

# Agenda – Climate Change, Environment, and Infrastructure Committee

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Meeting Venue:

Committee room 4 Tŷ Hywel  
and video Conference via Zoom

Meeting date: 24 April 2024

Meeting time: 09.30

For further information contact:

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Committee Clerk

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## Hybrid

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**Private pre-meeting (09.15–09.30)**

**Public meeting (09.30–11.50)**

### 1 Introductions, apologies, substitutions, and declarations of interest

(09.30)

### 2 Restoration of opencast mining sites – evidence session 1

(09.30–10.10)

(Pages 1 – 22)

Carl Banton, Operations Director – The Coal Authority

Attached Documents:

Research brief – Restoration of opencast mining sites

Paper – Merthyr Tydfil County Borough Council

Paper – The Coal Authority

**Break (10.10–10.15)**



### **3 Restoration of opencast mining sites – evidence session 2**

(10.15–11.00)

(Pages 23 – 27)

Daniel Therkelsen, Campaigner – The Coal Action Network

Haf Elgar, Director – Friends of the Earth Cymru

Attached Documents:

Paper – The Coal Action Network

**Break** (11.00–11.05)

### **4 Restoration of opencast mining sites – evidence session 3**

(11.05–11.50)

(Pages 28 – 36)

Marcus Bailie, Campaigner – Extinction Rebellion Cymru

David Kilner, Campaign Coordinator – Climate Cymru

Attached Documents:

Paper – Extinction Rebellion Cymru

Paper – Climate Cymru

### **5 Papers to note** (11.50)

#### **5.1 The Environment and Rural Affairs (Revocation and Consequential Provision) Regulations 2024**

(Pages 37 – 38)

Attached Documents:

Letter from the Minister for Rural Affairs and North Wales, and Trefnydd to the Chair in relation to the Environment and Rural Affairs (Revocation and Consequential Provision) Regulations 2024

#### **5.2 Scrutiny of the Welsh Government Draft Budget 2024–25**

(Pages 39 – 41)

Attached Documents:

Letter from the Chair of the Finance Committee to the Chair in relation to the Scrutiny of the Welsh Government Draft Budget 2024–25

### **5.3 Wind farm project at Mynydd Maen**

(Pages 42 – 44)

Attached Documents:

Letter from Matt Davies to the Chair in relation to the Windfarm farm project Mynydd–Maen Mountain

Response from the Chair to Matt Davies in relation to the Windfarm farm project Mynydd–Maen Mountain

### **5.4 The Carbon Budget Delivery Plan**

(Pages 45 – 47)

Attached Documents:

Letter from the Secretary of State for Energy Security & Net Zero to The Rt. Hon. Philip Dunne MP, Clerk of the Environmental Audit Committee in relation to the Carbon Budget Delivery Plan

### **5.5 Decarbonisation of housing**

(Pages 48 – 49)

Attached Documents:

Letter from the Chair of the Vale of Glamorgan Council’s Corporate Performance and Resources Scrutiny Committee to the Chair in relation to Changes to the target date for public sector homes to reach net zero

### **5.6 Performance of Dŵr Cymru Welsh Water**

(Pages 50 – 63)

Attached Documents:

Response – Welsh Government

Response – Ofwat

Response – Natural Resources Wales

Response – Dŵr Cymru Welsh Water

**6 Motion under Standing Order 17.42 (vi) and (ix) to resolve to exclude the public from the remainder of today's meeting**

(11.50)

**Private meeting (11.50–12.20)**

**7 Consideration of evidence received under items 2, 3 and 4**

**8 Consideration of draft report on Natural Resources Wales – 2023–24**

(Pages 64 – 83)

Attached Documents:

Draft report on Natural Resources Wales – Annual Scrutiny 2023–24

**9 Consideration of the Committee's forward work programme – Summer 2024**

(Pages 84 – 89)

Attached Documents:

Forward work programme

Document is Restricted

## **Climate Change, Environment and Infrastructure Committee – Evidence Session Ffos y Fran**

The Merthyr Tydfil County Borough Council (MTCBC) officers that dealt with the original Planning applications, legal and financial agreements for the Ffos y Fran scheme have long left the authority, and as such the background knowledge, context and intricacies of the development is limited to the fairly recently gathered information gleaned by those officers currently negotiating matters on behalf of the authority. For this reason, our ability to contribute evidence is limited.

