

Afonydd Cymru has been asked by Natural Resources Wales (NRW), as a member of the Wales Water Forum (WW Forum), to provide comment on the current Water Framework Directive (WFD) Process. Our comments are as follows on behalf of the rivers trust movement in Wales.

Primarily, NRW should ensure that it is meeting the requirements under Water Environment (Water Framework Directive) England and Wales Regulations 2017 ('the Regulations'). This is a statutory duty of the NRW, and we would expect, as a minimum, that all requirements of the regulations will be met.

We have raised concerns on both duties under the Regulations, and on SAC rivers specifically under the Habitats Regulations in previous correspondence to NRW.

<https://afonyddcymru.org/wp-content/uploads/2022/11/AC-Response-to-CMPs.pdf>

<https://afonyddcymru.org/wp-content/uploads/2022/12/NRW-WFD-RNAGS.pdf>

SAC Rivers must meet more stringent targets as defined for the protection of species and habitats under the Habitats Regulations. We do not consider that duties are being met to protect SAC rivers nor that actions are in place to prevent further deterioration to designated habitat or species.

WFD Targets

We strongly believe that NRW should be transparent that SAC rivers are subject to tighter standards and reflect this through the reporting mechanism. Currently, we do not consider this to be clear and in fact is mis-leading suggesting that river status is better than it would be if measured against the required tighter standards. Whilst we accept that NRW consider that they need to report against both WFD and SAC targets separately, we consider that both should be reported and publically available. SAC rivers are reported in Water Watch Wales using WFD standards only. This fails to present the fact that SAC rivers fail against the more stringent required targets under the Habitats Regulations.

Current WFD Status

NRW currently reports the following status under WFD:

At overall status across geographic Wales, 40% of 933 surface and ground water bodies are at good or better status. This represents an improvement of 3% from that reported in 2015

Between 2018 and 2021, river waterbodies in fact declined slightly with a total of 85 waterbodies improving and a total of 88 waterbodies declining, with the remaining waterbodies recording no change in status. We do not consider this represents an improvement in our rivers under WFD. Furthermore, of those waterbodies which declined a large proportion were SAC Rivers, measured against WFD targets (not their more stringent SAC ones) which suggests a greater number of waterbodies would not meet their necessary targets if they were reported against the SAC targets.

Article 4 Environmental Objectives

(i) Member States shall implement the necessary measures to prevent deterioration of the status of all bodies of surface water

NRW should evidence how Article 4 is met as part of its reporting. Specifically, we would expect there to be a clear thread between data and evidence, cause of deterioration and programme of measures. The programme of measures should be specific to the failure evidenced. We are not currently able to link action to cause and impact.

We recognise that actions will include National Measures (across Wales) but it is imperative that the actions needed at catchment-scale are understood and reported. This should include specific actions by waterbody.

We would also like NRW to demonstrate how, if the Programme of Measures were successfully delivered, the waterbody would improve and by when. This could be done by modelling, source apportionment and by cause of failure. It should provide a timeline for the improvement to be achieved. This would evidence a clear illustration of when the required outcome of the Regulations would be achieved.

Currently, the required date for delivery of WFD Good Status in Wales is 2027.

Article 5 requires environmental monitoring to be undertaken to understand the waterbody status and the scale of deterioration.

Across Wales, we are concerned that monitoring is not sufficient under WFD to provide an accurate actual detection of failure. There is currently significant reliance on the risk assessment approach to determine classification. Whilst this is allowed under the Regulations, the guidance allows this in the absence of monitoring whilst an improved monitoring network is being implemented. We welcome the proposal by NRW to undertake a full review of monitoring in Wales. Following the recent presentations at WWF, we would also like to understand how the groundwater dataset compares against the river dataset to consider how this may support the overall risk assessment.

As an example: in Wales, 94% of all waterbodies achieve good chemical status, compared to zero in England. 64% of waterbodies in Wales were not monitored for chemicals in 2021 and yet all of these waterbodies were classified as being in High (as opposed to fail) status. In England, all rivers now fail chemical classification because monitoring and evidence was recently expanded. These widespread failures are mainly due to four groups of chemicals: polybrominated diphenyl ethers (PBDEs - a group of brominated flame retardants); Mercury; certain Polycyclic aromatic hydrocarbons (PAHs) and Perfluorooctane sulfonate (PFOS) a group of per-and polyfluoroalkyl substances (PFAS). In Wales, monitoring for these particular chemicals under the 2021 WFD was done in less than 2% of waterbodies, and mercury was not assessed at all.

Other examples can be given including condition assessments on SAC rivers dated 2006, reliance on dated biological data, 'rolled back' data, reliance of previous data periods to undertake assessments on biological and ecological parameters.

Given the paucity of data, Afonydd Cymru do not consider the current WFD classification is accurate.

Article 11(5) provides:

“Where monitoring or other data indicate that the objectives set under Article 4 for the body of water are unlikely to be achieved, the Member State shall ensure that:

- the causes of the possible failure are investigated,

The NRW should demonstrate that causes for failure are understood. linked to evidence and reported. Examples are as follows:

Barriers to Migration

It has been assumed that failure to meet fish classification is as a result of barriers to migration. Measures do not recognise that fish failures may be due to a wider host of measures, currently being documented by the Wales Fisheries Forum. We would underline that whilst barriers to migration are one impact to fisheries in Wales, there are also more global and over-arching causes as to why fish numbers are declining. We would expect there to be linkage between Fisheries Actions Plans and the Programme of Measures.

