

Alison Caffyn: What are the differences between the roles and purposes of the Nutrient Management Board and the Wye Catchment Partnership?

Response - Councillor Elissa Swinglehurst, Chair:

The most obvious difference is that the WCP is set up under CaBA and works to deliver solutions for all aspects of the catchment from soil loss to flooding to drought, to adapting to climate change, to tourism to lack of data. It is predicated on building collective understand of the issues, their causes and the solutions and empowers organisations to work in partnership to solve them. It does not have any legal status. Any plan that it produces will therefore be more wide ranging and comprehensive.

The RWNMB was set up to address the nutrient enrichment of the catchment, specifically phosphate, through the development and delivery of a plan. The plan was necessary as a response to the WFD (2014) failure of the R. Lugg and it was designed to demonstrate a path to favourable conservation status in 2027 and to enable the development proposed within the council's local plan to be accepted at examination.

The subsequent 'Dutch Cases' (2019) have reintroduced the 'moratorium' on the basis that the plan cannot offer sufficient certainty that the River Lugg will be within targets. The targets for the R. Lugg have also tightened. This being the case the ability of the plan to enable development has been impaired but the plan continues to develop and deliver actions to improve the nutrient levels of the catchment.

Nicola Cutcher:

Responses from Natural England & Environment Agency

Given Dr Rupert Perkins of Cardiff University says that we need to move away from 'phosphorus mindset' and consider all nutrient loading holistically - including the fact that Ammonia could be a key factor in blooms on the Wye - is the Nutrient Management Plan paying due attention to all nutrient loading?

Natural England & Environment Agency- The Diffuse Water Pollution Plan, our Catchment Sensitive Farming Advisors and our wider farm advise all take a holistic view regarding nutrients and sediment. It is important that although there is rightly a strong focus on phosphorous, that we also are mindful of potential impacts of Nitrogen, especially in regard to Algal blooms.

Natural England- Regarding Condition Standard Monitoring, targets for Nitrogen historically have not generally been set for rivers and this includes the Wye. However, given the developing evidence this is being looked at and considered by our National Rivers Specialist, specifically in the case of the Wye.

Environment Agency - we are also focusing on other nutrients as part of our regulatory activity and talking to land managers about the importance of pH, soil structure, soil biology etc.

The inter relationship between nutrients is complex and it is important that this is acknowledged and understood. We are working with farmers and agronomists to understand these nutrient relationships better. We are also looking for opportunities to work with the farming industry and researchers to better understand the movement of phosphate within the soil and how various factors may influence its

availability to plants and their ability to assimilate it, and how factors may influence the lock up of nutrients and losses to the environment. Understanding this is critical to finding sustainable solutions to phosphate management.

Update, 24/1/24 – Response – NRW:

Included in our January update to the Board was a link to a [new evidence report](#) about water quality within Special Area of Conservation (SAC) rivers in Wales. The report complements NRW's 2021 phosphorus compliance report and looks at compliance against seven additional water quality targets including ammonia. It focuses on 127 water bodies within the nine SAC river catchments – Cleddau, Eden, Gwyrfai, Teifi, Tywi, Glaslyn, Dee, Usk and Wye - using data collected between 1st January 2017-31st December 2019.

The report shows no failures on the Afon Tywi and Afon Glaslyn and a small number of non-compliances on the River Dee, Afon Eden and Afon Gwyrfai. More notable failures against targets are recorded on the Afonydd Cleddau, Afon Teifi, River Usk and River Wye. The majority of these relate to targets which are indicators of organic pollution.

The evidence report is publicly available on our website.

Is there any action at all to reduce livestock numbers, as per one of the key recommendations in the RePhoKUs report?

Natural England – The only mechanism currently in place to reduce livestock numbers is through voluntary advice to landowners. We also need to be very mindful of impacts i.e. a land use change of permanent pasture supporting livestock to intensive high risk arable crops may not be beneficial, so as always it is a complex picture and important to consider a holistic approach. As per the NE (Natural England) update, we are proactively engaging farmers to reduce diffuse pollution. This is together with the significant work done by partners such as Farm Herefordshire.

Update, 24/1/24 – Response – NRW:

NRW are unaware of any planned regulatory reduction but compliance with The Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 measures may result in some reduction (because of the nitrogen loading figures being reduced).

What does the NMB think about the threshold for Environmental Permits for poultry units? At present, only units with over 40,000 birds require a permit. Does the NMB think this threshold ought to be significantly lowered to ensure all units are inspected and assured to be compliant with environmental regulations? Is any action being taken to this effect?

Environment Agency – we are not aware of any plans to change the current permitting threshold for Intensive Poultry. A change in the permitting regime would increase the numbers of permitted sites, but this would not address off-site manure management, which is regulated under different legislation, which is a key focus of our regulatory activity.

Update, 24/1/24 – Response – NRW:

NRW are unaware of any plans to change the current permitting threshold for intensive chicken farms. A change in the permitted numbers would also fail to control the manure storage and spreading outside of the permit boundary. If the thresholds were to be changed, we anticipate considerable challenge to the proposals as it would bring more farms into the permitting regime.

