

Welsh Government
Regulatory Measures to tackle
agricultural pollution

**AVAILABLE EVIDENCE
SUPPLEMENTARY PAPER**

Prepared by NFU Cymru



Submitted to the
Minister for the Environment, Energy and Rural Affairs
On 14th October 2019



1. Introduction

On 14th November 2018, Welsh Government announced that regulations covering the whole of Wales to protect water quality from agricultural pollution would be introduced in the Spring of 2019, coming into force from 1st January 2020 with transitional periods for some elements to allow farmers time to adapt and ensure compliance.

Regulations are to include the following measures:

- Nutrient management planning
- Sustainable fertiliser applications linked to the requirements of the crop
- Protection of water from pollution related to when, where and how fertilisers are spread
- Manure storage standards

On 10th January 2019 the details of the new regulations were shared with industry representatives. The new regulations closely mirror the requirements for Nitrate Vulnerable Zones, which together with some additional measures will apply to the whole of Wales.

For information, the existing NVZ Action Programme which applies to farms in 2.4% of Wales currently can be accessed [here](#). All of the regulatory measures included within the existing NVZ Action Programme are repeated within the proposed new regulatory measures to control agricultural pollution which will adopt a whole Wales approach.

Following discussions between NFU Cymru lawyers, JCP and Welsh Government, Welsh Government confirmed to NFU Cymru that the development of the regulations will be subject to consideration of the available evidence and the findings of a Regulatory Impact Assessment.

Following submission of Available Evidence to Welsh Government on 10th September 2019, additional information has come to light which should be considered by the Minister for Environment, Energy and Rural Affairs in the development of new regulations. New evidence includes:

- Emerging supply chain issues for the dairy sector in Wales
- Public Health Wales Report – ‘*Supporting farming communities at times of uncertainty*’



- **Emerging supply chain issues for the dairy sector in Wales**

NFU Cymru Available Evidence submitted on 10th September 2019 refers to the challenging economic context into which proposed pan Wales NVZ regulations are being introduced. Recent developments include Tomlinsons Dairies. On 13th October 2019, [BBC Wales](#) reported that 'urgent clarification' was being sought from Tomlinsons Dairies – a major dairy - amid claims farmers have been told it could no longer accept milk supplies.

The devastating news has since been received that Tomlinsons Dairies Limited in north Wales has gone into administration and has told its suppliers to find alternative processors for their milk. It is believed that there are around 70 producers affected, many of whom are located in Wales.

This development will be highly concerning for the farm businesses involved as well as the sector as a whole when margins are already very tight.

Furthermore, Glanbia Cheese, based in Anglesey, has written to its suppliers to bring to their attention their position relating to a number of potential scenarios that they could face as a business which will impact on their suppliers.

In the event of leaving the EU on 31st October 2019 without a deal, cheese sales will incur a tariff of €1852 per tonne which equates to an on-cost of circa 60% on current sales prices. In milk price terms this represents a cost of circa 18.00 pence per litre. EU based competitors will be able to continue to sell product into the UK with no impediment to trade.

If cheese sales volumes and, therefore, milk purchase volumes are to be maintained, Glanbia identify they will be forced to seek additional domestic sales but this will have the impact of putting downward pressure on price. As a result of there being no clarity on the future trading environment, Glanbia have had to suspend their policy of announcing their milk price a month in advance.

Even in the event of a deal being reached with the EU, a 'transition period' is expected which is assumed to facilitate trade on existing terms with the EU until December 2020. During this period, the UK Government will negotiate the future trading relationship with the EU. The trading position after this 'transition period' remains unknown. Under this scenario, farmers will continue to be exposed to significant Brexit uncertainty.

The ability of farmers to meet the costs of new regulatory measures must be a key consideration in the development of new regulations. Farmers in Wales are already experiencing and are highly concerned over low marketplace returns in part associated with Brexit, which is now reaching crisis point. It is clear, even if the UK Government is able to negotiate a deal ahead of scheduled departure on the 31st October 2019, a new phase of uncertainty will result during the transitional period, expected to 31st December 2020. The ongoing uncertainty is impacting greatly on farmers' ability to cope with and respond to additional challenges including the proposed NVZ pan-Wales regulation.



- **Public Health Wales Report – Supporting farming communities at times of uncertainty**

In September 2019, Public Health Wales and the Mental Health Foundation published their report ['Supporting farming communities at times of uncertainty – An action framework to support the mental health and well-being of farmers and their families'](#) which presents the findings of their research programme to develop a framework to support the mental health and well-being of farmers at times of uncertainty and consider how it could be translated into action.

The report rightly recognises that *'farming families and rural communities are an integral part of Wales – an asset, shaping our natural environment, culture, and contributing to the well-being of the Welsh population and our economy'* and that *'the benefits of a resilient farming sector can extend beyond farmers themselves contributing towards the health and well-being of rural communities, local economies and Welsh culture'*. The report also identifies *'that improving the mental health and well-being of farmers and their families is of considerable importance, enhancing the resilience needed to manage and overcome uncertainty'*. Crucially the report recognises that *'A preventative approach is required that includes preventing uncertainty and the challenges from adversity, protecting against the potential impact of those challenges on mental health and well-being, and promoting mental health and well-being amongst farmers and farming communities to support resilience'*.

The report states *'Farmers and those living in rural communities in Wales are facing a period of significant uncertainty, in the short to medium term, with a potential negative impact on their mental health and well-being. In such times efforts to address the underlying causes of anxiety and distress, and support mental health and well-being should be intensified'*. The report identifies *'the programme was undertaken within the context of the UK leaving the EU, many of the uncertainties identified in the stakeholder engagement are longstanding issues, where Brexit may exacerbate the impact'*.

Of relevance to proposals to introduce NVZ regulations covering the whole of Wales, *'Regulation, administration and digitalisation'* is referred to as a key challenge with the report stating *'Stakeholders reflected on farming as being a highly regulated industry, including managing demands from inspections, paperwork, notifiable disease and crop pest outbreak management, and administration in some cases (if a farm spans England and Wales) across two systems. Many reflected on high levels of stress due to the complexity, and anxiety about changing regulations and fear of making mistakes that can result in financial penalties. Some highlighted incidences where an inspection led to an immediate financial penalty without a discussion on whether it could be resolved quickly, nor consideration of the significant distress caused, especially if the farmer was already struggling financially. This was a frequently described scenario, particularly amongst those farmers who have gone on to develop poor mental health, and from farming wives/partners commonly dealing with the consequences, including suicide'*.

The report refers to the 2011 ['Working Smarter'](#) review on better regulation and *'Assessment of progress against the Working Smarter recommendations to streamline the administration and regulatory processes in farming'* is included as a key recommendation.

We highlight Working Smarter (2011) includes a number of recommendations pertinent to the proposed water regulations including recommendation 44 which states *'the application/implementation of environmental regulations in Wales (including NVZ) must be reviewed to ensure that flexibility has been considered; gold plating avoided and the Defra approach has not been routinely adopted when a different approach may be more appropriate in Wales (S)'* and recommendation 45 *'A risk based and targeting approach should underpin the application of environmental regulations in Wales (S)'* – where (S) relates to short-term recommendations to be completed by July 2013.



In the light of the findings of Public Health Wales research, Welsh Government must reconsider regulatory proposals for the whole of Wales which are neither risk-based nor targeted. Assessment of progress against all Working Smarter recommendations must be undertaken as a matter of priority.

