

## Compliance Assessment Report for: CAR\_NRW0038334

<b>Permit number</b>	WP3231NB	<b>Operator name</b>	Dairy Partners (Cymru Wales) Ltd.
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<b>Site name</b>	The Creamery
<b>Site address</b>	Newcastle Emlyn
<b>Type of assessment</b>	Site inspection

<b>Date of assessment</b>	29 <sup>th</sup> April 2021
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<b>Parts of permit assessed</b>	See section 4
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<b>NRW Lead officer</b>	Neil Herbert	<b>Accompanied by</b>	N/A
<b>Report sent to – Name and position</b>	Steve Welch Site Manager	<b>Date</b>	27 <sup>th</sup> May 2021

### 1. Summary of our findings (full details in section 4)

Part of permitted activity assessed (use action criteria below)	Assessment result	Permit condition
F2 Amenity – Noise	C2 Significant	3.5.1
C2 General management – Management system and operating procedures	C2 Significant	1.1.1
B4 Infrastructure – Containment of stored materials	C2 Significant	3.2.3
A1 Specified by permit	C2 Significant	2.3.1a
C1 General management – Staff competency/training	C3 Minor	1.1.1
E2 Emissions – Land and groundwater	C3 Minor	3.1.1
G4 Monitoring and records, maintenance and reporting – Reporting and notification to Natural Resources Wales	C3 Minor	4.3.1

Result types are explained in more detail in the 'Important Information' section below.

<b>Total number of non-compliances recorded</b>
7

## 2. What action is required?

Criteria	Action needed	Complete by
b4, a1 & e2	<p><u>Unauthorised operation of new ETP and use of tanks<sup>1</sup> and pipework without appropriate containment.</u></p> <ul style="list-style-type: none"> <li>• Dairy Partners must transfer their effluent treatment activities back to the existing (authorised) effluent treatment plant (i.e. the old ETP)<sup>2</sup>. This transfer must be undertaken in a way that does not cause pollution.</li> <li>• The new ETP (which is currently un-permitted and includes large tanks without secondary containment), will need to be deactivated and carefully emptied until such time<sup>3</sup> as: <ul style="list-style-type: none"> <li>○ the new ETP plant is provided with appropriate secondary containment and</li> <li>○ is permitted under the requirements of the EPR regulations.</li> </ul> </li> <li>• If the operator is unable to bring the old ETP back online, they must provide a detailed explanation why this is the case. In this situation a contingency options report must be submitted by the operator (to bring the site back into compliance whilst the permitting and bunding issues are being resolved).</li> </ul>	14 <sup>th</sup> of June 2021
f2 & c2	<p><u>Noise – processing</u></p> <ul style="list-style-type: none"> <li>• The operator must complete the noise abatement measures they have previously identified, including: <ul style="list-style-type: none"> <li>○ adding appropriate* acoustic insulation jackets to the chiller equipment including the oil separators and chiller number 1 compressor;</li> <li>○ completion of the chiller compound (partial) roof, currently under construction;</li> <li>○ replacement of missing insulation materials on the chiller compound enclosure.</li> </ul> </li> <li>• The operator will also need to take measures to reduce the space between the opening and apertures in the wooden enclosure, which partly surrounds the chiller compound (e.g. around doors and access hatch).</li> </ul>	These actions are overdue and must be completed as a matter of urgency - no later than <sup>4</sup> 18 <sup>th</sup> June 2021

<sup>1</sup> Containing potentially polluting liquids (e.g. the two new and large aeration and balance tanks, the pipework from the new acid tanks, the IBS rack and the polymer tanks).

<sup>2</sup> whilst the existing ETP is older NRW note that, based on the records submitted by the operator, the older plant has been functioning adequately for the last 12 months and the reported emissions have been within the permit's emission limits. Therefore whilst this issue with the new ETP will take time to resolve, the availability of the existing facility should provide Dairy Partners with the means to continue to operate, within the requirements of their permit, whilst they seek a resolution to these matters.

<sup>3</sup> The flood consequences assessment for the new ETP is currently being assessed as part of the current retrospective planning application. The flood risk posed by any new structures (e.g. secondary containment measures) will need to be considered and approved by the local planning authority BEFORE any structures are built. NRW will also need to agree any designs as part of the EPR permitting process. It is therefore incumbent on the operator to expedite the resolution to these issues as a matter of urgency, as they are unlikely to be resolved quickly.