Can we please have an update on Project TARA and what it has discovered so far?

- Project TARA (Testing Approaches to Regulation of Agriculture) is a national project funded by DEFRA which tests how we approach our regulation of agriculture. The outputs from the project will be used to help inform the future regulation of agriculture.
- Concerns have grown in recent years over the increase in both poultry farming and Anaerobic Digestion (AD) sites in the river Wye catchment and whether the increase in these industries could be having a negative effect on water quality.
- West Midlands Area of the Environment Agency (EA) have been provided with funding (under Project TARA) to deliver additional agricultural inspections (this equates to 1.6 full time employees). These inspections focus on assessing whether there is widespread non-compliance in the Poultry and AD sectors; whether the materials from these sectors that are stored and applied to land might be causing environmental harm; and what these industries are doing to ensure land and water quality are protected.
- Unfortunately, the start of the project was delayed due to staff resourcing issues and we are therefore not yet at a stage in the project where we have sufficient evidence to start to draw any conclusions.
- It is planned that all AD sites in the West Midlands area will be audited for feedstock production, site infrastructure and management and use of digestate. These include permitted, exempt and crop fed sites (permitted and non-permitted). The first phase of the project is primarily focussed on the river Wye catchment and will assess site infrastructure and management of the 17 sites in that catchment. Initial site audits will be completed by the end of this financial year. The assessment of feedstock production, digestate use/nutrient management, compliance with the Farming Rules for Water and NVZ Regulations and 3rd party export records will continue over the next 2 quarters. We will have a much better evidence base when this work is completed.
- We are aiming to work with all farms with over 1000 poultry birds in the river Wye catchment. The first phase of the project is assessing the use and export of poultry litter. Farms that utilise their own manure are being assessed for compliance with the Farming Rules for Water and NVZ Regulations in relation to manure and fertiliser use on their land. So far 40 farms (out of approximately 154 sites) have been assessed. Data and information on sites that export manures are being collated to inform future inspections on third party export farms.
- Available data on poultry farms was outdated when the project started. Up to date data has recently been made available to the EA for use in the project and this data is now being used to

contact all farms in the catchment with over 1000 birds who we have not yet engaged with in order to assess their use of manures and fertilisers. This equates to 114 sites.

- Future work planned will involve site visits to some of the poultry farms under the EPR (Environmental Permitting) threshold to look at site infrastructure and management. Due to the scale of the industry and the number of farms involved, a risk-based approach to prioritise a selection of sites for inspection will be taken.
- We are working to identify sources of phosphate accumulation on farms with poultry and/or AD. We are working with land managers to ensure the efficient and sustainable utilisation of phosphate on these sites. Our work aims to not only assess and improve regulatory compliance but also to improve the general environmental performance of these industries so that the water quality of the river Wye is improved both now and for the future.

Christine Hugh-Jones: Will the NMB inform the public about what is happening to the 12 Powys IPU applications which have been subject to Welsh Government Holding Directions (imposed from January to end May 2023)?

Response – Peter Morris, Powys Council:

The planning applications remain subject to holding directions and can be viewed on Powys County Council's planning portal. Welsh Government is undertaking consultation on one planning application located in north Powys outside of a SAC catchment, and the Council awaits Welsh Government's decision on whether it will call-in the application for determination.

Christine Hugh-Jones: Please would the MNB comment on the development of "adequate regulatory regimes" in both England and Wales given the quote from a recent NRW Statutory Consultee Planning Response (attached in full) to an IPU application in Powys?

Response:

To be considered at the meeting.

Update, 23/1/24 – Response – David Lee, NRW:

I've had clarification on this wording from our planning development team and it's to do with the land spreading of digestate that meets the quality protocol (and so it ceases to be a waste) and because the new Wales agri regs are nitrogen focused rather than being focused on phosphorus.

This stance has come from the planning team (they consult with NRW teams and draft our replies on planning applications to local authorities) following internal discussions they had and with advice from NRW's legal team because of this gap in the current regulatory regimes.

If the digestate from an anaerobic digester is applied to land under an Environmental Permit, then there is control in place with the permit. However, if it meets the quality protocol it may not require a permit. In this instance the land spreading must still comply with the new agricultural regulations in Wales (the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021) but because the regulations do not currently include any control on

phosphorus and are nitrogen focused there is a regulation gap. As the land spreading of this digestate is not covered by a regulatory regime, we have to inform the LPA as they can't rely on permitting or the Regulations to cover this aspect when undertaking their Habitats Risk Assessment in the SAC river catchments. That's why we've include the sentence in our planning replies. My understanding is that Phosphorus will be included when the Regulations are reviewed.

Digestate has to meet quality standard BSI PAS 110 in order to cease to be a waste and more details are included at this webpage : [BSI PAS 110: Producing Quality Anaerobic Digestate | WRAP](#)

I hope this clarifies NRW's position and explains why you are seeing this line appear in our planning replies.