



**Cyfoeth
Naturiol
Cymru
Natural
Resources
Wales**

Ein cyf/Our ref:
Eich cyf/Your ref:

Teipiwch y chfeiriad lleol yma/
Rivers House, St Mellons Business
Park, St Mellons, Cardiff, CF3 0EY

Ebost/Email:
Ffôn/Phone:

Mr. K. Jones
Ty Bryn y Waun
Penybryn Road
Gilfach Goch
CF39 8TN

29th November 2018

Dear Mr. Jones,

Re: PPN-00004 (Land at Ty Bryn y Waun, Penybryn Road, Gilfach Goch, CF39 8TN)

Following our meeting with yourself and Mr. Harrison on the 15th November 2018, please find below a summary of points discussed regarding the pre-application advice for a waste recovery plan and permit application. I have enclosed an additional copy of the guidance from the .gov.uk website for your information, which discusses some of the points in more detail (please note this guidance references the Environment Agency, but as explained during the meeting the content of the guidance applies to NRW – please disregard the references to the Environment Agency including the fee they charge for assessment of WRPs).

I have also enclosed the advice and guidance given by Luke Burton, following a meeting held on the 9th January 2016. This contains information on the options available to you in detail.

As promised, I have included information on our Complaints Policy and a Complaints Form.

Yours Sincerely

Lara Moggridge
Senior Environment Officer – Industry and Waste Regulation

Waste Recovery Plan Pre-application Advice and Guidance Meeting 15th November 2018, NRW Offices, Rivers House, St Mellons, Cardiff

Meeting with - Mr. Ken Jones and Mr. Terry Harrison

NRW Representatives – Caitriona Harvey (Team Leader Taff and Ely) Lara Moggridge (Senior Environment Officer Waste)

Points covered

Charging for pre-application advice

- We will not be charging you for our time during this meeting
- Please note that our permitting team will be charging £125 per hour for assessment of any further Waste Recovery Plan submissions

Waste Recovery Plan (WRP)

- In previous submissions of your WRP you have lacked evidence to demonstrate any of the 3 tests which prove recovery – these 3 tests are outlined further on.
- Certainty of benefit – it is not certain that completing the work will have benefit of preventing fly tipping. You must provide evidence of certainty of benefit from the proposed works.
- If there is supporting evidence (i.e. ecologists reports) regarding satisfying the local ecologist's conditions then this must be provided as part of your WRP.
- If you plan to build on the land then evidence is needed regarding structural suitability of the waste planned for use (i.e. structural engineer's report).
- You provided exact tonnages in your version 4 submission – however, you must show you will only use the minimum amount required.
- There was a lack of supporting information relating to the waste being a like for like replacement for non-waste – i.e. ensuring waste types will not have an impact on environment and human health
- You need to evidence that waste is directly replacing a non-waste and this activity would be carried out if waste wasn't available. This must be demonstrated.
- Previous submissions have lacked information to show effective and lasting benefit and designed to ensure prevention of soil erosion, pollution, flooding etc.

Any future WRP submissions must include information, as per the .gov.uk guidance attached, on the:

- Purpose of the work
- Quantity of the waste
- Meeting quality standards
- Evidence the waste is suitable for use
- If you plan to grow plants you may also need agricultural benefit/ecological improvement statements
- You must also demonstrate through the recovery test that you are using waste directly in replacement of non-waste, there are 3 main ways to demonstrate this:
 1. **Financial gain by using non-waste** – to satisfy this criteria you must demonstrate that if you carried out the work with a **non-waste** you would benefit from a **net financial gain**. This is to evidence that the activity is genuinely replacing a like for like by using waste, and that you are not using waste in order to profit from the activity.

The detail on what we would expect to be included to evidence this is included in the guidance on www.gov.uk, attached to this letter. You **must not** evidence why waste would make an activity affordable as this constitutes a disposal operation. For example, you will need calculations that show cost of virgin material/other costs vs waste to demonstrate financial gain or breaking even using non-waste.

2. **Funding to use non-waste** – to satisfy this criteria you would need to demonstrate that if you would have used a **non-waste** for your work, without any net-financial benefit, that you have sufficient funding to cover the costs of the work using **non-waste**, and details of the expected costs to carry out the activity. For example, you need evidence of funds.
3. **Obligations to carry out the work** – It is not enough to have planning permissions to carry out the work, as this permission has been applied for and approved, albeit with comments from the planning officer. This criteria means that there is an actual obligation or requirement to carry out the works, which would most likely come from an existing planning condition to restore the land back to a level. If you wish to satisfy this criteria then you will need to demonstrate why you are obliged to carry out the works and how the intended works will meet said obligations. Again, the [gov.uk](http://www.gov.uk) guidance discusses this in detail.

Permit application

- If a WRP is assessed by permitting as recovery then you will be able to apply for a waste recovery permit. Please note, that permitting's assessment of a WRP make it more likely to have a successful application but this is not guaranteed
- Depending on the tonnages and location will depend on whether you need to apply for a standard or bespoke waste recovery permit
- You must apply for the permit on the forms provided on our website and pay the application fee for assessment of the application. Please note, that this fee is non-refundable if your permit is deemed refused following assessment. The fee will depend on what permit you apply for. To give you a baseline figure, the fee for a Standard Rules Permit is currently – £1,948 (although this could change if new fees and charges guidance is released, you will need to double check the fee when submitting an application)
- If a bespoke permit is required the application fee will be based on an OPRA profile, which you will need to complete and submit with your application (details on OPRA can be found on NRW's website). You will need to include information with your bespoke application on the following
 - Waste acceptance procedures
 - Engineering works
 - Gas monitoring
 - Aftercare monitoring
 - Please note for a Standard Rules Permit we would expect the above to be included in a competent Environmental Management System
- If you are successful with a permit application then you will need to ensure you comply with all the permit conditions issued. This includes:
 - A written Environmental Management System, which details how you will comply with the permit. Guidance on how to write a compliant management system is contained on NRW's website

