

# Wales Land Management Forum (WLMF) Sub Group on Agricultural Pollution

## Minutes

**Title of meeting:**

Wales Land Management Forum (WLMF) Sub Group on Agricultural Pollution

**Location:** Microsoft Teams Meeting

**Date of Meeting:** 5<sup>th</sup> March 2021

**Present:**

Zoe Henderson, NRW (Chair)

Geraint Llyr Davies, NRW

Dennis Matheson, TFA

Creighton Harvey, CFF

Bob Vaughan, NRW

Sarah Hetherington, NRW

Sarah Jones, Dwr Cymru

Marc Williams, NRW

James Ruggeri, HCC

Edward Davies, NRW

Bernard Griffiths, FUW

Chris Mills, WEL

Spencer Conlon, WG

Andrew Chambers, WG

Nichola Salter, NRW

Shane Thomas, CFF

Jamie McCoy, AHDB

Geraint Hamer, WG

Elizabeth Franks, Hafren Dyfrdwr

Katy Simmons, NRW

Lee Price, FC

Delyth Lewis-Jones, AHDB

Einir Williams, FC

Mark Squire, NRW

Meinir Wigley, NRW

Robert Dangerfield, CLA

Dylan Morgan, NFU Cymru

**Additional Attendees Present:**

None

**Secretariat:**

Bronwen Martin, NRW

**Apologies:**

Kate Snow, United Utilities

Rachel Lewis-Davies, NFU Cymru

Ruth Johnston, NRW

Fraser McAuley, CLA

Mark Alexander, WG

## **Item 1 Introductions, Apologies and Declaration of Interest**

1. Zoe Henderson welcomed all to the Microsoft Teams meeting and noted apologies. Please note that the meeting is being recorded for the purpose of capturing the minutes and the digital file will be deleted once the meeting minutes have been completed.
2. No declarations of interest were raised in respect of Agenda items to be considered.
  - NB: All members of the group have completed declaration of interest forms already but should also declare if they have an interest in anything on the agenda.
3. The Chair mentioned that this meeting was due to be held on 22<sup>nd</sup> February 2021 but was postponed so that it could focus on the new Water Resources (Control of

Agricultural Pollution) (Wales) Regulations 2021. Zoe confirmed that Welsh Government were going to give a presentation to the group and thanked Spencer Conlon and Andrew Chambers for attending.

4. The Chair acknowledged that there are a wide range of views on the regulations and asked members to be respectful of everyone's point of view. This is a great opportunity to make sure we all understand the regulations and we have allowed time for discussion and questions.
5. NRW will also provide an update on the work that has been done and is ongoing to ensure these regulations are implemented.
6. The Chair asked the members to think about farmers as the group discuss the regulations because it is a really stressful time for them. It is important that the group think about giving accurate and consistent messages to farmers so that we do not add to any undue stress.
7. The Chair said that as a group, we have always said that regulation is incredibly important to achieving our goal of eliminating agricultural pollution whilst maintaining a thriving agricultural sector in Wales. This is one of our five work streams and as we move forward, we will be looking at how this integrates with our other focus areas including education, investment, innovation and farmer-lead initiatives and activities.
8. Zoe handed over to Spencer Conlon, Welsh Government for him to give a presentation to the group and they agreed that questions and a discussion will follow the presentation.

## **Item 2 Welsh Government Presentation**

9. Spencer Conlon, Welsh Government thanked the Chair for the invitation and opportunity to present to the group. Spencer specifically noted that the presentation provides a general overview of the regulations and is meant to be a discussion point for today's meeting, rather than a definitive record of what is coming in and when. Spencer reminded the group that if anyone wants to check the detail, they should refer to the regulations themselves.
10. Spencer mentioned that there may be some aspects of the regulations which will not be discussed at the meeting today because Welsh Government have received a 'letter before claim'; a Pre-action Protocol for Judicial Review. Should aspects be raised today which are part of that letter to Welsh Government, following legal advice Welsh Government will not get into that debate at this meeting. Welsh Government are currently considering their response to the letter.
11. Spencer and Andrew shared a PowerPoint with the group. The presentation gave an overview of the actions of 2021 so far:
  - Written statement presented by Minister for Energy, Environment and Rural Affairs to introduce the regulations on 27<sup>th</sup> January 2021
  - The Water Resources (Control of Agricultural Pollution) (Wales) Regulations laid before the Senedd

- Annulment motion raised. Debate held 3<sup>rd</sup> March 2021; motion rejected
- Regulations remain scheduled to come into force on 1<sup>st</sup> April 2021 with phased implementation

12. Spencer mentioned that he came to the meeting today to look forward and not look back and wants to practically and positively work together.