<sup>4</sup> A further delay in the proper implementation of these noise measures (& follow up noise assessment) may result in further breaches being identified.

Criteria	Action needed	Complete by
Cont.	Note: *the abatement measures already installed by the operator, to box the chiller (No. 1) compressor are not considered satisfactory and need to be rectified/replaced (see section 4 for details). The operator should seek specialist acoustic advice before undertaking this work.	
	On completion of the noise abatement measures noted above, the operator must arrange for a follow up noise assessment (by a suitably trained specialist), to assess the effectiveness of the measures and to determine whether further noise abatement measures are required.	Within two weeks following the completion of the measures noted above.
b4	<u>Containment suitability and management</u> <ul style="list-style-type: none"> <li>Any containers (including their pipework) holding potentially polluting liquids must be provided with appropriate containment. Furthermore measures must be implemented to ensure the containment capacity of any system is not impacted by rainwater.</li> </ul>	Immediate
c1	<u>Housekeeping - spillages</u> <ul style="list-style-type: none"> <li>The operator must ensure that all potentially polluting spillages are cleared immediately and in accordance with appropriate management procedures.</li> </ul>	Immediate
g4	<u>Notifications</u> <ul style="list-style-type: none"> <li>The operator must ensure that all notifications required by this permit are submitted in accordance with the reporting deadlines of the permit.</li> </ul>	Immediate
n/a	<u>Odour</u> <ul style="list-style-type: none"> <li>Operator to continue with investigations to determine possible source of odour complaints relating to the site.</li> </ul>	Ongoing
n/a	<u>Noise Tankering</u> <ul style="list-style-type: none"> <li>The operator to continue with their investigation into recent noise complaints relating to tankering operations.</li> <li>They must also ensure that appropriate measures are taken to avoid, or where this is not possible reduce the noise emission from the activity.</li> </ul>	Ongoing
Follow up action from previous visit.	<u>Use of Surface Water Lagoon</u> <ul style="list-style-type: none"> <li>Surface Water Lagoon to be decommissioned until Dairy Partners have completed repairs to the surface water lagoon structure to ensure appropriate containment (the work will need to be certified by an appropriately qualified engineer confirming that the repairs have been completed to the required standard).</li> </ul>	Immediate

Action criteria codes are listed in the 'Important information' section. If the operator considers that they are unable to comply with any of the actions noted above, or to the deadlines specified, they must contact NRW immediately.

### 3. What will happen next?

You are non-compliant with your permit. We will be considering taking enforcement action against you for the non-compliance recorded above in due course.

## 4. Details of our assessment

### Introduction

- NRW undertook an unannounced visit to Aberarad hamlet, in response to an escalation in recent noise complaints made against the installation. NRW also attended site in order to follow-up on a report that an un-permitted Effluent Treatment Plant was being used. The visit consisted of an off-site assessment followed by an on-site visit to the Effluent Treatment Plant<sup>5</sup> (ETP) area and chiller compound. Following the visit an email<sup>6</sup> setting out interim actions was issued to the operator whilst this report was being compiled.

### Observations and Findings

#### Alleged Noise Pollution – existing process

- The inspector undertook a noise check at two locations outside the installation boundary. A persistent noise was clearly audible at both locations and at levels and at an intensity that the inspector perceived to be polluting. Specifically pollution is considered a persistent noise at levels that the inspector considers likely to cause offence to a human sense[s] and impair or interfere with the amenity and legitimate use of the environment. The noise was emanating from the Dairy Partner's installation.
- During the subsequent site inspection, NRW noted the following:
  - no noise lagging had been placed on any of the oil separators in the chiller compound, even though this had been previously identified by the operator as a required noise abatement measure;
  - a “partial” roof to provide further noise abatement was in the process of being constructed over the chiller compound but had not been completed.
  - There had also been an attempt to box the compressor on chiller (#1), however the box structure appears to be poorly fitting with large spaces or open apertures apparent (see photographs overleaf). Even a small gap can almost negate the effectiveness of a noise barrier. The lagging inside the box was absent or falling away in places. It also appears to be lined with household insulation, not acoustic lining. It was also unclear whether the mass of the plywood used would be enough to avoid transmission loss. There may also be a secondary sound created from the wood vibrating on the pipework, assuming there are no vibrating mounts on the box (none appeared visible).

