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| logo_ec_17_colors_300dpi | EUROPEAN COMMISSIONDIRECTORATE-GENERALENVIRONMENTDirectorate C - Quality of Life, Water & Air**ENV.C.1 - Water**  |

**Complaint Form**

To be used when informing the Commission about an alleged breach of the Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy **('Water Framework Directive')** and **related legislation**[[1]](#footnote-1).

**Why use this form?**

This form is to help the Commission decide how to follow up complaints about alleged breaches of the Water Framework Directive ('WFD') and related legislation, by providing a common structure for the information.

Based on the information provided, the Commission will decide whether the national authorities should be asked for clarification.

Although the form is not mandatory (you may use the general complaint form[[2]](#footnote-2) instead), you are strongly advised to use it if you wish to submit a complaint. Please remember that any complaint submitted to the Commission must be duly substantiated with sufficient relevant information so that the Commission can identify whether there is a potential breach of the legislation or not.

If you want to know more about how the Commission handles complaints, please see: "A Europe of results – Applying Community law" [COM (2007)502 final][[3]](#footnote-3) and "Updating the handling of relations with the complainant in respect of the application of Union law" [COM (2012) 154 final][[4]](#footnote-4).

**General remarks about filling in the form**

* Read the guidance paragraphs in bold at the beginning of each section before filling in the form.
* Only include information relevant to the issue you want to raise.
* You may not need to answer all the questions. Answer the ones that seem relevant to the issue you raise.
* Attach all necessary and relevant sources that support your complaint. This might include scientific reports, maps, official letters and press releases.
* Please refer to the appropriate page/section of the supporting attachments (your sources) when filling in the form.
* If you provide extensive documentation, please include a summary as well.
* The Commission will contact you if more information is needed.

**Identity and Contact Details**

**Use this section to explain who you are and whether you are submitting a complaint in a personal capacity or on behalf of an association (e.g. an NGO) or industry.**

**Contact Person (Mandatory)**

Surname: Marsh-Smith First Name: Stephen

Telephone: +447812118065 +441982560766 Fax: Click here to enter text.

E-mail: stephen@afonyddcymru.org

Business/Organisation: Afonydd Cymru (The umbrella trust for the six Rivers Trusts of Wales)

Position: Chief Executive Officer

**Address or Registered office**

Address: The Right Bank, the Square, Bronllys Road

Postcode: LD3 0BW

Town/City: Talgarth Country: Wales

Is the complaint supported by or made on behalf of other persons, businesses or organisations?

 Yes [x]  No [ ]

If yes, please specify or attach a list of names: The Rivers trusts of Wales (6) plus stakeholders: owners and anglers attached to them

 **Location Details**

Member State(s) concerned: Wales, UK (Devolved powers from UK include agriculture. Welsh Government is the Competent Authority for WFD)

**River basin(s) concerned[[5]](#footnote-5)**

National river basin district: West Wales, Severn RB (part in Wales)

International river basin district (if applicable): Click here to enter text.

Precise location where the alleged breach occurs[[6]](#footnote-6): Rivers: Tywi, Teifi, Cleddau Wye, Taf, Gwendraeth, Aeron, Nevern, Clwyd, rivers of Anglesey

Is this a protected area (protection status: Natura 2000, national protection, WFD protected area etc.): Wye, Tywi, Teifi and Cleddau are all SACs plus associated Bathing and Drinking Waters

**Authorities concerned**

Specify which authority, allegedly, is in breach: (Provide the name of the authority)

Local authority: [x]  Powys, Ceredigion, Carmarthen, Pembrokeshire CCs, Pembroke Coastal Park

Regional authority: [x]  Welsh Government

National authority: [x]  Welsh Government

Don't know: [ ]  Click here to enter text.

**Overview**

Give a short and clear description of the issue and why it should be brought to the attention of the European Commission. If possible, explain how you think the issue can be resolved (max ½ page).

Throughout the area referred to, the intensification of the farming industry in Dairy, Beef and Poultry is causing deterioration in water quality through diffuse and point source pollutions. Planners have not taken into account the environmental risk of ongoing expansion, nor future expansion. Welsh Government has not sought to apply the appropriate legislation, regulation and its enforcement agency, Natural Resources Wales has failed to bring the perpretors to justice. It could be resolved by:

1. Requiring planners to consider the in combination effects of additional farm infrastructure (cattle housing, poultry units, Anaerobic Digesters) on the environment when making planning decisions and bringing into planning control all schemes that would adversely affect water quality and the environment. Planners are regarded as competent bodies under WFD and HD

2. Welsh Government (WG) creating Nitrate Vulnerable Zones and/or appropriate Common Binbding Rules

3. WG instructing, funding and educating Natural Resources Wales in the enforcement of WFD and HD related regulations

4. Using competent and independent farm advisors

**Type of complaint**

**Different types of complaints require different supporting information. Whereas one complaint may concern only a short stretch of water others may concern waters all over the country. One complaint may concern only one allegedly flawed permit whereas another one may concern the whole national legal permitting system. Therefore also different types of (legal) follow up are possible.**

**Incorrect transposition[[7]](#footnote-7)**

Do you think that there is a problem with the way the WFD or related legislation has been enacted in the national legislation of your Member State? Do you think that the national legislation does not properly reflect the provisions of EU legislation?