- A Technically Competent Manager qualified to the relevant standard – please see WAMITAB's (<https://wamitab.org.uk/>) website for more details
- You will need to ensure compliance with all conditions, including submission of quarterly waste returns.
- Non-compliance with any permit condition is an offence. If successful with a permit you will receive regular compliance visits from an NRW officer who will assess compliance against your permit conditions. Any non-compliances identified will be breached according to our guidance, which will affect your annual subsistence fees. You will be legally responsible for compliance and enforcement action may be taken if it is found that you are non-compliant with the permit.
- You will also need to pay annual subsistence fees, and once the lifetime of the permit is complete you will need to submit and pay for a surrender application in order to surrender the permit. You will need to include all relevant site condition reports regarding the status of the land for a surrender application.

The .gov.uk guidance is attached as a print out within this document but can be found at this link:

<https://www.gov.uk/guidance/waste-recovery-plans-and-permits>

1. Home (<https://www.gov.uk/>)
2. Environment (<https://www.gov.uk/environment>)
3. Environmental permits (<https://www.gov.uk/environment/environmental-permits>)

Guidance

Waste recovery plans and permits

How to apply for a waste recovery environmental permit to permanently deposit waste on land.

Published 18 October 2016

From:

Environment Agency (<https://www.gov.uk/government/organisations/environment-agency>)

Contents

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Waste recovery is when your main aim is replacing a non-waste material you would have used in your operation with a waste material that performs the same function. That waste then serves a useful purpose as you're using fewer natural resources. For example, using crushed concrete and bricks to create a development platform for a building, in place of primary aggregates.

You should first contact the Environment Agency

(<https://www.gov.uk/government/organisations/environment-agency#org-contacts>) for a pre-application discussion on what information to include.

You must create a waste recovery plan and send it with your waste recovery permit application. Your plan must show that you'll be carrying out a waste recovery activity.

If you cannot show that your proposed operation is waste recovery, you can apply for a waste disposal permit instead. During the application process, the Environment Agency will assess whether your proposed operation would be a recovery activity or a disposal activity.

You can contact the Environment Agency (<https://www.gov.uk/government/organisations/environment-agency#org-contacts>) to discuss what permit application you need and what information to include.

Read section 1.4.5 of the European Commission's waste guidance (http://ec.europa.eu/environment/waste/framework/pdf/guidance_doc.pdf#page=30) to understand the legal definition of waste disposal and recovery operations.

You can also find out more about waste recovery and disposal operations in Defra's guidance on the Waste Framework Directive (<https://www.gov.uk/government/publications/environmental-permitting-guidance-the-waste-framework-directive>).

Waste recovery plan

You must send a waste recovery plan when you're applying for either a standard or bespoke waste recovery permit. The Environment Agency will assess your plan to check your operation is a waste recovery activity.

The Environment Agency will charge £1,231 to assess your waste recovery plan. See the environmental permitting charges guidance (<https://www.gov.uk/government/publications/environmental-permitting-charges-guidance>) for more information about charges to assess waste recovery plans.

What to include in your waste recovery plan

You must include certain information in your waste recovery plan unless the Environment Agency agrees that you have specific obligations to carry out the work.

Purpose of the work

You need to clearly describe the function of your proposed work and show that you're carrying out the work to meet a genuine need.

Your evidence should set out:

- how the work will be carried out and completed
- why the work is needed and how the work will meet that need

Quantity of waste used

You must provide evidence to show that:

- the waste material used will directly replace non-waste material
- you'll only use the amount of waste needed to carry out the function that would otherwise be provided by non waste
- you have considered alternative proposals that could use a smaller amount of waste to achieve the same function

You must provide plans and cross sections showing the original and planned final ground levels.

Meeting quality standards

You must provide evidence to show how the work will be:

- designed and constructed
- fit for purpose

The finished scheme must not result in any environmental problems such as:

- soil erosion
- pollution
- increased risk of flooding in the surrounding area

Waste recovery activities

Your plan must show that if you could not use a waste material you would do work to get the same outcome using non-waste materials. You must include evidence of this in your plan.

The Environment Agency will consider all relevant information including any evidence you provide. There are 3 main ways you can show evidence that you're using waste in place of non waste.

Financial gain by using non-waste materials: evidence

You could provide evidence to show that if you carried out the work with non waste you would benefit from a net financial gain. Your waste recovery plan needs to include:

- your expected income and any capital gain
- all the costs of generating this income and any capital gain
- all the costs of carrying out the work with non waste and any ongoing operating costs

This should show that it would be commercially worthwhile to use non waste. For example, it would show that using non waste produces a meaningful financial gain or is affordable and otherwise worthwhile.

'Meaningful financial gain' means the profit and payback period would make it worth your while to spend money on non waste. If you'll only profit after several years of operating, then this may not be meaningful.

'Otherwise worthwhile' means there are indirect financial gains. For example, if you were to improve a flood defence system with non waste this investment may only pay for itself over a long period. But you'd do the improvements to avoid the potential disruption of a flood.

If you're applying as a contractor, you need to provide the same evidence but show that the operation would be commercially worthwhile for the person employing you.

The Environment Agency will only consider the income and any capital gain received by the person who covers the cost of using non waste.

For example, if you're going to level land to sell to a developer, you will not be able to include the profits the developer might make in your financial justification. However, if your work will increase the value of the land prior to sale, then you can include this gain as part of your evidence that the scheme is commercially worthwhile.