13. There will be a phased implementation of the new regulations:

- Implementation across 3 phases:
  - Phase 1 – 1<sup>st</sup> April 2021
  - Phase 2 – 1<sup>st</sup> January 2023
  - Phase 3 – 1<sup>st</sup> August 2024
- Transitional period has been included within the regulations to provide time for farmers to adapt where necessary, particularly where requirements may require infrastructure improvements
- Each phase to be supported by programme of activity and awareness

14. Spencer gave a brief overview of what is required from 1<sup>st</sup> April 2021, and reminded the group to refer to the regulations for more detail:

- Notice of construction: 14 days' notice to NRW before construction begins on a new or improved slurry or silage store (this change applies from 28<sup>th</sup> April).
- Field inspections: inspect the field to consider the risk of nitrogen getting into surface water prior to applying nitrogen fertiliser (all types). Must not be spread on land if there is a significant risk of nitrogen getting into surface water, taking into account factors such as weather, ground conditions (e.g. frozen) and slope.
- Mandatory buffer zones: will be established (as per existing cross compliance requirements).
- Incorporation of organic manure: onto the surface of bare soil or stubble (other than soil that has been sown) – must be carried out within 24 hours.
- Closed periods: for spreading manufactured nitrogen fertiliser.
- Silage making and storage: requirements (as per SSAFO).
- Previously designated NVZs: all rules apply.

15. Spencer continued to briefly outline the requirements from 1<sup>st</sup> January 2023:

- Risk Maps: produce a risk map of holding identifying areas not to spread e.g. surface waters

- Controlling the spread of nitrogen fertiliser: slurry spreading equipment must have a trajectory below 4m from the ground, unless used on land with low run off risk and low application rate.
- Storage of Organic Manure (other than slurry): other than temporary field heaps – storage in appropriate vessel/building/impermeable surface with required capacity for storage period.
- Temporary field heaps: location requirements and must not be located in any single position for more than 12 consecutive months or in the same location as one constructed within the last 2 years.
- Nitrogen limits: the whole holding limit of 170kg N per hectare from all livestock manure within any calendar year. A limit of 250kg N per hectare applied to spreading of organic manure in any 12-month period.
- Import/export of manure: record within 1 week the type, date, on/off address and Nitrogen content sent off or brought on to the holding.
- Nutrient Management Plans: determine the optimum amount of nitrogen that should be spread on the crop including grassland, taking into account the Soil Nitrogen Supply (SNS) and produce a written plan for the spreading of nitrogen fertiliser for each calendar year before any spreading takes place.
- Record keeping requirements: all required records must be stored for 5 years and be made available for inspection if requested. Exemptions apply if 80% grass, organic manure is <100kg/ha and manufactured N <90kg/ha and no organic manure brought onto the holding.

16. Spencer briefly talked the group through the final implementation phase which includes requirements from 1<sup>st</sup> August 2024:

- Closed periods for spreading of nitrogen fertiliser: includes slurry and other manures with high available nitrogen.
- Storage capacity: there must be sufficient capacity to meet the requirements of the manures produced during the storage period.
- The storage period: between 1<sup>st</sup> October and 1<sup>st</sup> March (5 months) for all organic manures or 1<sup>st</sup> October to 1<sup>st</sup> April (6 months) for pigs and poultry.
- SSAFO slurry storage: requirements remain in place until 1<sup>st</sup> August 2024.

17. Spencer discussed the opportunity of 'Earned Autonomy', this approach is briefly outlined as follows:

- Regulations have provision of an earned autonomy approach (Regulation 45 – Alternative measures)
  - If alternative measures for delivering the outcomes of the regulation are received within 18 months they must be considered by Welsh ministers.

- Welsh ministers if satisfied, must publish a statement within 2 years of the regulations coming into force of the actions to be taken.
- Would need to demonstrate a means of reducing or preventing pollution from agricultural sources.

18. Spencer summarised the guidance and communication to date:

- Written statement
- Press and media releases related to the introduction of the regulations, extensive media undertaken by the Minister for Energy, Environment and Rural Affairs
- Summary of regulations published on the Welsh Government website

19. Spencer mentioned some of the planned guidance and communication, including:

- Welsh Government – Communications
  - Gwlad Newsletters, social media etc.
  - Full guidance document
  - FAQ documents (live document, amended as time progresses)
  - Additional supporting documents including digital workbook being developed
- Welsh Government – Support
  - Farming Connect: information videos being developed, new e-learning modules, technical bulletins, engagement events both virtual and physical (Covid dependent)
  - FLS: briefings and support

20. Spencer talked the group through the proposed Farming Connect schedule which includes:

- Information campaign:
  - Overview videos and social media – introduction to the regulations, each phase in detail
  - Focus on preparation – what to do, by when
- Development events/campaign:
  - Development events – different level e.g. engagement, development, specialist
  - Modular – will deliver in a modular way, different information relevant for different farms

- E-learning:
  - Revision of existing e-learning materials to be relevant to the regulations
  - Introduction of new modules e.g. risk mapping

21. Spencer gave an overview of the financial support and schemes:

- Sustainable Production Grant:
  - Capital grants of between £12,000 and £50,000 to improve on farm infrastructure
  - £8.0m budget available
  - The main aim of this grant is to assist farm businesses, to meet the requirements of The Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 (The Regulations).
  - Expression of Interest (EOI) window open between 1<sup>st</sup> February – 12<sup>th</sup> March
- Farm Business Grant
  - Window 8 of the FBG open 1<sup>st</sup> March
  - £5.0m budget available
- Farm Business Grant – Yard Coverings
  - To improve existing on-farm infrastructure through the separation of rainwater from dirty water, animal slurry, animal manure or silage effluent.
  - Grant of between £3,000 and £12,000
  - The first EOI window closed 18<sup>th</sup> December, 137 farm businesses accepted contracts with a total value of £1.35m
  - The second FBG-YC EOI window will open 18<sup>th</sup> May
  - £2.0m budget available

