition, as part of the SFS process, there needs to be consideration of building capacity for, and practically implementing a system of, environmental, land and ecosystem accounts. These will inform stakeholders on the actual and potential value of owned or managed land and associated products and assets and how these can be balanced and optimised under various change scenarios for short to long-term economic, social and environmental benefit. Natural Capital Accounting could encourage landowners to change tenancy agreements to ensure tenants can benefit from woodland creation and management, e.g. an estate on Anglesey is looking at biodiversity and natural capital accounting.