If the recovery activity is part of a bigger overall scheme, the Environment Agency will consider the whole scheme's commercial viability.

If the recovery activity is a standalone operation, the Environment Agency will only take into account whether that standalone operation is commercially worthwhile.

Funding to use non waste: evidence

If you would have used non waste for your work, without any net financial benefit, you could provide:

- evidence that you have secured the funding you need to cover the cost of the work using non waste
- details of your expected costs in your waste recovery plan

Obligations to do work: evidence

You could provide evidence that you're obliged to carry out the work.

This could be because a regulator has imposed a requirement on you. For example, you operate a quarry and are required by planning conditions to restore it according to an approved plan. This is not the same as planning permission, which allows you to do certain work without setting obligations.

If there's an existing planning condition or obligation the Environment Agency will look at all the available information. This may include:

- the extent to which the local planning authority was directly involved in the design of the scheme when planning was granted and the condition imposed
- whether the local planning authority would be likely to agree anything significantly different

Specific obligations

Obligations may specify the work you have to carry out. If you have specific obligations to do the work proposed, your waste recovery plan must include:

- evidence of the obligation
- plans and cross sections that show your proposal matches the obligation on you
- evidence that the waste is suitable for the intended purpose

General obligations

Some obligations require you to achieve certain results but do not specify exactly how you must do that.

If you're generally obliged to do something your waste recovery plan must demonstrate why you would meet that obligation by carrying out the work proposed. It must also show how your proposed work meets your obligation.

For example, if you have a general obligation to reduce noise levels at a property, you do not necessarily need to build a noise bund. You could reduce noise by moving the noise source away from the property, or changing your operation. In those cases you do not need to deposit any material.

You'd then have to show the Environment Agency why you'd meet your general obligation by spending money on importing non-waste material, rather than an alternative.

Other evidence the waste is suitable

You must provide information about the chemical and physical properties of the waste in your waste recovery plan. This must show that the waste:

- is suitable for the intended purpose
- will not cause pollution

This evidence must be provided by an appropriately qualified person. This will be someone who has expert knowledge of the type of work you want to do and the environmental risks involved.

For example, if you're building a bund or embankment, an appropriately qualified person is likely to be a geotechnical engineer. If you're building a road, or development platform, it may be a civil engineer. If your scheme is small and straightforward, it could be an experienced practitioner rather than a graduate or chartered engineer.

You must show that the specification of the waste you intend to use is comparable to the non-waste material you're replacing. In some cases, it may be appropriate not to use a like for like replacement. For example, if you plan to construct a noise bund instead of an acoustic wall.

Using waste to grow or feed plants

If you plan to use waste to grow plants and are applying for a bespoke permit you may need to submit an:

- agricultural benefit statement
- ecological improvement statement

Your statement must be prepared by a suitably qualified person. Read the land spreading guidance (<https://www.gov.uk/government/publications/landspreading-additional-guidance>) to find out the type of expertise or qualifications you need to prepare these statements.

Your statement should provide evidence that the waste you intend to spread on the land will provide:

- an appropriate growing medium for the crop you want to grow
- the nutrients the crop needs

You must also demonstrate that you'll only use the amount of waste your crop needs.

Waste recovery permits

Read the guidance that applies to all waste permits (<https://www.gov.uk/guidance/waste-environmental-permits>) to find out:

- if you need a standard or bespoke permit
- which application forms to use
- whether you need to do a risk assessment and if so what type
- other information you need to provide with your permit application

Standard rules permit

If you plan to recover 60,000 cubic metres or less of waste, you may be able to apply for a standard rules permit (<https://www.gov.uk/guidance/waste-environmental-permits#how-to-apply-for-a-standard-rules-permit>).

Bespoke waste recovery permit

If you're planning to recover more than 60,000 cubic metres of waste, you must apply for a bespoke waste recovery permit (<https://www.gov.uk/guidance/waste-environmental-permits#how-to-apply-for-a-bespoke-permit/>).

Waste acceptance procedures

When you apply for a bespoke waste recovery permit, you must provide full details of the procedures you'll follow when you accept waste onto your site.

The waste acceptance procedures guidance (<https://www.gov.uk/guidance/waste-acceptance-procedures-for-waste-recovery-on-land>) explains these procedures.

Engineering work

Your risk assessment may show that you need to do engineering work to protect the environment from your activity or to monitor the environment. Find out what engineering work (<https://www.gov.uk/guidance/waste-recovery-engineering-create-a-construction-quality-plan>) you need to agree with the Environment Agency.

Gas monitoring

Unless your risk assessment shows this is not necessary, if you deposit waste more than 2m below the surrounding ground surface, you must monitor your waste for:

- methane
- carbon dioxide
- oxygen

You should install at least 2 monitoring boreholes per hectare, with a minimum of 4 boreholes per site. The boreholes must extend to the full depth of the waste.

You must record the atmospheric pressure when you take gas readings, unless your risk assessment demonstrates that this is not needed.

If you detect methane in your waste monitoring boreholes, you must carry out a walkover gas survey (<https://www.gov.uk/government/publications/monitoring-landfill-gas-surface-emissions-lftgn-07>).

How often you need to monitor will depend on your risk assessment and the morphology of the site.

If you're not going to carry out monitoring, you must explain why in your permit application.

Aftercare monitoring

You may need to carry out aftercare monitoring to confirm the waste is physically and chemically stable.

If you carried out monitoring when you were depositing the waste, you must continue that monitoring for a short period after the site has closed. The length of time you do this for will depend on what you found during your operational phase monitoring.

You need the results of this monitoring to surrender your permit (<https://www.gov.uk/government/publications/landfill-epr-502-and-other-permanent-deposits-of-waste-how-to-surrender-your-environmental-permit>).