22. Spencer accepted that the group has not seen the full guidance yet but mentioned that it will be available very soon. Spencer asked that the WLMF Sub Group helps move forward positively by getting the correct messages out to farmers. WLMF going forward:

- Additional areas for guidance and support
- Helping with communications of requirements of the regulations
- Exploring and supporting earned autonomy

23. Welsh Government are happy to work with the Sub Group as a group and as individuals to communicate key messages to farmers. Now that the regulations are coming into force, Welsh Government are hoping that the Earned Autonomy approach will be considered as a proposal. People are encouraged to come up with ideas and discuss them with Welsh Government so that support and advice can be provided.
24. The Chair thanked Spencer for the presentation and invited members to ask questions.
25. Geraint Llyr Davies, NRW mentioned that the funding mechanism and funding support for Soil Nutrient Plans etc. is currently not clear enough. Spencer responded saying that this detail will be clear and fully highlighted in the Farming Connect campaign to inform farmers what is available, when it is available and how. Today's session is just an overview but Farming Connect will be holding the publicity element to deliver the key messages.
26. Sarah Hetherington, NRW acknowledged that it is nice to see the modular approach to the different parts of the regulations because it depends on what your farming business is, as to how these regulations will affect you. However, it may be difficult for farmers to determine which elements are relevant to their business. Sarah asked as part of that role out, will there be help to direct farmers to the right modules they need to undertake. Spencer accepted Sarah's point and mentioned that any suggestions like this are welcomed. Welsh Government are being guided by Farming Connect as they have the experience in getting the messages out and this suggestion will be raised with them.

***AP March 01: Sarah Hetherington, NRW to provide written suggestion to Spencer Conlon, WG regarding help and support for farmers to determine the right modules to undertake.***

27. Dylan Morgan, NFU Cymru mentioned that NFU Cymru are getting inundated with queries from members, non-members and advisers regarding the detail of the scheme. Time is of the essence in establishing somewhere where people can be signposted to, to get answers to queries regarding the technical aspects and the detail of the regulations. This information needs to be made available as soon as possible in terms of the detailed guidance, Q&A's and dedicated resources so that people can contact Welsh Government directly to ask questions.

Dylan outlined that Welsh Government needs to remember that every farmer in Wales is going to be impacted by this and they need to make sure that every farmer in Wales gets that information. Dylan noted that there is only a small percentage of farmers that receive the email newsletters from Gwlad and use social media etc., so the proposed Welsh Government communication package needs to make sure that this information reaches all farmers. Similarly, in terms of the e-learning modules, there are farmers that are unable to do that. Welsh Government need to make sure they have a package of measures that suits everyone within Wales. Dylan asked Spencer to remember how we operate at the moment with things like RPW online, with the Unions providing support to thousands of members with things like the Single Application Forms. Regarding the detail and complexity around these rules, the Unions will not be able to provide that level of support to farmers, so a system needs to be in place for all.

Dylan also wondered about the level of support Farming Connect will be able to provide going from 2.3% of Wales in NVZs to essentially fifty times that level and asked how Welsh Government will make sure there is sufficient support available for farmers.

Dylan concluded that ultimately, Welsh Government need to make sure the information is available as soon as possible. Some of these proposals are coming in from 1<sup>st</sup> April 2021, but people will be buying in manufactured fertilisers in advance for the year already. Additionally, with proposals coming in on 1<sup>st</sup> January 2023, you are talking about stocking limits regarding dairy cows, but those animals are pregnant now; based on new animals coming into the herd in 2023. Farmers will need to make decisions now, not wait until 1<sup>st</sup> January 2023 or 1<sup>st</sup> August 2024. NFU Cymru have been disappointed so far by the amount of information on the Welsh Government website. NFU Cymru put out a six-page briefing document to members based on the regulations within two days and a summary of the regulations in Farming Wales has also gone out to members. There is currently no detail on the Welsh Government website apart from scant information regarding the dates. Dylan advised that it is very important to get this detailed information out to farmers as soon as possible and provide a place where they can go to ask questions and get advice.

Spencer responded and agreed that it is important to get the guidance out as soon as possible but mentioned this is being delayed due to the internal reactive work Welsh Government are dealing with, with time limited legal deadlines to respond to which is taking resources away from actually finalising the guidance document. The urgency of getting this guidance document out there is not lost on Welsh Government.

Spencer noted that in relation to getting key messages out there, this is very important and would welcome and consider any suggestions from the group on how best to do this. The Farm Liaison service will also continue in its current form. Welsh Government are happy to support and provide Unions with key messages and information to communicate and circulate to their members.

28. The Chair reiterated the importance of giving consistent messages to farmers.

29. Sarah Jones, DCWW mentioned that in the past DCWW have worked on producing 'stakeholder packs' which contain key messages and wondered due to the complexity of these regulations whether this method could be used to ensure that the same consistent messages are communicated to farmers.

Sarah suggested that there is also going to be a reliance on advisors and perhaps third parties to deliver some of the outcomes such as the record keeping, so will there be open briefings held with them which would go into more detail to help them understand the information.