 Yes [ ]  No [x]

**If yes**, please specify the provisions of national legislation and the EU legislation in question are at stake?

**Bad application**

Do you consider that the national legislation enacting the WFD or related legislation is correct as such but not applied correctly in practice?

 Yes [x]  No [ ]

Can you specify which national and/or EU legislation is allegedly breached? (if possible, make reference to the specific articles in question) Water Framework Directive, Nitrates Directive, Habitats Directive + related Welsh legislation: Wellbeing of Future Generations Act 2015 and Environment Act 2016

Does the complaint involve a new or an existing project (such as construction of dam for hydropower, dredging for navigation, construction of port zones or infrastructure for discharge of waste/cooling water)?

Yes [ ]  No [x]

Please specify the scope of the problem (is it a specific instance, or does it concern the whole country):

Principally in the counties of Ceredigion, Pembroke, Carmarthen and Powys but there are other counties in Wales similarly affected (Anglesey, Denbighshire and Flintshire)

Does the complaint involve a systemic breach of the WFD or related legislation on a country-wide basis?

 Yes [x]  No [ ]

**If yes**, please explain provide the locations and concise details of the issue.

The problem is so widespread that it is difficult to be precise. Throughout the winter, ever larger amounts of slurry from beef and dairy units is spread in excess on sloping land in high rainfall areas and washed directly into watercourses. We have evidence that it is discharged directly into rivers in some places. Poultry units produce highly reactive phosphates from manure which requires removal from poultry units typically four times a year. There are similar problems with spreading and entry into rivers. The area of land for spreading is too small/ too steep/wet/amount of slurry or manure too great

Are you aware of issues similar to the alleged complaint in other river basins?

 Yes [x]  No [ ]

**If yes**, please provide the location and very concise details of the issue.

Throughout Southwest, Southeast and Northwest RBs Please see:

<https://www.thebureauinvestigates.com/stories/2017-08-21/farming-pollution-fish-uk>

Is it a recurring issue?

 Yes [x]  No [ ]

**If yes**, please provide concise details

The problem is that levels of slurry production and poultry manures which cannot be managed by existing systems. Inadequate storage and spreading at inappropriate times of the year in densities that will inevitably run into watercourses. There has been no control on the expansion of these industries.

Does this issue involve other environmental areas (air, nature, Environment Impact Assessments/Strategic Environmental Impact Assessments, emissions from industry)?

 Yes [x]  No [ ]

 **If yes**, which areas?[[8]](#footnote-8)

Air quality, nature, lack of impact assessments

**Action at national level**

**If you are looking for redress against breaches of EU law, you should usually begin by addressing the national authorities. National judges are tasked with ensuring the correct application of EU law and may be able to provide an effective solution to your complaint.**

When did you become aware of the issue related to your complaint? (Date)

Four years ago when visiting the Afon Tywi, I noticed the tell tale signs of filamentous algal growth, diagnostic of high phosphate levels. In 2014, the upper Wye suffered an algal bloom for the first time ever. The river turned bright green. It occurs from time to time in the lower reaches. Complaints were made at the time.

Have you raised this matter with the responsible authorities of the Member State(s) concerned?

 Yes [x]  No [ ]

**If** **yes**,

Which authorities:Welsh Government and Natural Resources Wales (and their predecessors)

What is the current state and/or results of your action? Give a brief overview of the situation, making reference to correspondence (and attaching it): If anything the situation is worsening as the industry expands: the enclosed map shows just how many reports of pollution have been made and we undertand this includes only those that NRW were able to attend

**If no**,

Why have you not contacted your national authorities before addressing the European Commission: Click here to enter text.

Have national court proceedings addressing the matter been commenced or are they envisaged?

Yes [x]  No [ ]

**If yes**, please give details and, if applicable, attach the copies of the court pleadings or rulings[[9]](#footnote-9): We do not have the resources to mount a legal challenge in Wales. In England a Judicial review instigated by other NGOs citing WFD failures brought about some improvements in the management of river Wye in Herefrordshire and elsewhere in England

**EU Financing**

Do you know if any EU financing is involved?