Find out what monitoring you must do in the controlling and monitoring emissions guidance (<https://www.gov.uk/guidance/control-and-monitor-emissions-for-your-environmental-permit>).

Planning permission

You usually need planning permission to permanently deposit waste on land. You should contact your local planning authority (<https://www.planningportal.co.uk/>) for advice.

Changing your permit or plan

If the Environment Agency grants you a permit you must comply with the conditions in your permit and with your approved waste recovery plan.

If you want to change your operations, for example to accept a different type of waste, you must apply to vary your permit (<https://www.gov.uk/guidance/change-transfer-or-cancel-your-environmental-permit>). You may also need to change your waste recovery plan.

You should discuss these changes with your local Environment Agency office (<https://www.gov.uk/government/organisations/environment-agency/about/access-and-opening>) before you go ahead.

If you operate under a standard rules permit you cannot vary your permit. You can ask to change your waste recovery plan, provided you continue to comply with all the standard rules.

If you want to change your waste recovery plan you must submit it for re-assessment, as some changes may mean your operation is no longer classed as waste recovery.

If the Environment Agency needs to re-assess your waste recovery plan, you will need to pay another assessment charge of £1,231. See the environmental permitting charges guidance (<https://www.gov.uk/government/publications/environmental-permitting-charges-guidance>) for more information about charges to assess waste recovery plans.

Published 18 October 2016

Related content

Environmental permits (<https://www.gov.uk/environment/environmental-permits>)

Waste management (<https://www.gov.uk/environment/waste-management>)

Collection

- Waste recovery on land guidance (<https://www.gov.uk/government/collections/waste-recovery-on-land-guidance>)
- Technical guidance for regulated industry sectors: environmental permitting (<https://www.gov.uk/government/collections/technical-guidance-for-regulated-industry-sectors-environmental-permitting>)



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Record of points raised in meeting held on Monday 9th January 2016

Location of meeting: Natural Resources Wales Office – Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP

Natural Resources Wales Officers present: Luke Burton (Permitting Officer) and Laoni Tye (Environment Officer).

The current status of your proposal, based on what you have submitted so far

Based upon all the information submitted to date your proposal has been assessed as a disposal activity. An explanation of why we assessed your latest revision of your waste recovery plan as disposal is set out in my letter dated 16/12/16. This means you cannot apply for a permit for the permanent deposit of waste for recovery.

Some possible options in moving forward are set out below.

Option 1.

Change your proposal and provide a waste recovery plan in line with the current guidance (attached) and highlight all the areas you have changed in comparison with the information submitted to date. If there is no material change to your waste recovery plan we will return it without assessing it.

Please note:

The assessment of your waste recovery plan is part of our pre-application advice and guidance service. We allow a maximum of 15 hours free pre-application advice. Our time recording for the amount of time spent assessing your waste recovery plans and providing advice to date has exceeded 15 hours. Any further assessment or advice will therefore be chargeable at £125 per hour.

We cannot guarantee that any reassessment of a waste recovery plan will be approved as recovery.

Timescales: When we receive your waste recovery plan we will assess it as quickly as possible. However, due to regulatory changes in this area, our assessments are taking longer than usual. Currently our assessment are taking approximately 4 weeks.

If your waste recovery plan is assessed as a recovery activity you may apply for a permit for the permanent deposit of waste for recovery.

This application will require as a minimum an application fee and may require you to provide the following evidence of how you will ensure your activities do not cause harm to the environment or human health:

- management plans (for dust, noise, waste acceptance etc.);
- risk assessments;
- information on how you will control surface water and drainage
- monitoring plans;
- any other evidence we deem necessary to demonstrate you will not cause harm to the environment or human health; and,
- We may also require you to construct boreholes to monitor the waste mass and construct a mineral liner to prevent the pollution of ground and surface water – Both of which may require you to submit construction quality assurance plans and validation reports produced by a suitably qualified individual; to us

If we are able to issue your permit you will be required to:

- comply with all the conditions within your environmental permit;
- pay an annual subsistence fee of approximately £1579.00-2593.00 per annum;
- submit waste returns to us showing what waste you have deposited;
- submit monitoring data to us (if required);
- maintain a level of technical competence with an industry approved scheme e.g. WAMITAB; and,
- surrender the permit when your operations are complete.

We allow a maximum of 15 hours free pre-application advice. Our time recording for the amount of time spent assessing your waste recovery plans and providing advice to date has exceeded 15 hours. Any further assessment or advice will therefore be chargeable at £125 per hour.

If you intend on applying for a standard rule permit for your activity, please be aware that our standard rule sets available for the permanent deposit of waste for recovery are changing. If you can't meet the conditions of the new standard rule permit, you will need to apply for a bespoke permit.

Timescales:

Our Customer Charter explains that as long as you have provided us with all the information we need and there are no complicating factors you can expect us to determine your application within 3 months if it's a standard rule permit or 4 months if it's a bespoke permit.

We will work to give you a decision as quickly as possible, but the time it takes depends on what's in the application. We may need to agree a longer timescale with you:

- if the application is complex;
- if we need to ask you for more information about the technical aspects of your application;

- if there's a considerable level of interest from the public or other organisations.

Please note that there is no guarantee we will be able to grant your permit application.

Option 2.

Apply for a permit for the landfilling of inert waste.

This application may require as a minimum:

- an application fee;
- application forms;
- management plans (for dust, noise, waste acceptance etc.);
- risk assessments (incl. stability and hydrogeological);
- information on how you will control surface water and drainage;
- monitoring plans; and,
- any other evidence required to demonstrate you will not cause harm to the environment or human health. You will also be required to construct boreholes to monitor the waste mass and a mineral liner to prevent the pollution of ground and surface water.