Regarding the risk maps and record keeping, Sarah asked whether the detail of these outcomes will include examples of what a good risk map looks like compared to a bad one and what good record keeping looks like compared to bad record keeping. If these examples are not provided, it will be difficult for farmers to assess whether they should be paying extra for an advisor to do them and what level of qualification is needed to produce them.

Spencer appreciated Sarah's suggestions and said he would need to go back to the Farming Connect team with them, particularly the 'stakeholder pack' idea. Spencer confirmed that the requirements for the risk maps would not be particularly onerous and the guidance will make that clear. Spencer suggested that farms differ considerably so examples of a 'good' or 'bad' document might be misleading and farmers might think that is the way they have to do it but it might not suit that particular farm by trying to use something that is not applicable. The guidance explains very clearly what is required and how it may affect different farm types. Spencer said that most, if not all farmers can undertake this element themselves and do not have to get a consultant in to do for them. Farmers know their own farms and a lot will already have this information to hand.

***AP March 02: Spencer Conlon, Welsh Government to discuss the Stakeholder Pack with Farming Connect and work with members on the group to compile key messages.***

30. Bob Vaughan, NRW wondered whether this group has got a part to play in helping Q&A some of the information Welsh Government has to send out or test some of the information to help it land properly. Consistent messages are key and we are already picking that up within NRW, where different people have different views on these regulations depending on where they sit within the organisation. NRW are working on consistent messages internally and will then give correct consistent messages externally, with a one voice approach.

Regarding earned autonomy, Bob asked whether this offer is open ended or does it tie in with the 18-month review because this group will likely want to look at this as it fits in with the Sub Group discussions.

Spencer said that the earned autonomy is within the regulations and is an 18-month window from the regulations coming in, so 18 months from the 1<sup>st</sup> April and also covers the ministerial consideration of that scheme. There is also a formal review of the regulations in 4 years.

Regarding the offer of the group testing some of the information for Welsh Government, Spencer said ideally yes, but this is not practical as Welsh Government are under pressure to get the detail out and this would likely delay things. Spencer said he is happy for the group to review the 'Frequently Asked Questions' element, which will be a live document that can be amended and updated. Spencer said that we can factor in some form of review in the future if we want to clarify or improve upon it but at the moment it is important to get the guidance out there.

***AP March 03: Spencer Conlon, Welsh Government to circulate the Frequently Asked Questions document to the members for them to provide comments and additional Q&A's***

31. Nichola Salter, NRW mentioned that she has been contacted by and had some brief discussions with FAWL who were thinking about creating a fact sheet and templates. Perhaps we need to look at what is there currently available/required and build on it. For example with FAWL, farmers are required to have a risk map, but it does not quite meet the requirements of the new regulations. We need to help farmers identify what they are doing now and what the small changes they might need to do to what they are

already doing for their quality assurance schemes. We have also had discussions at the last Farming Connect Delivery Board about making sure that we are all doing things harmoniously.

32. Geraint Llyr Davies, NRW said as a farmer some things are concerning going forward. Geraint said that he received an email from Welsh Government saying that he was unsuccessful with the application for the Yard Coverings Grant. Geraint said that they thought they had accurately calculated it, but it was miles off based on Welsh Governments calculations. Geraint discussed the limitations of the resources available to help the application process and asked Spencer whether this process would be made easier going forward. Spencer admitted he did not know the detail of this situation but is willing to take any suggestions on board and have a chat with Geraint offline. Geraint explained that priority catchments in England have a £60,000 grant available to help get up to the regulations and resources are accessible to help including the very detailed and advanced Defra Magic Map which indicates the grants linked to each priority area. Welsh Government needs to deliver on these resources and advanced information for farmers to make it easier for them going forward. Geraint mentioned that there was approximately £950 million within the RDP which was not delivered and has failed to be allocated to help get Welsh agriculture become compliant before any form of regulation coming in.

The Chair said that perhaps this is an opportunity to improve on the current maps now that we know what we might need and learn from those that are doing it well.

Spencer said he would raise this with his colleague Richard who deals with this area. It is always a good thing if we can learn from those doing something well and put something in place. Spencer said he was happy for Geraint to email some brief details to him to take to his colleague to address.

33. Sarah Hetherington, NRW mentioned that consistent messaging is key and suggested that one of our recommendations should be that they should align so that there is one piece of paperwork for whatever you need, rather than adding a bit more detail here and there to satisfy whichever scheme (e.g. risk maps for FAWL, Red Tractor, water regulations, SFS etc.).

Sarah also mentioned that lessons always need to be learned through schemes and there are lessons to be learned from the approach to the Yard Coverings Grant. After this window it might be worth having a review to see how it can be improved and how it can be made more efficient and accessible.

34. Chris Mills, WEL asked what is NRW doing as the regulatory authority to prepare for the implementation of these regulations.

Bob Vaughan, NRW mentioned that NRW has been working with Welsh Government behind the scenes to look at these regulations. NRW will have the enforcement and regulation role on this and clearly need to work out what resources we require. This also has a major impact for NRW on the way that we currently enforce all our activities. These regulations cut across quite a lot of these areas and we need to look into how we can make sure we get out on to site before pollution takes place and what impact that has. Bob said that NRW wrote a paper on what the implications of the resources are which went to the Regulatory Business Board (RBB). The report has been signed

off by the RBB with a number of options outlined to deliver this service across Wales, ranging from a standstill position up to implementing the regulations in the biggest way that we could. That report has been sent to Welsh Government for them to review the options we have identified. Bob said that he is planning to meet with Spencer and Andrew's team next week to go through those options and indicate to them what option the RBB identified as the one which was preferred. Each of the different options have different resources applied to it and outlines a range of resources required to undertake the different standard of service that NRW have looked at. Bob said that hopefully NRW are at the point of negotiating this with Welsh Government to see what funds are available to resource up to the level that we want to operate at.