You will appreciate that minerals planning can be a complex matter requiring specialist experience and knowledge. In common with most other LPA's in Wales we do not have specialist Minerals Planning Officers and instead rely on an SLA with Carmarthenshire County Council to deliver minerals work including planning applications. As advised in correspondence, you may wish to invite evidence from them given their breadth of knowledge and experience on the matters raised.

The current negotiations in relation to restoration of the Ffos y Fran site have been led by the Council's solicitor and Development Control Group Leader, who offer the following comments in response to your invitation to submit evidence in response to the 3 points raised:-

- The financial and practical arrangements in place for the restoration of the Ffos y Fran opencast site;

A restoration strategy formed part of the Planning permission for the Ffos y Fran development that was granted by the National Assembly for Wales. In terms of practical arrangements, MTCBC have for some time been in discussion with the site operators in relation to restoration of part of the site in accordance with the originally approved strategy as well as developing a revised strategy for the remainder of the site. Restoration of the land is a condition of the Planning Permission.

In terms of financial arrangements, £15,000,000 to be used for restoration of the site currently sits in an escrow account.

- How restoration of opencast sites can be secured, and contingency planning in the event of insufficient funds being available to restore sites; and

MTCBC is aware of the best practise guide on 'restoration Liability Assessments' for surface coal mines prepared in 2016. Overall, the principles set out in the document, which seek to reduce the opportunity for the site operator to abandon the site without carrying out the final restoration in accordance with the approved plans is supported. It clearly necessitates the need for appropriate expertise and where appropriate independent expert assessors. It also requires co-operation from the site operator who would bear the costs of any agreement to be secured.

Unfortunately, this advice was not available when the planning application for Ffos Y Fran was considered in 2005, Planning permission was granted by the National Assembly for Wales and these principles do not appear to have been secured.

- Discussion of the findings and recommendations from the Welsh Government report on *Research into the failure to restore opencast coal sites in south Wales (April 2014)* and whether these are still applicable.

MTCBC is aware of the research paper on the 'failure to restore opencast coal sites in south Wales'. Of particular interest is Section 5.3 of the report, which sets out the options for unrestored sites or sites at risk. It also highlights some of the challenges that local authorities may face to resolve such matters, which certainly reflects the experiences of MTCBC in dealing with the closure of Ffos Y Fran opencast mine.

Section 5.3.1 acknowledges that sites may remain abandoned or un-restored as a result of the site operator delaying or refusing to meet the restoration conditions. Where the bond is insufficient to secured the full restoration, the LPA may have legal redress under the planning permission and any Section 106 agreement, but that process in itself can incur significant costs. This can arise from the legal counsel, the technical input needed to meet the restoration of the site in accordance with the planning permission, as well as the on-going monitor of the site.

If it is anticipated that the site operator might fail to restore the site, with an inadequate bond and limited success of enforcement, the report notes that there are few remedies to enable the planning conditions to be met. There are however some mitigation measures that can be examined, which may include:

- The submission of a revised planning application to extend the life of the mine, where additional contributions towards the restoration fund can be made. This was explored as part of a planning application to extend the life of Ffos y Fran for an additional 3 years. However, the application was refused as it ran contrary to national planning policy.
- A new application for a revised after-use of the site to generate enhanced residual land values. In the case of Ffos Y Fran, the majority of the site is to return to common land. To date no alternative scheme has been presented to the local planning authority for consideration.
- Major reconfiguration of the form of restoration for the site. A dominant cost component for the restoration works relates to the bulk earthmoving needed to replace the excavated overburden back into the void. Such costs could be reduced by partially infilling the void, reshaping the overburdens and could include part of the void being retained as a water feature. This is currently being explored at the Ffos Y Fran site, where the site operator is currently preparing the submission of a future planning application to vary the restoration strategy, which would likely involve the retention of some of the overburdens and a water body in the void.