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<sup>5</sup> For the purposes of clarity: **Old ETP** refers to the plant currently permitted to operate under the existing permit. **New ETP** refers to the structures built over 2021, but without the requisite EPR permit permissions (or planning).

<sup>5</sup> 25<sup>th</sup> May 2021

<sup>6</sup> Email dated 30<sup>th</sup> April 2021 to Steve Welch - Site Manager

- Some of the acoustic insulation on the chiller compound “barrier” was missing and needs replacing. There were also gaps in the door and window openings to the chiller compound barrier.



**Action/s:** see section 2

**Compliance:**

- The noise pollution event documented in this report, is considered a breach of condition 3.5.1. of the site permit. This incident is deemed an ongoing noise issue and there is a presumption<sup>7</sup> to record a CCS score of 2 for ongoing amenity failures (f2).
- The Root Cause into the failure to address noise pollution from the existing processes has been considered and it is believed that the repeated delays<sup>8</sup> in arranging a BAT noise assessment until October 2020 and the subsequent delays to (promptly and properly) implement the abatement measures identified in the said submission are considered an overall failure in condition 1.1.1 of the permit. A ccs score of 2 has been attributed to this failure (c2).

**Alleged Noise Pollution – tankering**

- NRW have been in receipt of an increasing number of noise complaints in recent months. Some relate to ongoing processing noise (discussed above) whilst other complaints specifically relate to tankering activities at the rear of the ETP site. The operator are investigating these. However they must also ensure that appropriate measures are taken to avoid, or where this is not possible reduce, the noise emission from the activity.
- During this visit we did not observe any tankering operation and are therefore unable to assess compliance against the noise permit condition, on this occasion.

<sup>7</sup> In accordance with NRW’s CCS scoring guidance.

<sup>8</sup> The operator originally stated that the BAT audit assessment was to be completed and submitted to NRW by December 2019. In fact an assessment of the current permitted site was not undertaken until the 24<sup>th</sup> and 25<sup>th</sup> of September 2020. The corresponding report was only submitted in October 2020.

### Un-authorized operation of new ETP and containment deficiencies

- During this inspection it was verified that the new ETP was in use and treating process effluent. The new ETP can only be commissioned once the existing EPR permit has been successfully<sup>9</sup> varied. Whilst an application<sup>10</sup> to vary the permit has been submitted, it remains under determination and no final decision to issue or refuse the application has been made.
- Furthermore the new ETP comprises of several tanks, including two large vessels that are single skinned i.e. have no secondary containment. The requirement for secondary containment is set out in all EPR Installation permits. The two large tanks of particular concern include a 911m<sup>3</sup> capacity<sup>11</sup> balance tank and a larger 1599m<sup>3</sup> capacity aeration tank. The tanks are sited next to largely unmade<sup>12</sup> ground and within meters of the Afon Arad watercourse (which flows through the site). The Afon Arad in turn flows into the Afon Teifi which is not only an important and sensitive receptor, it is also a designated Special Area of Conservation and a Site of Special Scientific Interest.