Yes [x]

Please give details[[10]](#footnote-10): The diary farmers receive Pillar 1 CAP subsidies as do the owners of poultry units and please see ahead

No [ ]

I don't know [ ]

**Description of the alleged complaint - general**

**Give a short, clear description of the facts in chronological order (max 2 pages). Include the key facts of the case and why you think the WFD and/or related legislation is being breached in a way that will help the Commission identify potential issues. Refer to supporting documentation if necessary, indicating the relevant pages.**

**You may find the following guidelines helpful in structuring your complaint.**

Explain why the facts and circumstances described represent an alleged breach of WFD and/or related legislation.

Refer to relevant case-law (national or European), if applicable.

If the complaint is about a project include a general description of the project.

Does the relevant river basin management plan or flood risk management plan, as applicable, refer to or mention the issues raised by the complaint?

**If yes**, explain how and make the links with the issue of the complaint:

Does the complaint concern a violation of/contradiction with the WFD objectives (Art 4 WFD: preventing deterioration / achieving good status or potential)?

**If yes**, please explain in which way.

Explain the consequences of the alleged violation. Provide evidence. Focus on the potential harm to human health and environment.

Allowing excess nutrients (slurry and poultry manures) to enter watercourses breaches the following articles of the WFD for the following reasons:

Article 4: 1 a(i) (Surface Water) Failure to implement necessary measures to prevent deterioration in water quality

(ii) Failure to protect, enhance and restore waterbodies

Article 4: 1 c Protected Areas: failure to comply with the additional strictures required by protected areas

Article 7: Failure to provide the necessary protection of waterbodies identified for supplying drinking water with the aim of reducing purification costs

Article 9: the polluter pays: proposed bylaws to curtail exploitation of salmon acknowledge that the problem of low stocks is NOT caused by fishing but by environmental issues. We see frequent point source pollution with accompanied fish mortalities as well as diffuse pollution an example of the polluter NOT paying for serious damage to Wales £150m inland fishery and the cause of the problem not being treated.

Article 11: the programme of measures relating to the storage (quantity) and spreading (time and place) of manures is not binding as well as not being fit for purpose.

The West Wales River Basin Management Plan summary refers to pollution from rural areas P21 and Severn RBD in Annex C, P13 refers to the problems of nutrient input from agriculture, both diffuse and point source. In addition both RBDs describe the importance of compliance in protected areas. Teifi, Cleddau, Tywi and Wye are all SACs; there will be problems in protected bathing areas and to drinking water waterbodies too.

Attached is a map of complaints about pollution published by NRW: it should be understood that this is substantially less than the actual number of incidents and also less that the number notified by general public.

 <http://afonyddcymru.org/what-are-the-issues-facing-our-rivers/> gives pictorial information on the complaint

Welsh Government have passed two laws that are breached by the activities described: 2015 Wellbeing of Future Generations and 2016 Environment Act. The former is breached because there is long term damage to soils from manure spreading with the measured high indices taking over 50 years to disperse even if no further application takes place; valuable fisheries are destroyed and employment lost.

The Environment Act envisages that there will be sustainable management of our natural resources and plainly this is not happening

Other losses includes the long term sustainability of farming which currently seeks a competitive advantage by failing to manage its nutrients. Their loss is a cost; damage to soil organisms from high levels of ammonia reduces productivity and enrichment of bathing waters is a significant problem too, Allowing excess nutrients (slurry and poultry manures) to enter watercourses breaches the following articles of the WFD for the following reasons:

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Downstream of Welsh border on the Wye SAC,the management partnership in herefordshire has set up plans to reduce phosphate levels in order to comply with their planning and development for the county. The evidence is that phosphate levels are increasing upstream (in Wales) of the border while dropping below, eroding the 'headroom' for England. Welsh Water has already spent over £700K reducing P from a Herefordshire treatment works. Together with work done on the main tributary the Lugg this has reduced English Wye phosphate levels but not as much as expected because of the welsh contribution. An EU funded project (Delivering Nutrient Management Plans Ref: 36R16 P01376) has just been approved to reduce English levels further. The planning constraints the English work to are not being applied in Wales

**Description - project-based complaint**

What is the status of the project (authorised/permitted or not, if not: what stage of the procedure)?

n/a

What is the potential impact of the project on water bodies of the river basin in which it is located or adjacent river basins?[[11]](#footnote-11)

n/a

Has the plan or project already been approved by the competent authorities?

**If yes**, please give details:

n/a

**If the plan or project has not yet been approved**, please indicate the administrative procedure being followed and the stage reached:

 n/a

Have the authorities ruled on whether the project complies with the WFD objectives or not? If so, can you provide any details?

n/a

 Did the project according to the authorities qualify for an exemption under the WFD provisions? If so, how do you consider that the exemption was not justified in the light of WFD provisions?

n/a

 Has any Environmental Impact Assessment (EIA) or Environmental Impact Study been done, or is one under way?