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12 April 2024

Dear Lukas

Thank you for the invitation to the Evidence session about Ffos-y-Fran opencast coalmine scheduled for 24 April. I can confirm that Carl Banton, Operations Director will attend, give evidence and engage with the committee. It may be helpful if I outline the Coal Authority's recent involvement with Ffos-y-Fran ahead of the meeting.

Local authorities are the primary authority for the regulation of surface mines, through planning permission and enforcement. Surface mine operators must also have a coal mining licence from the Coal Authority and other relevant approvals from bodies such as Natural Resources Wales and the Health and Safety Executive. Ffos-y-Fran surface mine currently has a coal mining licence until February 2097.

We carried out an inspection of the Ffos-y-Fran site on Friday 19 May 2023 which highlighted that the operator was coaling outside of their licence boundary. We contacted the operator and took action to end coaling in this wider area in line with our legislative powers. As part of this process, on Wednesday 27 September we issued a final enforcement order to Merthyr (South Wales) Ltd. We carried out a further inspection of the Ffos-y-Fran site on Wednesday 22 November which confirmed that coal mining had stopped.

The *Welsh Government report on Research into the failure to restore opencast coal sites in south Wales (April 2014)* states that LPAs and the Coal Authority have very clear and legally defined roles in relation to the licencing and planning / operational compliance for opencast coal sites. Within this framework there is clear benefit from close dialogue and the exchange of information between parties. Whilst managing the restoration and associated public safety of an open cast mine following closure is a matter for the landowner and local authority, we have and will continue to provide advice to Merthyr Tydfil County Borough Council, Welsh Government and other partners as needed.



We also note that we collaboratively produced a best practice guide covering surface mining restoration liabilities entitled 'Best Practice Guide on Restoration Liability Assessments for Surface Coal Mines', published by Welsh Government in February 2016.

For the Committee's information, we have provided a chronology showing actions, by category, we have carried out regarding the Ffos-y-Fran site which you can see at Appendix A.

I hope this is helpful. Please do let me know if we can assist further. We look forward to attending the inquiry on 24 April.

Yours sincerely

A handwritten signature in black ink, appearing to read 'L. Pinney', written in a cursive style.

**Lisa Pinney MBE**  
**Chief Executive**

## Appendix A – Examples of recent support provided by the Coal Authority

### 1. 2023 – Coal Authority meeting with Merthyr Tydfil County Borough Council (MTCBC)

13 June 2023 - Meeting with MTCBC to discuss planning and licencing related breaches of operator

### 2. 2023 - Meetings hosted by MTCBC and follow on technical meetings attended by Coal Authority

31 July 2023 and 4 September 2023 - Follow-on meetings with MTCBC to discuss continuing planning and licencing related breaches of operator

12 October 2023 – MTCBC Technical workshop meeting #1 – *operator not present*

9 November 2023 – MTCBC Technical workshop meeting #2 – *at site and included on-site visit*

14 December 2023 - MTCBC Technical workshop meeting #3 – *at site*

06 February 2024 - MTCBC Technical workshop meeting #4 – *operator not present*

### 3. 2023 – Coal Authority engagement with Health and Safety Executive (HSE)

24 May 2023 – Notified the HSE that the licensee was working outside of licence area

19 July 2023 – Notified the HSE that Coal Authority intended to serve a final enforcement notice on the licensee

09 August 2023 – Shared the restoration design review report from the site’s geotechnical specialist

29 September 2023 – Notified the HSE that Coal Authority had served a final enforcement order

20 October 2023 – Shared independent consultants stability report with the HSE

2 November 2023 – Engagement ahead of HSE attendance at Technical Workshop Group meeting #2

### 4. 2023/24 – Coal Authority meetings and correspondence with Welsh Government officials

23 August 2023 – Meeting with Carl Banton (CB) Coal Authority Operations Director, Lisa Pinney (LP) Coal Authority Chief Executive and John Howells (JH) Director, Welsh Government