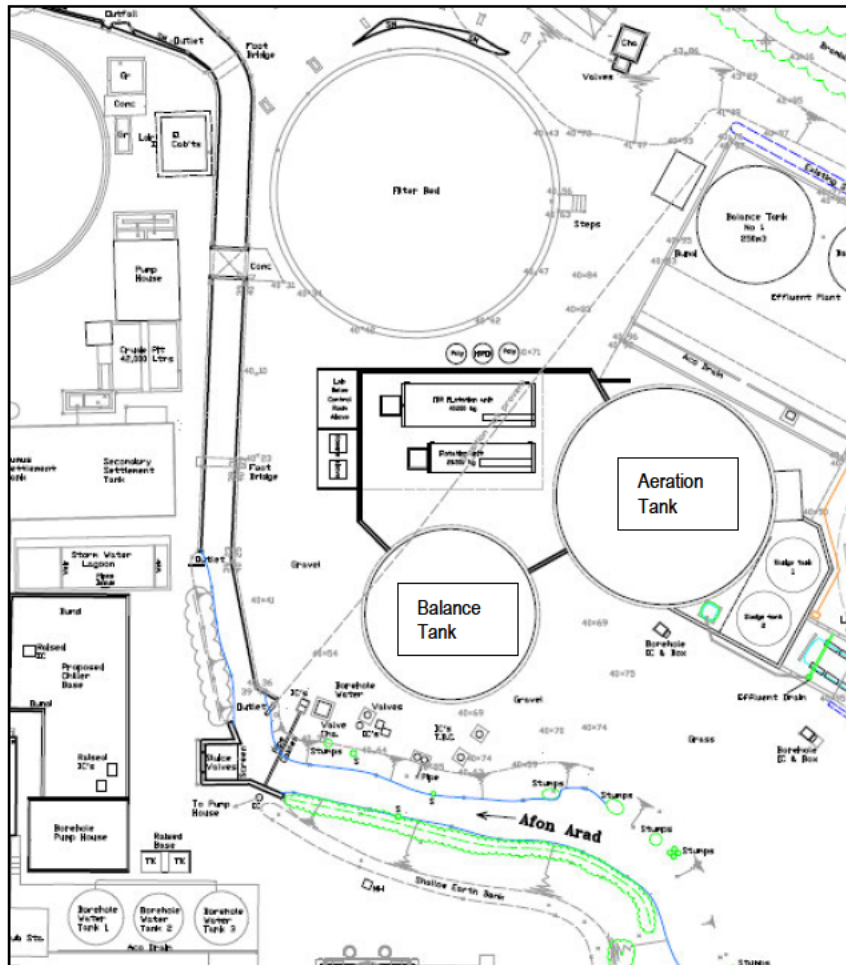
*Photograph showing the proximity of the single skinned (unbundled) balance tank of the new ETP, to the Afon Arad watercourse.*

<sup>9</sup> There is no assurance that this (or any) permit application will necessarily be successful. The application will be determined by NRW's EPR permitting team on the merits of the information supplied by the operator in their application and in-line with the relevant regulatory requirements applicable.

<sup>10</sup> A retrospective planning application has also been made and is under determination by the local planning authority.

<sup>11</sup> Volumes based on information supplied by the operator in their EPR permit application.

<sup>12</sup> i.e. a surface which is permeable to potentially polluting liquids.



Annotated plan showing close proximity of the new ETP's (single skinned) aeration and balance tanks to the Afon Arad

**Compliance:**

- The use of tanks to hold potentially polluting liquids (effluent), without secondary containment, is considered breaches of condition 3.2.3 of the permit. A compliance classification score (ccs) of 2 has been attributed to these failures (b4).
- The operation and use of the new ETP for the treatment of effluent, without the necessary changes to the permit being approved (i.e. through the EPR permit variation process), is considered a breach of condition 2.3.1(a). A compliance classification score (ccs) of 2 has been attributed to this failure (a1).

**Action/s:** See section 2

## Other containment issues, leaks and spillages – new ETP<sup>13</sup>

### New ETP - Acid Tanks

- During the inspection an acidic liquid was noted on unmade ground directly underneath one of the three acid tanks. The tank was labelled as containing sulphuric acid.
- We were informed by site staff that the tanks are double skinned, however the pipework from the tanks have inadequate containment provision.
- It appears that an acid leak/spill had occurred and spilled onto the unmade ground, directly adjacent to the tank.
- The spillage had not been cleared.



### Health & Safety



The three acid tanks noted above are sited in very close proximity to the wall supporting the filtration bed. Safe access to the acid tanks will likely be problematic for staff undertaking routine maintenance checks as there is little room to access the tanks (particularly the central tank). Given evidence of recent acid spills, there may be a particular risk of injury to staff attempting to access this area. This concern has already been shared with the operator, however this information has since been shared with the HSE as the lead authority responsible for health and safety.

<sup>13</sup> The application to vary the EPR permit (to permit the operation of the new ETP) is still under determination and has not been granted. Until such time as the new plant is permitted, the operator must not commission and/or operate this plant. The spillage mitigation measures and actions set out by NRW in this section should not be construed by the operator as implied consent to continue with the operation of the new ETP.

### Effluent Transmission Pipework – leak

- There was evidence of an unauthorised (and un-reported) effluent leak, to ground, having occurred from the transmission pipework linking the new ETP with the old ETP. The pipework has no adequate containment provision.

### IBC Containers – containment deficiencies

- Several IBC were being stored on bunding pallets within the new ETP area. These IBC containers had potentially polluting chemicals and the bunding provisions clearly too small to provide adequate containment. It was also noted that all the bunding pallets were full of rainwater, entirely negating their containment role. These pallets need to be replaced with suitably sized secondary containment and ideally covered to prevent rainwater (or alternative measures put in place to ensure appropriate containment provision at all times).