If we are able to issue your permit, as a minimum you will be required to:

- comply with all the conditions within your environmental permit;
- pay an annual subsistence fee of approximately £2071.00 – 2973.00;
- submit waste returns to us showing what waste you have deposited;
- send us monitoring data;
- maintain a level of technical competence with an industry approved scheme e.g. WAMITAB;
- submit construction quality assurance plans and validation reports produced by a suitably qualified individual, to us;
- close the site and maintain it throughout a period of aftercare; and,
- surrender the permit when your operations are complete.

We allow a maximum of 15 hours free pre-application advice. Our time recording for the amount of time spent assessing your waste recovery plans and providing advice to date has exceeded 15 hours. Any further assessment or advice will therefore be chargeable at £125 per hour.

Please note that there is no guarantee we will be able to grant your permit application.

Timescales:

Our Customer Charter explains that as long as you have provided us with all the information we need and there are no complicating factors you can expect us to determine your application within 4 months.

We will work to give you a decision as quickly as possible, but the time it takes depends on what's in the application. We may need to agree a longer timescale with you:

- if the application is complex;
- if we need to ask you for more information about the technical aspects of your application;

- if there's a considerable level of interest from the public or other organisations.

Option 3.

Explore the potential of completing your proposal using Waste & Resources Action Programme (WRAP) Quality Protocol material.

Option 4.

Complete your proposal using virgin aggregate/non-waste material. This option would not be regulated by Natural Resources Wales.

Option 5.

If the purpose of your work is to prevent fly tipping you may wish to consider how you may prevent it using other means. Perhaps this may include fencing off the area so to prevent fly tippers gaining access or working with the local council to find solutions to the fly tipping problem.

As soon as you have decided on which option you wish to take, please let me know.

If you have any queries regarding this record please do not hesitate to contact me as soon as possible at the following address or telephone number:

Address: Permitting Service, Natural Resources Wales, Cambria House, 29 Newport Road, Cardiff, CF24 0TP

Telephone: 03000 654229

Yours sincerely,

Luke Burton LCIWM
Waste Permitting Officer

Attached: Guidance - Waste recovery plans and permits



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Complaints & Commendations Policy

Statement and Purpose

Natural Resources Wales is committed to dealing effectively with any concerns or complaints that we receive about our service. We aim to clarify any issues our customer(s) are not clear on. If possible, we'll put right any mistakes we may have made. We will provide any entitled service that we have failed to deliver. We will always aim to learn from our mistakes and to improve our services.

As a Welsh Government Sponsored Body, Natural Resources Wales is expected to handle complaints according to the Public Services Ombudsman (Wales) Act 2005. Natural Resources Wales is following the best practice as set out by the Public Services Ombudsman for Wales (PSOW) and detailed in the PSOW Model Concerns and Complaints policy and guidance.

When to use this Policy?

Any member of the public or business, who has received, or was entitled to receive, a service from Natural Resources Wales may make a complaint. The same applies if they have suffered due to the inappropriate action or lack of action by Natural Resources Wales.

In addition, appeals that any regulated business wishes to raise informally against our regulatory decisions, will also be handled as complaints in line with this policy. Making an appeal to us in this way does not affect any statutory right of appeal you may have or the time limits within which a statutory appeal must be made, or your right to consider asking the courts to review our decision.

What is a Complaint?

A complaint is:

- an expression of dissatisfaction or concern
- either written or spoken by any communication method
- made by one or more members of the public
- about action or lack of action or about the standard of service provided by Natural Resources Wales which requires a response

The complaint can be towards Natural Resources Wales itself, a person acting on its behalf, or a public service provider partnership that Natural Resources Wales is a part of. This procedure is not however a means for a member of staff or prospective member of staff to raise employment issues. There are other internal mechanisms for these types of concerns, for example, whistle blowing, bullying, or grievance procedures.

A complaint is not:

- an initial request for a service*
- an appeal by a 3rd party against a 'properly made' decision¹ by Natural Resources Wales, except where that 3rd party is a regulated business raising an informal appeal
- a means to seek change to legislation or a 'properly made' policy decision
- a means for lobbying groups/organisations to seek to promote a cause

Also, this policy does not apply if the matter relates to:

- an Environmental Information Regulations, Freedom of Information or Data Protection issue (in these circumstances, you should contact accesstoinformationteam@naturalresourceswales.gov.uk)
- a remedy by way of legal proceedings²

**If you are approaching us for a service for the first time then this policy does not apply as you should first give us a chance to respond to your request. If you make a request for a service and then are not happy with our response, you will be able to raise your concern in line with this policy.*

Key principles

Complaints received by Natural Resources Wales will be handled in such a way that the complainant is the focus and not the process itself. We will apply the following principles when handling complaints:

(i) Accessible and Simple

- We will publicise our policy and procedure about how to make a complaint and the way it will be dealt with
- The policy and procedure is intended to be easy to understand and follow – both for the public and staff.

(ii) Fair and Impartial

- We will deal with concerns in an open-minded and impartial way.
- Complainants are assured that making a complaint will not adversely affect their future dealings and contacts with Natural Resources Wales.

¹ A 'properly made' decision is one where the relevant laws, policies and procedures have been correctly followed in arriving at a decision.