Bob outlined that NRW have lined up a number of internal workshops for operational staff to understand what we are doing, both in interpreting the regulations and how we are going to implement them. Bob suggested that once these workshops have been presented to colleagues, he would also like to present to the WLMF Sub Group to help explain the role of NRW and for the group to fully understand what to expect of NRW in implementing these regulations. Sarah Hetherington, NRW discussed the work that NRW has been doing alongside this in terms of mitigating the risk of pollution policy around the planning side. Sarah mentioned that concerns have been raised with how OGN 20 interact with the water side and that work is going to be published at the same time as OGN 20. Sarah mentioned that NRW work in conjunction with RIW and will be working out the response and what will happen going forward, but how NRW will interact with RIW will depend on the resources that are allocated to NRW.

35. Chris Mills, WEL mentioned that an area of concern is the NRW incident attendance policy because the awareness is going to be quite great and people may well report into NRW that slurry is being spread at the wrong time. At the moment, it seems that the incident attendance policy and some of those incidents may not tally. Chris asked whether NRW will look at that as a result. Bob Vaughan, NRW said that this is a key part of what NRW are already looking at. As soon as NRW saw the draft regulations last year, this was an obvious issue straight away because it cuts across the way we currently attend incidents and so we have built this into the resource requirements. Bob said that we have also been talking to the regulatory part of our business to ensure that they understand that this is specifically for agriculture and what the potential consequences are for other activities that we enforce. We have a consistent approach, but this undermines (not negatively) the current position, which means we need to review the whole way that we carry out incident enforcement across NRW. This has implications beyond where we are, and it may end up that we have two different approaches; one for agricultural purposes and one for other types of incidents. Bob concluded that at this stage we do not know but NRW are looking into this in great detail.
36. Dennis Matheson, TFA commented that in a WLMF meeting in 2016, a presentation was given regarding pollution incidents. At the time, Welsh Government were extremely worried that the EU might say that not enough was being done about pollution incidents and an all Wales NVZ approach would be imposed, but the Welsh Government did not want to do that. Dennis mentioned that he noticed that in the Minister's statement last month when she said these regulations were going to go ahead, she said she was worried that exports of lamb from Wales to the EU could be jeopardised, unless she did not impose an all Wales NVZ. Dennis continued and said that the EU has now come out against the UK saying that it is not complying with their Clean Air rules. Dennis

wondered whether the case waiting in the EC against pollution in Wales, brought by Afonydd Cymru is on the horizon and could be inconvenient for Welsh Government if this came up just before the election.

Dennis stated that there has been no mention in the new regulations regarding how tenant farmers are going to comply. Dennis said that from the beginning of his involvement with the Sub Group he has consistently said that it is very difficult for tenant farmers to comply with many regulations. In particular, short term tenancies are very restricted with clauses in their tenancy agreements which are restrictive with what they can and cannot do, not only for new slurry stores but for all sorts of other things. Dennis mentioned that some recent statistics regarding farm business tenancies (half the tenancies in Wales) suggest that the length of tenancy now has reduced to 3.2 years down from 3.5 years and 89% of farm business tenancies are less than 5 years. This means that none of these farmers can enter into the environmental schemes at the moment and it is highly unlikely that they would be eligible for any grants because you have to have a 5-year business plan. Dennis discussed that overall, what landlord is going to spend thousands of pounds on new slurry storage when the tenancy is going to end in 1 to 3 years' time and what tenant is going to possibly invest in such infrastructure even if they got permission. Dennis said that this issue has been brought up many times and the Minister has visited his farm and many others which face this issue. The TFA has also had numerous meetings with the Minister and Welsh Government to discuss this issue so Welsh Government actually know of these problems, but nothing has been done. In August 2024 all of these new regulations will be in force for the scheme and the TFA believes that there should be alterations to the Tenancy Act and they have suggested which ones, as advised by the Tenancy Reform Industry Group. Dennis mentioned that Welsh Government are not going to bring in any new or amended tenancy regulations until the Agricultural Bill becomes law in 2024 (if brought in) and any new regulations will have to go through the legal process – which is too late for tenants to try and get permission for new slurry stores by August 2024. Dennis asked what the Welsh Government is going to do about tenancies because if they are going to do nothing, there is no doubt that this will be the beginning of the end for agricultural tenancies in Wales.

Spencer confirmed that there was a meeting a few weeks ago to discuss this issue and following the meeting the Minister is writing to the TFA. Spencer said that the Minister committed to meeting with the TFA again to take these matters forward. There is a consultation live at the moment regarding the White Paper and Welsh Government are expecting the TFA to come back with comments. Welsh Government are committed to working with the TFA to make sure that this works for everyone in Wales. Spencer said that there is a lot of detail in what has been said and is happy to unpick it when the group meet later in the month. There will be a 'Frequently Asked Question' section regarding tenanted land to support the guidance and Welsh Government is happy to develop, amend and increase it as we go forward working with the TFA and others.