### General Containment provisions for pipework

- Much of the pipework in this area (i.e. new ETP acid and IBC storage areas) appears to have little or no containment provision in the event of a leak.

### Polymer Tanks

- We were informed that the two polymers tanks, which are currently in use, have no containment provision.

### **Compliance (Containment, Leaks and Spillages – new ETP):**

- The failures to provide adequate containment, for potentially polluting liquids, are considered further breaches of condition 3.2.3 of the permit. As noted in an earlier section of this report, a ccs score has already been attributed to failures against this specific condition (see previous section on tank bunding). We have therefore not assessed the ccs categorisation for these separate breaches.
- The failure to ensure that the (acid) spillage had been appropriately cleared, in accordance with the site's spillage procedures, is considered a breach of condition 1.1.1. A ccs score of 3 has been attributed to these failures (c1).
- Evidence for the unauthorised discharges of effluent (i.e. leaking effluent transmission pipework between the new ETP and old ETP) and the unauthorised discharge of acids, to land, are considered breaches of condition 3.1.1. A ccs score of 3 has been attributed for these failures (e2).
- The failure to notify NRW of these releases is considered breaches of condition 4.3.1 of the permit. A ccs score of 3 has been attributed to these failures (g4).

**Action/s:** See section 2

### Alleged Odour

- Whilst offsite and later during the site visit, the inspector did note an offensive odour best described as an off-milk type odour, likely attributable to the site process. However due to weather conditions the odour noted by the inspector was intermittent and the source was not identified during the inspection.
- The operator is already investigating potential source/s following a recent spike in odour complaints and this work remains ongoing.

#### Action from previous visit – Surface Water Lagoon

- On the 25<sup>th</sup> of February 2021 NRW were called to attend an alleged incident at the Dairy Partners site where a white effluent was found to be leaking from a sub-surface structure called the “lagoon”. The discharge was into the Afon Arad watercourse. The containment integrity of the “lagoon” had failed and was leaking through the bank and into the watercourse. The lagoon has a permitted discharge point which is a pipe, designated W2 on the permit. The lagoon is only permitted to discharge uncontaminated surface water and only from this emission point. Following this incident the lagoon was emptied and NRW were informed at that time, that the lagoon would be decommissioned permanently.
- During this visit on the 29<sup>th</sup> April 2021, the NRW officer noted that the “lagoon” was again in use. The lagoon appeared to be holding water<sup>14</sup> although there was no evidence of a direct discharge from the W2 emission point.
- Dairy Partners need to clarify the future of the surface water lagoon, however in the meantime the leaking “lagoon” needs to be brought offline until the structure has been properly repaired.

**Action/s:** See section 2

### Turning Circle - structure

- A large partially built circular structure was noted at the rear of the facility. The site manager informed NRW that the structure was a vehicle turning circle. It is further understood that the construction of this structure is now on hold pending a retrospective planning application. A drawing of the turning circle has since been provided to NRW.

#### **Note: Novel Coronavirus (COVID -19)**

During December 2020 the ongoing impact of the novel coronavirus (COVID – 19) pandemic resulted in the re-imposition of further and more stringent restrictions across the United Kingdom, in order to reduce the impact of the virus.

These measures to control and reduce the spread of the virus are now being, lifted in a phased manner, however the impact of these measure continues to affect NRW's ability to undertake its duties and will introduce delays in some of our work.

End of section 4

<sup>14</sup> there were no signs of visual contamination on this occasion.

## Important information

### Legal status of this report

Your permit is issued to you under the Environmental Permitting Regulations. You have a responsibility to comply with the conditions of your permit and prevent pollution/harm of the environment. You must also ensure that you comply with any other relevant legislation that may apply to your site's operations.

This report explains the findings of our assessment and any action you are required to take. We categorise non-compliance using our guidance for assessing non-compliance at regulated sites.

When we find potential non-compliance/s we will normally give you advice on how to maintain compliance.

To correct non-compliance, we may:

- require you to take specific actions
- issue a notice
- review the conditions of your permit.

Any advice and guidance we give will be without prejudice to any other enforcement response that we consider may be required.