20 September 2023 – Coal Authority shared the stability report with Welsh Government

31 August 2023 – 26 March 2024 - regular update meetings between CB and JH

### 5. 2023 - Coal Authority hydrogeology report

08 September 2023 – Coal Authority shared its water information with various stakeholders including Welsh Government

### 6. 2023/24 - Coal Authority site visits with Operator

19 May 2023 – licencing inspection visit

30 August 2023 – stability focussed inspection including attendance of consultants

22 November 2023 – site visit – confirmation that coaling ceased

11 January 2024 – site visit - confirmation of buttressing to the exposed coal seam in cuts no. 27 and 28



05<sup>th</sup> April 2024

Submission of written evidence to the CCEIC to aid its short inquiry on the Ffos-y-fran opencast coalmine and related issues.

## Background:

CAN has produced a [timeline of key events](#) in the Ffos-y-fran coal mine, leading up to the 23<sup>rd</sup> October 2023. On the 12<sup>th</sup> September 2022, just 6 days after planning permission ended for coal mining at Ffos-y-fran, local residents sent the first reports to Merthyr Tydfil County Borough Council (MTCBC) that Merthyr (South Wales) Ltd was breaching planning control and continuing to mine illegally. MTCBC proceeded to ignore many subsequent reports and photos of mining activities and coal transports over the following months, and rejected many calls for planning officers to visit the coal mine to see it for themselves. Finally, MTCBC admitted that illegal mining was indeed occurring only after Coal Action Network on 30<sup>th</sup> January 2023 sent Coal Authority statistics to MTCBC showing normal coal production was continuing—and even then, this was admitted only 2 months later on 31<sup>st</sup> March 2023 and after CAN followed up.

Nevertheless, MTCBC took no action to enforce planning control at Ffos-y-fran until some weeks after the unanimous vote refusing permission for the coal mine in April 2023, when it eventually issued an [enforcement notice](#). We asked MTCBC to issue a stop notice that would end the ongoing coal mining whilst the coal company appealed the enforcement notice, as this can take many months to resolve. MTCBC refused, and in July 2023, the Julie James wrote to MTCBC “I am aware that coal extraction continues at the site, which could constitute a breach of planning control, depending on the outcome of the appeal proceedings. Such coal extraction can continue in the absence of a stop notice accompanying the enforcement notice. I would be grateful if you could outline why your authority did not consider it expedient to serve a stop notice under section 183 of the Town and Country Planning Act 1990 (“the 1990 Act”) in this case.”. Yet neither the Welsh Government nor MTCBC at any point in the 16 months of illegal coal mining at a volume averaging 1,000 tonnes/day issued a stop notice.

This effectively gave Merthyr (South Wales) Ltd a de facto extension that was 7 months longer than the original 9 months that the company applied for. The reason that the Council refused to issue a stop notice, according to [Ministerial advice](#) (29/07/2023, obtained under FOI) was:

“attempting to progress the restoration through the company has been one reason why they did not serve a stop notice.

1. The plant at the site is all leased and once removed from the site would be costly to bring back.
2. Other reasons include wanting to avoid an immediate loss of 150 jobs.
3. The other reasons are the cost of securing the site to prevent trespass into unsafe surface workings,
4. the maintenance of the two water pumps which prevent the void from filling and



5. the cost of a hydrogeological study to understand the safety consequences of the void filling.