In 2023, Afonydd Cymru reported to NRW a review of barriers held in the All-Wales database for fisheries restoration against the published WFD dataset. This showed a significant number of discrepancies, waterbodies with reported barriers to migration where we consider there to be none, rivers with barriers which are not identified in the WFD programme, barriers which have already been removed under the Habitat Restoration Programme. Given that this failure alone accounts for 30% of all reported WFD waterbody failure, we consider that this warrants a review of data held.

Action Plans

The Taskforce for Better River Water Quality has delivered a detailed action plan to minimise the impact of sewer overflows in Wales. This details the measures which must be undertaken, considers the range of actions needed through government, regulation and the water companies and provides a timeline for action to be achieved. However, we see no action plans in place for other sectors or other impacts to our rivers.

As a Technical Advisor to the Taskforce, Afonydd Cymru challenged that other impacts and sectors should be considered and action plans developed accordingly. In some areas, it is clear that work is ongoing in Wales but it is not visible and we question whether it is being prioritised against WFD and SAC failure. We strongly urge that this action needs to be taken forward, and where necessary other sectors develop equivalent action plans. For example, the Wales Land Management Forum should be tasked with development of action plans for rural land management.

We do not consider that current projects or plans in NRW are prioritised against Reasons for Not Achieving Good status (RNAGs) and are therefore not driving improvement at waterbody level that could be achieved. All funding should be linked to RNAGs to ensure that delivery programmes are prioritised.

- relevant permits and authorisations are examined and reviewed as appropriate,

We are only aware that NRW has undertaken Review of Permits for water quality for Water Companies on SAC rivers. This Review has been to add numerical conditions to permits for water companies to ensure consistency with the source apportionment modelling undertaken for SAC river compliance. It has allowed the unlocking of homes for nutrient neutrality but has given no

protection to river water quality, in fact, it has permitted additional actual load (as opposed to modelled theoretical load) to failing catchments. At some sites, it has identified that wastewater discharge exceeds the published and assumed nutrient loading by NRW in their historical assessments. This work is limited to SAC rivers only and it is limited to water companies only. No review of permits has been undertaken on waterbodies failing under the WFD Regulations. This includes water industry discharge, agricultural and industrial discharges.

We are also not aware that any review of abstraction has been undertaken since 2010 and we are also concerned that the RAM ledger for Wales has not been maintained, audited or kept up to date. NRW have now confirmed this to be the case following our query at the last WW Forum.

- the monitoring programmes are reviewed and adjusted as appropriate, and

We support the current NRW review of monitoring, but will require further information and presentation of the change to the existing monitoring programmes before we can comment on whether it is appropriate.

- additional measures as may be necessary in order to achieve those objectives are established, including, as appropriate, the establishment of stricter environmental quality standards following the procedures laid down in Annex V.”

We are unaware of any catchment where NRW has applied stricter environmental quality standards to ensure protection. Furthermore, we would also add that we have challenged for catchment-specific standards and targets on SAC rivers in Wales to prevent further deterioration and we have no evidence that this has been considered.

Improvement/Recommendations:

- RBMP must be 'live' (currently static and awaits updates to the reporting cycle) and would benefit from being GIS-linked
- Monitoring under both WFD and SAC needs to be statistically robust and representative of the catchment. We must ensure that classifications and assessments are based on current data, and we endorse the recommendations for further data made in compliance assessments reporting. It is entirely unacceptable that conditions assessments are still using 2006 data.
- SAC reporting must be transparent and be reported alongside WFD data.
- Actions must be linked to data and evidence. For every failure, we should be able to identify the required action to resolve it. Whilst we accept that National Measures are necessary, actions should be identified ideally at a waterbody level but as a minimum at river catchment level.
- Governance arrangements for forums should be resolved urgently in Wales. Clarity is needed as to the over-arching governance and then the forums necessary to ensure all areas of impacts and failure are understood, have action plans in place and have necessary Task and Finish groups.
- The WFD programme needs to be tracked and reported on a half-yearly basis to the WW Forum (or appropriate group). This should be provided as an overall summary, including measures on target, completed and behind schedule. It would be useful if WW Forum could see a live position for WFD improvement and a forecast improvement reporting. Detail by river and catchment should be available for those members who wish to interrogate the programme further. We would expect to see a reduction in the number of pending investigations as further evidence is gathered and understood.
- Funding and resource should be linked directly to the programme of measures to ensure that all workstreams are delivering against a prioritised programme which would deliver the greatest WFD improvement and protection to SAC species and habitat. We would suggest that wider funding partnerships should also be prioritised on this basis.
- Providing a transparent and prioritised programme would enable other organisations to support NRW on the delivery of improvements and to also report on their own programmes of work.

SAC Rivers

The Review of Consents (2010) water quality concluded for rivers in Wales that the consents were affirmed on the basis of 'further action to be taken' through the delivery of measures to address nutrient contributions from other sources. The other action relied upon was heavily dependent on voluntary approaches to securing improvements from diffuse sources. Afonydd Cymru consider that the current reported condition of our protected sites confirms that:

- (1) Appropriate actions to maintain and improve our protected sites have not been implemented and in fact, have led to further decline.
- (2) Evidence is clear that voluntary measures have not provided the necessary protection needed.

We have challenged Core Management Plans and have subsequently been told that actions for SAC Rivers are held in Safle. Having now reviewed Safle for one river in Wales, Afonydd Cymru upholds its concerns that action plans to protect SAC rivers are not in place.

The conclusion of Review of Consents was based upon voluntary measures which have not delivered the necessary actions required and have led to continued decline.

Given NRW recent response to Afonydd Cymru for water resources, we also have significant concern that rivers are not protected from over-abstraction.

To meet legal obligations under the Habitats Regulations, NRW must demonstrate the plans in place for these rivers and also demonstrate how the measures being proposed will restore the condition status of our rivers.