Dennis responded and said that this issue has been pointed out for four years and the Welsh Government has accepted there is a problem. This Sub Group has been very supportive and the issue was also included in the Sub Group interim report. The TFA have come up with a number of suggestions but it is too late now, as these regulations are coming in in a months' time and some tenants will not be able to comply. Welsh Government's only recourse is to exempt tenant farmers until this problem is sorted. Spencer said that the elements that are coming in in a months' time are in relation to

where and when you spread, so this is not going to be more of a problem for tenant farmers than anybody else. Dennis gave an example that tenants are not allowed to export slurry off a tenant farm onto any other farm like an arable farm next door. Spencer said that those provisions from 1<sup>st</sup> April will not change and what has been the case under SAFFO, will remain.

Dennis mentioned that County Council farms will also be heavily affected for example Powys County Council has a large number of farms with about 150. Someone has worked out that it is going to cost the County Council about £45 million to put all of their slurry storage right, before grants. They have said they are not going to do it and if push comes to shove, they will sell the entire estate. This is an urgent matter. Spencer advised that he has not seen those figures and is not sure whether they have done it farm by farm or if they have considered all of the options including prevention rather than moving straight to additional slurry stores.

Dennis clarified that the TFA does not want one single incident of agricultural pollution and they want to stop pollution incidents occurring, but tenants are hampered by this type of farming.

Geraint Llyr Davies, NRW agreed with Dennis and fully supports his view. Geraint said that the White Paper is weak towards tenancy situations in Wales and the TFA has been shouting questions at Welsh Government for a while so why these things are not in there to be resolved. Geraint concluded that there is not enough being done in Wales towards the tenancy sector.

37. The Chair mentioned that 'targeted and proportionate' will be really important in the messaging to help farmers understand whether they have got a big issue or not. Asking how are we going to help make the messages be targeted and proportionate as we go forward with this all Wales approach. Spencer said that this is an integral part of the messaging which will come through in the 'what you need to know' and 'what to consider now' elements. Many farmers are different but 'targeted and proportionate' is based on slurry production not geographically. On a very basic level, the more slurry produced the more the regulations are likely to impact upon you because if the volume is higher, the risk of something going wrong is also higher. It is important to clearly communicate to farmers what the rules are, how these rules relate to the current makeup of their farm and what their options are.
38. Dylan Morgan, NFU Cymru said that the record keeping element of the regulations should not be underestimated. Every farmer in Wales to some extent, will have to undertake the record keeping requirements even if it is to prove that they are under certain limits. Going back to the comments raised regarding the White Paper, the importance of that coming into regulation as part of the National Minimum Standard, it is part of entry and inspection is part of the future Sustainable Farming Scheme (SFS). So falling foul of that record keeping requirement is going to have an impact in terms of civil sanctions for National Minimum Standards and also potential entry or continuation in the SFS, and not just the SFS elements around the payments but access to all of the business support. Look at other areas of the UK and the number of cross compliance penalties that are related purely to the record keeping requirements. When this is discussed in the context of the White Paper and the increased regulatory baseline impact, there could be a massive impact on any farmer not just a slurry producing farmer. The Chair agreed that this is an important area and mentioned that she has

been in discussions with Welsh Government where they were looking at how to minimise the record keeping element for the farmer where it is not the major issue. Spencer agreed that there will be an element of record keeping for every farmer, but it will be proportionate. If a farmer is not producing volumes of slurry, the record keeping will be minimal. That is the nature of an entry into a scheme where for the basic standard it will not be any different to any other entry requirement to the scheme and Welsh Government are endeavouring to keep it as simple and straightforward as possible. As we move forward, we need to monitor that and if there is a problem developing then we will look at it. Welsh Government want to work with the group and work together to implement the regulations effectively.

39. Dennis Matheson, TFA mentioned the Livestock ID scheme and at the time Welsh Government recognised that it was impossible to comply with the arrangement of tagging individual sheep, but it was an EU rule which they had to enforce. Welsh Government said at the time that if enough people came forward with evidence that they could not do it, then it this rule would be looked at again. These new water regulations are similar in some ways, as Welsh Government recognise the fact that some people will not be able to comply and if we come back with evidence then maybe it will be looked at it again. Spencer said Welsh Government will look at any evidence put forward in relation to the way that the regulation is impacting them.
40. Bernard Griffiths, FUW wondered that with the increased demands on Farming Connect and the Farm Liaison Service to deliver all of this across Wales, does this mean they will have more funding or does this mean they will have to ditch some of the portfolio that they already have.

Bernard mentioned with reference to Earned Autonomy, there was the NFU Cymru lead voluntary alternative and it would be good to understand how this scheme did not meet the requirements Welsh Government were looking for with the earned autonomy approach. Having feedback on this would help us understand where the gaps were in that proposal.

Spencer said that he is not aware of any reduction in the services that Farming Connect and the Farm Liaison Service currently provide as a result of their help and assistance with these regulations.

Spencer also mentioned that the voluntary initiative that was put together has not been put forward as an Earned Autonomy proposal because it is not in place yet. If there are members of the Sub Group who want to put something forward as an Earned Autonomy proposal based on that document, then Welsh Government will be more than happy to discuss it.