² E.g. for works carried out under the Water Resources Act (WRA) 1991, Schedule 21 of the WRA provides that any dispute in relation to compensation where works have been carried out under section 165 should be determined by the Upper Tribunal (Lands Chamber). The Public Services Ombudsman (Wales) Act 2005 also states:

9 Exclusion: other remedies

The Ombudsman may not investigate a matter if the person aggrieved has or had—

- *a right of appeal, reference or review to or before a tribunal constituted under an enactment or by virtue of Her Majesty's prerogative,*
- *a right of appeal to a Minister of the Crown or the [F1, the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government], or*
- *a remedy by way of proceedings in a court of law.*

(iii) Timely, Effective and Consistent

- We will endeavour to ensure where appropriate and possible, frontline staff themselves should seek to resolve complaints in accordance with Natural Resources Wales guidance.
- Our overriding principle will be 'Investigate Once, Investigate Well' – when a complaint requires formal investigation, this should be done thoroughly to establish the facts of the case.
- We will deal with your concerns as quickly as possible and keep you informed throughout

(iv) Accountable

- We will provide an honest, evidence-based explanation and give reasons for decisions
- When concerns are found to be justified, as appropriate we will:
 - acknowledge mistakes
 - apologise in a meaningful way
 - put matters right
 - provide prompt, appropriate and proportionate corrective action
- We will ensure that complainants are informed of their right to complain to the Public Services Ombudsman for Wales (or of other appropriate routes open to them, for example, Welsh Language Commission in respect of complaints about compliance with Welsh Language Schemes and the Equality and Human Rights Commission).

(v) Delivers Continuous Improvement

- We will seek to gather lessons learnt from complaints and use that information to ensure continuous improvement of the service provided.

Complaints Stages

There are two stages to the Natural Resources Wales policy for dealing with complaints. These are underpinned by the principles outlined above:

Stage 1 – 'Point of Service' Resolution

As an organisation providing public services, we have a responsibility to view any complaints about a lapse in service or any wider concerns about the service seriously.

This stage offers the opportunity for informal engagement at the point of service delivery to resolve complaints either at the time the concern arises or very shortly thereafter. In many instances, the only step required will be an explanation or other appropriate remedial action by frontline staff. Any concerns by regulated businesses or individuals concerning our regulatory decisions will also ideally be resolved via this approach, before either informal, or formal, appeals are lodged.

Point of Service informal resolution at Stage 1 Response Time – we aim to respond immediately to concerns raised in relation to services provided and direct contact (face to face, telephone) with the public and customers is likely to be most effective in achieving an informal resolution.

If this is not effective and the complaint is formalised then an assessment is made as to the seriousness and likely complexity of the complaint.

How to express concern or complain formally

You can express your concern in any of the ways below.

- You can ask for a copy of our form from the person with whom you are already in contact. Tell them that you want us to deal with your concern formally.
- You can get in touch with our Complaints Partner on tel: 0300 065 4114 if you want to make your complaint over the phone. If you are hard of hearing we have a Textphone service available on 03702 422 549
- You can use the form on the Natural Resources Wales website
- You can e-mail us at complaintsandcommendations@cyfoethnaturiolcymru.gov.uk
- You can write a letter to us at the following address:

Complaints
Natural Resources Wales
Maes y Ffynnon
Penrhosgarnedd
Bangor
Gwynedd
LL57 2DW

Stage 1 is where we will invest the majority of our time and resource and our focus will be on a successful outcome (complaint closed).

Formalised Complaint handled at Stage 1

We will issue an acknowledgment letter within 5 working days and will have responded within 20 working days of receipt to any complaints that are formalised in writing. It will be clear that the right of appeal is to our Director of Customer, Communication and Information.

Stage 2 - Formal Investigation

Our intention is that we will be dealing with very few complaints that have progressed to this stage. However some will via:

- The initial assessment indicating that the complaint is serious and potentially complex
- Non-resolution of complaints handled at Stage 1 where the 'quick fix' or clear route to resolution was not achieved

For complaints that reach this stage, we will adopt the principle of 'investigating once, investigating well'. We will place emphasis on one investigation to deal thoroughly with the concerns raised.

Formal Investigations at Stage 2 – serious or unresolved complaints referred to the Director of Customer, Communication and Information will be acknowledged within 5 working days. A response will be made within 20 working days, although in some circumstances we may extend this response time. If your complaint is more complex, we will:

- let you know within this time why we think it may take longer to investigate
- tell you how long we expect it to take
- let you know where we have reached with the investigation, and
- give you regular updates, including telling you whether any developments might change our original estimate

As well as the quality of the investigation, 'investigating well' also means conducting an investigation in a manner that is proportionate to the nature and degree of seriousness of the complaint.

Outcome

If we formally investigate your complaint, we will let you know what we have found in keeping with your preferred form of communication. This could be by letter or e-mail, for example. If necessary, we will produce a longer report. We'll explain how and why we came to our conclusions. If we find that we got it wrong, we'll tell you what happened and why. We'll show how the mistake affected you. If we find there is a fault in our systems or the way we do things, we'll tell you what it is and how we plan to change things to stop it happening again. If we got it wrong, we will always apologise.

Putting Things Right

If we didn't provide a service you should have had, we'll aim to provide it now if that's possible. If we didn't do something well, we'll aim to put it right. If you have lost out as a result of a mistake on our part we'll try to put you back in the position you would have been in if we'd got it right.

Stage 2 Investigations will be signed off by the Director of Customer, Communication and Information and will be the final position of the organisation on the matter. There will be no further route of appeal within Natural Resources Wales and our communication will make it clear that any appeal is to the Public Services Ombudsman for Wales.

Lapsed Time

Normally, we will only be able to look at your concerns if you tell us about them within 6 months. This is because it's better to look into your concerns while the issues are still fresh in everyone's mind.

We may exceptionally be able to look at concerns which are brought to our attention later than this. However, you will have to give us strong reasons why you have not been able to bring it to our attention earlier and we will need to have sufficient information about the issue to allow us to consider it properly. (In any event, regardless of the circumstances, we will not consider any concerns about matters that took place more than three years ago).

For appeals that a regulated business wishes to raise informally against our regulatory decisions, these must be registered within 15 days of the date when we confirmed our decision in writing to you.