After Coal Action Network initiated a judicial review challenge to the MTCBC's and the Welsh Government's continuing refusal to issue a stop notice, Merthyr (South Wales) Ltd suddenly claimed in August that it needed to continue mining coal until November 2023 to excavate old mine working that would make the void safer. Our legal team found those claims to be without substantiated evidence and the Coal Authority did not ratify the case made by the company to our knowledge, but MTCBC again acquiesced to the company's demands and accepted that it could continue its breach of planning control until the end of November, which coincided with the end of the company's contract with its primary customer, TATA Steel. That undermined our judicial appeal, as the judge accepted that despite the company's track-record, it would indeed stop at the end of November 2023, so we were forced to withdraw our judicial review. At the end of November, Merthyr (South Wales) Ltd withdrew its appeal to MTCBC's enforcement notice and claimed to finish coal mining, but this wasn't verified by MTCBC to our knowledge, despite the company's track record. MTCBC gave Merthyr (South Wales) Ltd until the end of December (when the enforcement notice came into force) to move coal out of the mine that it claimed to have mined before the November-end deadline. However, MTCBC—in breach of its own enforcement notice—allowed the Merthyr (South Wales) Ltd to carry on transporting large quantities of coal off the site until a new deadline on 08<sup>th</sup> January (because it was purported that it was a wet winter), and after that date discarded that deadline or any future deadline, moving to a 'rolling weekly review' instead.

The almost unmitigated acquiescence of MTCBC and the Welsh Government to Merthyr (South Wales) Ltd, to keep the company on-site has failed to deliver the benefits hoped for, and instead facilitated 16 months of illegal coal mining at Ffos-y-fran, with no accountability and the following consequences:

- A larger void and overburden mounds, increasing restoration costs
- Mining [outside the permitted licence area](#) triggering a separate enforcement notice from the Coal Authority.
- A [rapidly flooding void](#) with pumps removed.
- No agreement to fund restoration works
- Over [500,000 tonnes of illegal coal](#), much of it transported to customers along rail tracks owned by Transport for Wales – the Welsh Government.
- Over 1.6 million tonnes of CO<sub>2</sub>
- [362 additional deaths](#) from climate change related causes
- Dust & noise for locals

MTCBC and the Welsh Government were warned - in detail - of these consequences during its months of inaction by local residents, Coal Action Network (and its partner, Good Law Project, and legal team, Richard Buxton Solicitors), and Friends of the Earth Cymru. XR Cymru blockaded illegal coal being transported off the site for 24 hour in July 2023—preventing the illegal activities for longer than either MTCBC and the Welsh Government managed at any point.



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## The financial and practical arrangements in place for the restoration of the Ffos y Fran opencast site;

Merthyr (South Wales) Ltd would have been aware of the end of planning permission (06 September 2022) when it took over operations at the Ffos-y-fran coal mine at the end of 2015, and its obligation to restore the site after that. Indeed in the company's [most recently published accounts](#) (to year ending 2021—the company was very late publishing these accounts under threat of being stricken off—and should have published more recent accounts but has not), it is stated: **“Full account has been taken for funding the restoration obligation in the future costs and cash flows”** and **“On completion of coaling, the site will be restored in accordance with the agreed terms of the reclamation project”**. However, in 2023, it became clear from MTCBC, and the majority-redacted [advice to Government Ministers](#) (28/07/2023, that “officials consider the company is likely to seek administration after this time [coaling], although alternatively they may seek to continue to restore the site as long as they can draw down money from the escrow account to fund the work.”.

A £15 million guarantee bond is in place in a joint escrow account to be drawn down to make the site safe (not intended to fund its restoration) in the event that the coal operator abandons the site/becomes insolvent. Accordingly, the mining company is hopeful that these terms can be changed so, even though it is not insolvent, it can claw back the £15 million that's currently beyond its reach with an alternative proposal to the [original 2007 restoration](#) it agreed to carry out, so that it continues to extract profit from the site even after the dereliction of its contractual duties.

A [Good Law Project investigation](#) found that since 2017, Merthyr (South Wales) Ltd funnelled cash out of the company to pay out £49.89m in dividends and royalties, while the restoration fund faces a shortfall of at least £60m (according to Merthyr Tydfil County

In a meeting between CAN, Good Law Project, Richard Buxton Solicitors, and Matrix Chambers of London, it was advised that Merthyr (South Wales) Ltd may have acted fraudulently in reporting that it intended to finance restoration and was in a position to do so, if it could be proven that the Director and company had no genuine intent to do so. However, no public body has indicated an interest in pursuing a prosecution on that, or any other, basis—despite the sums of money and material impact at stake.