***AP March 04: All members to submit any proposals on Earned Autonomy to Welsh Government***

Bernard said that the proposal was clearly not good enough and contained gaps in it, other ways these regulations would not have been introduced instead. Bernard suggested that it would be good to have a steer from Welsh Government going forward, regarding what work needs to be done on that proposal.

41. The Chair welcomed comments and questions from other Sub Group member organisations, to help them understand the clear and consistent messages they will need to communicate to their members.

Creighton Harvey, CFF mentioned that the CFF are concerned that a lot of their members will go out on 1<sup>st</sup> April and will be looking for farmers breaking the new regulations. The CFF are also concerned that there have been incidents in the last couple of months that have been clear breaches of the regulations and pollution has actually occurred but NRW did not come out and the matters are still being investigated. The CFF will be putting something out to tell people that these regulations are not just for 1<sup>st</sup> April but are for the foreseeable future and if everyone gets all excited on 1<sup>st</sup> April by going out and reporting every incident that occurs, NRW will simply not be able to substantiate all of the incidents let alone deal with them. The CFF will try to manage expectations and are asking NRW to make sure that they have procedures in place and that they have guidelines for their staff. These issues were raised two years ago with Sir David Henshaw and Senior Managers of NRW, to make sure guidelines issued to their staff were compliant with the regulations. The CFF will try to manage expectations by pointing out to people that there is a burden on NRW to make sure they are in a position to regulate and that this is for the future not just one day.

Bob Vaughan, NRW responded and said that these discussions are ongoing with Welsh Government. Once NRW know what resources are available to do this work, we will be briefing our staff internally as to what our expectation is and will be consistent about how we approach these regulations and apply our work. We will come back to this group to show how we will take this forward with the resources that are available, so that you have an idea of what to expect from NRW. If that is not good enough, we will have to review it in a year's time. At the moment, it will very much rely on what resources we have got and how we can put these things in place.

Creighton said that on behalf of CFF, he has started to compile a document based on individual experiences of reporting incidents to NRW and the responses received. This is a guide for people to know how to report incidents in the best way in order to get a good response from NRW. This document was just about complete but will now have to be amended to take into account the new regulations. Something will be going out from the CFF which will reflect not only NRW policy but where people have experienced difficulties in the past when reporting incidents. It will also provide practical guidance like producing a photograph of the incident and asking for the incident number to be emailed to them so that information can be sent direct. Creighton concluded that in return, the CFF will obviously expect a response from NRW. Bob said that he would be very happy to discuss this with colleagues to make sure staff are aware that this is the type of information they will receive. Going forward, once we have an idea of how NRW are going to undertake the work according to the available resources, we will hold a series of workshops with our staff internally to make sure they are aware of what we are going to do, help them have a really clear idea of the messages they will be giving out and ensure they know what they need to do in the field. Bob said he will also work

with Meinir to make sure NRW get that communication out to everyone else, so that everyone knows what we are planning to do and how we are going to do it. We will also welcome any comments if you see any shortcomings or any issues where we can improve that service. NRW will be talking to Welsh Government all the way along because we will have to report and update them on how things are progressing.

42. Meinir Wigley, NRW said that it is crucial that there is a definitive place for farmers to go to for information, which currently looks like it will be Welsh Government or Farming Connect websites. Rather than us all recreating information with our own communications, it will be important to sign post to one central site. Once NRW know what the regulation and enforcement approach will be, that is the information we will put on our website because that is what we are responsible for. The duplication of information might become more hampering, so it is key that we distinguish where the important information is and signpost to it.

Meinir mentioned that now these regulations are coming in, NRW will work with Farming Connect to understand what/where the information will be and who is going to be responsible for it. Sharing links will also be important to cross-communicate the information across the different channels.

Meinir agreed with Sarah Jones' earlier suggestion regarding a 'stakeholder pack' and giving direct information to farmers, which is vital at this stage. Meinir noted that no matter how much social media communication you do, you are still not going to reach every farmer in that way.

The Chair mentioned that a key concern is the timeframe of this and asked when the common source of information will be made available. Asking will this be ready by our next Sub Group meeting on the 22<sup>nd</sup> March.

43. Sarah Hetherington mentioned that there was a suggestion or recommendation from one of the actions of the Sub Group report, that there should be a one-place deposit for information relating to this topic. Sarah acknowledged the policy development around the web offer within Welsh Government, the beta site that has been launched and also the policy development around the access to NRW's site. That action still sits with Welsh Government because the policy might limit what they can put on that site and vis versa, so they should come back with an answer regarding this. Sarah said she and Andrew were trying to take this forward outside this group, to see where that site fits. Andrew Chambers, Welsh Government said that this work is ongoing and will continue, but at the moment the existing Welsh Government website will be used as the main communication channel in terms of the web page.
44. Sarah Jones, DCWW mentioned that obviously the first phase of the regulations comes in from 1<sup>st</sup> April 2021 but it is not until August 2024 that all of the aspects come into effect, so communication needs to be on going from now until 2026 to allow for forward planning. We need to make sure that the communication does not drop off so that we are actively planning for the next phased implementation of the regulations. This topic needs to be kept on everyone's communication or agenda. The potential 'stakeholder pack' could be updated or revised every year to communicate what the new messages are.