Complaints involving other Legal or Disciplinary Proceedings

Occasionally, complaints received will involve legal or disciplinary proceedings. It may from time to time be necessary to put the investigation of a complaint 'on hold' until the conclusion of those other proceedings.

Complaints involving more than one service provider

There are occasions when a complaint received will involve more than one organisation and in these cases we will work closely and constructively with the other organisations involved.

Complaints concerning services that have been contracted out

If the complaint is about an organisation working on our behalf (e.g. contractors) you may wish to raise the matter informally with them first. However, if you want to express your concern or complaint formally, we will look into this ourselves and respond to you.

Where we have contracted out the provision of a service to private/voluntary organisations, we will ensure that there is a clarity over complaint handling in the service provision.

Learning lessons

We take your concerns and complaints seriously and try to learn from any mistakes we have made. Our senior management team considers a summary of all complaints quarterly as well as details of any serious complaints. Our Audit & Risk Assurance Committee will also consider our response to complaints at least twice a year.

Where there is a need for change, we will develop an action plan setting out what we will do, who will do it and when we plan to do it by. We will let you know when changes we've promised have been made.

What if I need help

Our staff will aim to help you make your concerns known to us. If you need extra assistance, we will try to put you in touch with someone who can help. You may wish to contact an independent advocacy service who may be able to assist you. Further information on advocacy and advice Bodies can be found on the Public Services Ombudsman for Wales website.

Ombudsman

If we do not succeed in resolving your complaint at Stage 2, you may escalate to the Public Services Ombudsman for Wales. The Ombudsman is independent of all government bodies and can look into your complaint if you believe that you personally, or the person on whose behalf you are complaining:

- have been treated unfairly or received a bad service through some failure on the part of the body providing it
- have been disadvantaged personally by a service failure or have been treated unfairly.

The Ombudsman expects you to bring your concerns to our attention first and to give us a chance to put things right. You can contact the Ombudsman by:

- phone: 0300 790 0203
- e-mail: ask@ombudsman-wales.org.uk
- the website: www.ombudsman-wales.org.uk
- writing to:

Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae
Pencoed
CF35 5LJ

There are also other organisations that consider complaints. For example, the Welsh Language Commission about services in Welsh or the Equality and Human Rights Commission. We can advise you about such organisations.

What we expect of you?

We do not regard determination to pursue a complaint or strength of feeling about the standards of our service as inappropriate and we do recognise that some people may act out of character in times of trouble or distress. However, any actions of those raising concerns or making a complaint, that are angry, over demanding or persistent in the face of reasonable responses, will be considered as unreasonable demands on Natural Resources Wales. We view the following actions, especially when combined with personalising perceived lapses in service standards to individual members of staff, as unacceptable:

- Threats
- Personal verbal abuse
- Rudeness
- Discrimination
- Unsubstantiated allegations
- General aggressive behaviour directed toward the staff of Natural Resources Wales
- Unacceptable tone or manner used in communications in respect of a complaint

In exceptional circumstances, legitimate persistence in pursuing a complaint can lapse into unreasonable and unacceptable demands. These circumstances may apply when:

- Natural Resources Wales has disclosed all relevant information and the complainant is now making unreasonable demands beyond the scope of the initial complaint
- Natural Resources Wales has exhausted its ability to respond, following earlier responses supplied to the highest possible standard which have been ignored or dismissed/rejected

Or the complainant:

- Persistently refuses to accept a decision made in relation to a complaint
- Persistently refuses to accept explanations relating to what Natural Resources Wales can or cannot do
- Continues to pursue a complaint without presenting any new information

If Natural Resources Wales deems that some or any of these characteristics apply, then we reserve the right to indicate to the complainant that all future contact with Natural Resources Wales should be in writing or via a representative. We also reserve the right to indicate that all future correspondence will be read and filed but only acknowledged and responded to if the complainant provides significant new information relating to their case.

In exceptional cases, unreasonable persistence may affect our ability to deliver our normal service. Depending on the volume of correspondence or regularity of telephone communications, we may indicate that after careful consideration we require that all further communications with Natural Resources Wales be submitted in writing during the course of a complaint review or investigation. This will not apply to calls in relation to environmental incidents which should be reported by calling 03000 65 3000.

Commendations

Whilst we strive to learn from complaints we like to also acknowledge the positive aspects of the services we provide and recognise Commendations. We consider very good customer

service “a given”, therefore are proud to identify all instances when our service was perceived as “above and beyond”.

All customers and members of public are encouraged to submit commendations relating to services we have provided. It is important to recognise that the success of our organisation is dependent upon employee participation and actions.

You may commend an employee in person, by letter, by phone call or by emailing complaintsandcommendations@naturalresourceswales.gov.uk or writing to:

Commendations
Maes y Ffynnon
Penrhosgarnedd
Bangor
Gwynedd
LL57 2DW

Please complete the Commendations form should you prefer.

Privacy

We will be retaining your personal details along with your complaint in a database for the purpose of recording progress and monitoring our performance. We will only use this personal data in accordance with the Data Protection Act 1998 to deal with your request and any matters that arise from it.

If you require this document in an alternative format and/or language please contact us to discuss your needs.