Indeed, during the period that Merthyr (South Wales) Ltd should have started restoring the site by returning the overburden mounds into the void, it was instead enlarging the void by continuing to mine and move coal out of the void for at least 16 months, and profiteering further by [hosting national motocross events](#) atop one of those overburden mounds. When we raised this with MTCBC, and MTCBC subsequently queried the company about it, the Director accidentally emailed MTCBC on 25/05/2023 advising an employee to wash their hands of it by telling MTCBC that the land under that overburden mound had been



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transferred to a separate company and thus Merthyr (South Wales) Ltd had no access to it, in a move very similar to fellow mining company, Celtic Energy's (detailed below).

## **How restoration of opencast sites can be secured, and contingency planning in the event of insufficient funds being available to restore sites; and**

On 20<sup>th</sup> October 2023, Lisa Pinney (CE of the Coal Authority) and Carl Banton (Operations Director of the Coal Authority) wrote a [highly critical letter](#) to MTCBC, outlining its multiple failures that has acted to reduce the options available to restore the site – such as: *“Managing the restoration and associated public safety of an open cast mine following closure is a matter for the landowner and local authority. The meeting last week demonstrated there wasn't a robust plan for the site's closure, which could happen at any time. For example, there was no understanding of how rising water levels would be managed nor whether they could use the restoration bond that is held in escrow to manage site security if the operator went into liquidation. These are fundamental questions that should be understood at this stage.”*

The Welsh Government must step in and take responsibility for Ffos-y-fran site, which has escalated to the [currently filling void](#) as a result of its refusal to take action earlier, despite the clear evidence of MTCBC's ongoing failure to control the situation. The Welsh Government also has a historic responsibility as the body that approved the coal mine on appeal in 2005. Once in control of the site, the Welsh Government must deliver on the 2007 restoration scheme promised to the residents of Merthyr Tydfil – anything less would amount to a betrayal after 16 years of suffering air and noise pollution from the mine.

## **Discussion of the findings and recommendations from the Welsh Government report on *Research into the failure to restore opencast coal sites in south Wales (April 2014)* and whether these are still applicable.**

The report warned that Ffos-y-fran was in danger of insufficient funds, yet this wasn't acted upon. This is particularly surprising given that warnings about other sites in the 2014 report have since proved well-founded. Setting Ffos-y-fran in the context of a historical pattern leading up to some 6 years ago is important as it highlights that, in addition to the findings of the 2014 report, this should have been foreseen by Merthyr Tydfil County Borough Council and the Welsh Government.

The 2014 report found that East Pit and Margam Parc Slip opencast coal mines, operated by Celtic Energy Ltd, had insufficient funds held in an escrow account by Neath Port Talbot County Council to secure the agreed restoration schemes. Accordingly, Celtic Energy Ltd

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evaded its obligation to restore these sites, transferring ownership for £1 to a shell company in the Virgin Islands with no assets. What restoration has occurred at East Pit and Margam Parc Slip was largely limited to what the Councils had secured in escrow accounts, intended as a guarantee bond in case the company walks out, not to deliver the agreed restoration scheme. This amounted to £22.4 million (20% of the agreed scheme's cost estimated at £100 million) for East Pit, and £5.7 million (10% of the agreed scheme's cost estimated at £58 million) for Margam Parc Slip. The results have been described as a 'moonscape' by local residents over half a decade on. In March 2024, we spoke with residents living around East Pit and Margam Parc Slip and found out that these sub-standard restoration deals still impact them deeply, and prevent them moving on as the rest of the country moves on from the era of coal mining. You can watch our videos on [East Pit](#) and [Margam Parc Slip](#), or read our brief on [Margam Parc Slip](#).