The Chair agreed and said that people are making decisions now which will be affected by things that are going to change in 2023 and 2024. It is important to have those key messages regarding what is going to affect farmers now on the 1<sup>st</sup> April 2021 and what will affect their businesses at the future phases and beyond. The Chair concluded that a proper communication plan would be helpful but presumably it is still being worked on.

45. Dennis Matheson, TFA mentioned that it may be relatively straightforward to inform the approximately 16,500 people claiming Basic Payment Scheme (BPS) but what about the 8,000 active farmers that do not claim BPS or the other 10,000 smallholders, all of whom have to fill in these forms. Dennis asked how you are going to get this communication to all of the other farmers who do not read any of the farming press or media. Spencer agreed that communication is not easy but there is a lot of collective expertise in this group and Welsh Government are more than willing to listen if anyone has any other ideas to make communication easier.
46. The Chair suggested that a small group could work on sharing some of these key messages between the time before the next Sub Group meeting on 22<sup>nd</sup> March. This small group could then share with the rest of the group at the next meeting, so that a consistency approach is formed.

Meinir asked whether Welsh Government has a Communications Officer working on this and if so, it would be better to link in with them directly, rather than forming a subcommittee of the Sub Group.

***AP March 05: Meinir Wigley, NRW to link up with Farming Connect and any other Sub Group members to discuss the communications plan for the implementation of the regulations.***

Spencer said that on behalf of Welsh Government, Farming Connect are putting together the communications engagement plan. This will all be put in place and any suggestions that can be fed into that process are welcome. Spencer suggested that maybe Farming Connect could come to the next Sub Group meeting to discuss this in more detail.

***AP March 06: Spencer Conlon, Welsh Government to invite Farming Connect to the next Sub Group meeting on 22<sup>nd</sup> March to discuss their communications engagement plan for the new regulations with the group.***

47. Sarah Hetherington, NRW asked whether it would be possible for Spencer to share his PowerPoint presentation from the meeting today, particularly regarding the communication plan and the support and advisory information. NRW could then have a more detailed think about what we would like to see within each of those to help support our regulatory approach. The more advice, information and support upfront, the less likely enforcement will be; and this is a critical part of the resource equation. Spencer agreed that he could supply the presentation, but the caveat mentioned at the start of the meeting still stands; that this is just an overview of the regulations to give an idea of what is going to happen. This presentation is not a legally binding summation of the regulations and it should not be used as such. Welsh Government are happy to share it, if you accept that it is just a general overview and that the regulations should be reviewed for any detail.

***AP March 07: Spencer Conlon, Welsh Government to circulate the PowerPoint presentation to all the Sub Group members***

48. Creighton Harvey, CFF said that he is concerned that since the announcement of the regulations by the Minister and the vote, the messaging has been somewhat negative in relation to all of this. It would be good to some positive communication particularly around the phased implementation. It has been hinted this afternoon that some people have not been aware of the phased implementation and are looking at the dark side of the regulations by ignoring aspects. Very little publicity has been given to the possibility of Earned Autonomy and the message has clearly not got out to farmers on the ground, that their representatives have the opportunity to put forward an alternative suite of measures that might provide a similar outcome but more effectively. Those two messages really need to be clearly put out there for farmers.
49. The Chair asked whether anyone else had any comments or questions. Bob Vaughan, NRW asked whether any other members of the group wanted to be a part of the discussion with Meinir and Farming Connect to discuss the communications plan and develop a consistent message approach. Creighton Harvey, CFF volunteered to be a part of any communication discussion.
50. Spencer confirmed that the guidance will be available on the Welsh Government website shortly and will be available for anyone to access. The messages and communication are something to build from there, but it is important to get clear information to farmers. Spencer accepts that the full guidance is not currently available on the website but notes that the highlight document provides a summary of the key points which is easily digestible and clearly highlights that this is a phased implementation with outlined timings.

The Chair asked Spencer when the full guidance document will be available. Spencer said he aims for it to be completed by the end of next week.

51. Sarah Hetherington, NRW asked whether there will be an opportunity for the Sub Group to look over the guidance. Spencer said ideally and normally he would agree but this will delay implementation but is happy to work with the group to improve, update or amend the live document of the 'Frequently Asked Questions'. Spencer said that if there is anything significant in the guidance to amend, when the time comes to amend it Welsh Government will do so.
52. The Chair suggested that if the timings of completing the guidance next week works out, then the group could have a good study of it before the next Sub Group meeting and possibly suggest some areas where we can help improve it.

Spencer clarified that the guidance document will not be amended from any comments before 1<sup>st</sup> April 2021, because it would have to go through a formal approvals process and then be published. The guidance document will not be amended ad-hoc because there would need to be a formal review period.

### **Item 3 Any Other Business**

53. The Chair thanked Spencer and Andrew for their presentation, discussing the regulations and taking questions from the group. The Chair said that she hopes that

this will improve our ability to eliminate agricultural pollution whilst supporting a thriving agricultural sector in Wales – a joint goal.

54. The next Sub Group meeting will be on Monday 22<sup>nd</sup> March. We will be looking at how this integrates with our other work streams and how we can move forward with this and the other areas.

## **Close meeting**