Yes [ ]  No [ ]  Don't know[x]

**If yes**, or it is under way, give a brief description of the results in relation to the water aspects of the project (with reference to the relevant sections of the EIA)

 Click here to enter text.

 Has a Strategic Environmental Assessment (SEA) or an equivalent assessment been done or is one under way?[[12]](#footnote-12)

Yes [ ]  No [ ]  Don't know[x]

**if yes**, or is in progress, give a brief description of the results in relation with the project:

Click here to enter text.

**Description – further specific issues to mention if applicable**

**The following additional issues below may also be relevant to your complaint. These should ONLY be addressed if there is a direct relation with the complaint. The list is illustrative and not exhaustive. Answers should be given with the general description of the issue.**

Conditions for exemptions (Articles 4(4) to 4(7)) are not (adequately) explained in the river basin management plans.

A (time extension) exemption is incorrectly granted to a water body. Which conditions for this exemption (under Article 4(4)), in your opinion, are not met?

An exemption to set less stringent environmental objectives is incorrectly granted to a water body. Which conditions for this exemption (under Article 4(5)), in your opinion, are not met?

Non-application of Article 4(7) for new modifications to water bodies: deficient determination of the permitting authorities in that regard. In what way? Has deterioration of the status been assessed by the appropriate authority? How?

Incorrect application of the provisions of Article 4(7), for example:

- Lack of mitigation measures

- Lack of overriding public interest

- Lack of consideration of significantly better environmental option

Incorrect designation of heavily modified water bodies (HMWB) under Article 4(3). In what way? No or insufficient "gap analysis" made in relation to addressing significant pressures highlighted by the Member State, either in relation to the targets to be met or in relation needed for the measures to achieve such targets.

Lack of measures to address hydromorphological pressures in the programme of measures

Lack of basic measures to control hydromorphological modifications

Lack of basic measures on controls on nutrient and organic pollution (be specific as to the missing controls and the impact of their omission with respect to achieving environmental objectives)

Lack of basic measures on abstraction of surface and/or groundwater (be specific as to the missing controls and the impact of their omission with respect to achieving environmental objectives)

Improper implementation of Art.9 on cost recovery or on the methodology of water pricing policies or against the improper consideration of the conditions for exemptions under Art.9 (4)

Lack of mechanisms to pay for mitigation measures

Discharges of pollutants into water resulting in environmental quality standards for priority substances or standards for river basin specific pollutants are not being met. Which ones?

**Access to Documents**

*Please note that, subject to the principles, conditions and limits of Regulation 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, the Commission may disclose this document and any attached documents if requested. If the Commission does allow access to these documents, any decision with regard to disclosing personal information of the complainant and others related with the complaint will be taken with due care and attention, pursuant to Article 4 (1) (b) of the Regulation 1049/2001.*

**Confidentiality and Data Protection**

*Please note that disclosing your identity may make it easier for the Commission to deal with your complaint in some cases.*

I authorise the Commission to disclose my identity in its contacts with the authorities of the EU country against which I am lodging a complaint, pursuant to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data. [x]

I do not authorise the Commission to disclose my identity in its contacts with the authorities of the EU country against which I am lodging a complaint. [ ]

Place Date Signature

1. Directive on Environmental Quality Standards ( Directive 2008/105/EC), and

 Groundwater Directive ( Directive 2006/118/EC) [↑](#footnote-ref-1)
2. <http://ec.europa.eu/atwork/applying-eu-law/make_a_complaint_en.htm> [↑](#footnote-ref-2)
3. <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52007DC0502> [↑](#footnote-ref-3)
4. <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52012DC0154> [↑](#footnote-ref-4)
5. <http://ec.europa.eu/environment/water/water-framework/facts_figures/pdf/River%20Basin%20Districts-2012.pdf> [↑](#footnote-ref-5)
6. If your complaint concerns a precise geographical area, include the exact location where the alleged breach takes place, through the use of maps or a reference to the body of water concerned or any other way that will help identify the exact location of the alleged breach [↑](#footnote-ref-6)
7. **Transposition** is a process by which the [European Union](https://en.wikipedia.org/wiki/European_Union)'s Member States give force to a [directive](https://en.wikipedia.org/wiki/Directive_%28European_Union%29) by passing appropriate implementation measures. [↑](#footnote-ref-7)
8. For specific claims in relation to other environmental areas, you may need to complete a separate document, either a general claim form or other format. [↑](#footnote-ref-8)
9. Number of case, name of the Court, current status of the case [↑](#footnote-ref-9)
10. Relevant information includes the name of the fund, the status of the application, the type and amount of resources provided. [↑](#footnote-ref-10)
11. Provide evidence, if possible [↑](#footnote-ref-11)
12. Answer yes only if the SEA or equivalent assessment has relevance to the project at issue. [↑](#footnote-ref-12)