### Assessment results and non-compliance categories (used in section 1):

Assessment result	Description
Assessed (A)	Assessed or assessed in part, no evidence of non-compliance found in the aspects assessed.
Action only (X)	Action only relating to the activity assessment
Ongoing (O)	Ongoing non-compliance, not scored

Non-compliance category	Description
C1 Major	Potential to have a major, serious, persistent and/or extensive impact or effect on the environment, people and/or property
C2 Significant	Potential to have a significant impact or effect on the environment, people and/or property
C3 Minor	Potential to have a minor or minimal impact or effect on the environment, people and/or property
C4 No environmental impact	Non-compliance at a regulated site that cannot foreseeably have any impact on the environment, people and/or property

**Full list of Industry and Waste action criteria (used in section 1 and 2):**

**A: Permitted activities**

- A1 Specified by permit

**B: Infrastructure**

- B1 Infrastructure – Engineering for prevention and control of emissions
- B2 Infrastructure – Closure and decommissioning
- B3 Infrastructure – Site drainage engineering (clean and foul)
- B4 Infrastructure – Containment of stored materials
- B5 Infrastructure – Plant and equipment

**C: General management**

- C1 General management – Staff competency/training
- C2 General management – Management system and operating procedures
- C3 General management – Materials acceptance
- C4 General management – Storage, handling, labelling and segregation

**D: Incident management**

- D1 Incident management – Site security
- D2 Incident management – Accidents, emergency and incident planning

**E: Emissions**

- E1 Emissions – Air
- E2 Emissions – Land and groundwater
- E3 Emissions – Surface water
- E4 Emissions – Sewer
- E5 Emissions – Waste

**F: Amenity**

- F1 Amenity – Odour
- F2 Amenity – Noise
- F3 Amenity – Dust/fibres/particulates and litter
- F4 Amenity – Pests/birds and scavengers
- F5 Amenity – Deposits on road

**G: Monitoring and records, maintenance and reporting**

- G1 Monitoring and records, maintenance and reporting – Monitoring of emissions and environment
- G2 Monitoring and records, maintenance and reporting – Records of activity, site diary/journal/events
- G3 Monitoring and records, maintenance and reporting – Maintenance records
- G4 Monitoring and records, maintenance and reporting – Reporting and notification to Natural Resources Wales

**H: Resources efficiency**

- H1 Resource efficiency – Efficient use of raw materials
- H2 Resource efficiency – Energy efficiency

**Enforcement response**

Any permit condition non-compliance is an offence and we may take legal action against you. Action we take can include prosecution, serving a notice on you and/or suspension or revocation of your permit. See our Enforcement and Sanctions Guidance for further information.

### **Data protection notice**

You should make sure that anyone named in this report knows that the information it contains will be processed by Natural Resources Wales to fulfil its regulatory and monitoring functions and to maintain the relevant public register(s).

We may also use and/or disclose the report in connection with:

- offering or providing you with our literature or services relating to environmental matters
- consulting with the public, public bodies and other organisations (e.g. Health and Safety Executive, local authorities) on environmental issues
- carrying out statistical analysis, research and development on environmental issues
- providing public register information to enquirers
- investigating possible breaches of environmental law
- assessing customer service satisfaction and improving our service
- Freedom of Information Act or Environmental Information Regulations requests.

We may also pass it on to our agents or representatives to do these things on our behalf.

**Disclosure of information – this report will be available to view on-line**

If you think this report contains commercially confidential information that should not be placed on our public register, you must contact your local Natural Resources Wales office within **fifteen working days** of receiving this report, using the contact details in the accompanying email or letter. You must give a full explanation of why it should not be added to our public register, including specifying which information is commercially confidential. We will assess your request and respond to you within 20 working days to let you know if we agree to your request.

**What do I do if I disagree with the report or have a complaint?**

If you disagree with this compliance assessment report, you should contact the lead officer without delay to discuss your concerns.

If you are unable to resolve the issue with the lead officer or their line manager you should contact our Customer Contact team on 0300 065 3000 (Monday to Friday 08:00 – 18:00), or email [enquiries@naturalresourceswales.gov.uk](mailto:enquiries@naturalresourceswales.gov.uk) for details of how to raise your dispute further through our Complaints and Commendations procedure.

If you are dissatisfied with our response, you can contact the Public Services Ombudsman for Wales by phone on 0300 7900203 or by email at [ask@ombudsman.wales](mailto:ask@ombudsman.wales)

**Welsh Language Standards**

We are committed to establishing Natural Resources Wales as a naturally bilingual organisation. We will provide compliance reports in your preferred language.