By telephone: 0300 065 3000 (Mon-Fri, 8am-5pm)

By email: enquiries@naturalresourceswales.gov.uk

In writing: Natural Resources Wales
Customer Care Centre
Ty Cambria
29 Newport Rd
Cardiff
CF24 0TP

Related Documents

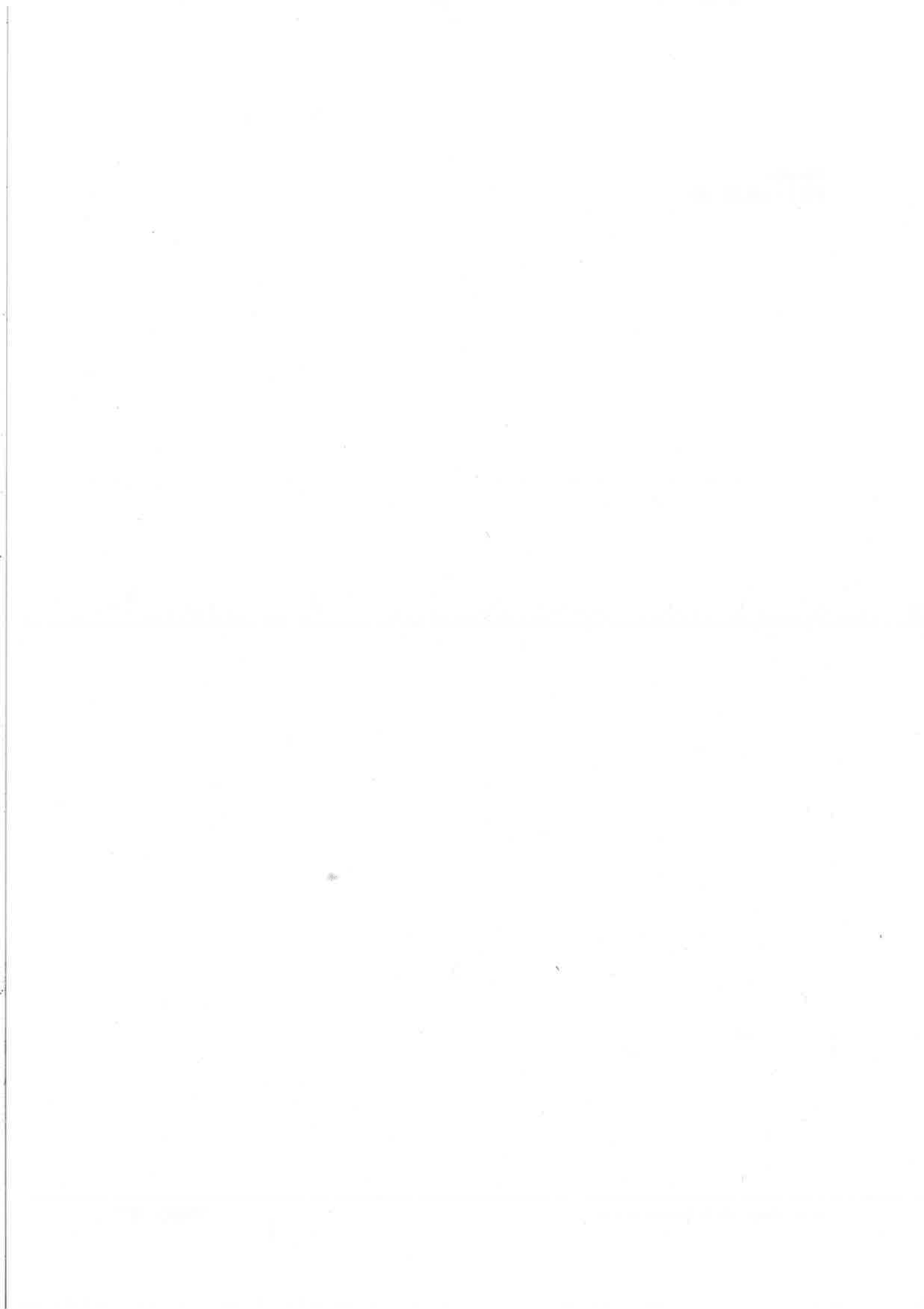
Complaint Form

Commendation Form

[Welsh Language Standards](#)

Owner: Director of Customer, Communication and Information
Approval
Approved by GM [02.01.18]

Version
V3.1 – [02.01.18]



Natural Resources Wales Customer Complaint form

Your details

Your full name:

Address and postcode:

E-mail address:

Contact phone number:

Your requirements: if our usual way of dealing with complaints makes it difficult for you to use our service, for example if English or Welsh is not your first language or you need to engage with us in a particular way, please tell us so that we can discuss how we might help you.

The person who experienced the problem should normally fill in this form. If you are filling this in on behalf of someone else, please fill in section B. Please note that before dealing with the complaint we will need to be satisfied that you have the authority to act on behalf of the person concerned.

Making a complaint on behalf of someone else:

Their full name:

Address and postcode:

What is your relationship to them?

Why you are making a complaint on their behalf?

About your complaint (Please continue your answers to the following questions on a separate sheet(s) if necessary)

Name of the department/section/service you are complaining about?

What do you think they did wrong, or failed to do?

Describe how you personally have suffered or have been affected?

What do you think should be done to put things right?

When did you first become aware of the problem?

Have you already put your complaint to the frontline staff responsible for delivering the service? If so, please give brief details of how and when you did so? And what was the conclusion?

If it is more than 6 months since you became first aware of the problem, please give the reasons why you have not complained before now?

If you have any documents to support your complaint, please attach them with this form and list them here.

☐

(Tick box) I provide consent for this information to be used in accordance with our Privacy Notice.

We will only use this personal data in accordance with the General Data Protection Regulation to deal with your request and any matters that arise from it.

If you have any further queries or concerns please contact dataprotection@naturalresourceswales.gov.uk. For further information on the processing of your personal details please see our Privacy Notice page

Signature:

Date:

When you have completed this form, please send it to:

NRW Complaints Partner
Natural Resources Wales
Maes y Ffynnon
Penrhosgarnedd
Bangor
Gwynedd
LL57 2DW

E-mail: complaintsandcommendations@naturalresourceswales.gov.uk