CAN produced [an update report](#) to the 2014 Welsh Government report at the end of 2022, assessing the state of seven sites across South Wales that were flagged in the 2014 report. With exclusive photographic documentation within these sites, the report exposes the incomplete, hazardous, and poor state at sites where Councils claim restoration to be complete, as well as flagging renewed concerns for sites years behind their restoration deadline, and with restoration schemes looming ahead. Although webinars on this report were well attended by staff and Councillors of Councils invited in South Wales, NRW, the Coal Authority, and several Senedd members and Members of Parliament, a notable exception included Merthyr Tydfil County Borough Council, despite having had restoration concerns raised by local residents about Ffos-y-fran.

**SUBMITTED EVIDENCE TO CCEIC RE RECLAMATION OF COAL MINES BY EXTINCTION REBELLION (XR) CYMRU/WALES**

**CONTEXT:**

- **Why XR Cymru have staged Actions at Ffos y Fran mine; how we worked with residents; XR activities; XR concerns about the irregularities of the original application by Merthyr (South Wales) Ltd to extending their coal extraction activities;**

Extinction Rebellion have been focussing on the closure of all fossil fuel extraction sites in Wales since 2020. We now also target insurers, who facilitate the operation of these sites. We are emphasising the deadly impact of coal extraction and the quality of life for local residents. Thus we took action alongside other campaign groups with a slow march in 2023. Prior to that we had carried out smaller actions on our own to keep the mines in the forefront of people's minds, through activities geared to generate media attention.

We had support from Coal Action Network (CAN), so we suggest referring to their submission on the history of the site and its activities.

- **What charges have been brought? What were the outcomes?**

Four people from XR Cymru were arrested and charged with aggravated trespass. This is an offence that relates to the prevention of lawful work.

Our defence was that the work being undertaken at Ffos y Fran was **not** lawful, thus we could not be considered to be committing aggravated trespass. Our assertion was on two grounds.

- Firstly, that Merthyr (South Wales) Ltd (MSWL) were in breach of planning legislation, given their application for an extension of their planning permission had been rejected.
- Secondly, we had identified contradictions between the financial claims made by MSWL in their planning application of August 2022, and those made to Companies House, which they are legally obliged to submit annually. MSWL declined to release to our solicitors the financial documentation that was requested, hence the Crown Prosecution Service dropped the charges against us.

Companies House Registration shows that MSWL (company number 04261274) last submitted their accounts on 31 December 2021. Their next accounts were due on 31 December 2022. They remained overdue as on 04 April 2024.

- **XR concerns about the on-going lack of reclamation work, particularly with reference to the dangerous nature of the site.**

Residents of Merthyr Tydfil, ( in particular Chris and Alyson Austin), have put together a valuable brief on the current dangerous situation at the abandoned mine.



## IMPACT OF THE UNRECLAIMED SITE

- **A local ecological disaster**

As well as the climate emergency, Extinction Rebellion focuses on the decline of biodiversity in Wales. There is significant research to suggest the degradation of local biodiversity and long-term threats to habitats. .

- **On the wellbeing of local people**

The residents are best placed to comment on well-being issues. However, we believe this site has long been a blight on the Merthyr landscape and continues to be so. Reclamation is not just about making it safe, beyond mere fencing off, but also remaking a place that enhances the locale of Merthyr Tydfil, where people enjoy recreational activities that support healthy lifestyles.

- **On the safety of its residents**

The residents have recently compiled a dossier on this aspect.

## JUST TRANSITION

Ffos y Fran stopped extracting coal as a result of the Welsh Government's commendable commitment to phase out coal extraction in Wales. The Welsh Government's proposals for a Just Transition Framework to NetZero, published for consultation in December 2023 seem to be particularly relevant here. Wording from the Introduction to those proposals states "*After unjust transitions experienced by Wales in the previous century, we are proud in making Wales a world leader in the fair transition to Net Zero.*" Ffos y Fran would appear to present the Welsh Government with a perfect opportunity to demonstrate HOW they have achieved that, and how a Just Transition can be applied in practice.

There are at least two aspects of the Ffos y Fran closure relevant to Just Transition:

- The retraining of the workforce. This was supposed to be a responsibility of the owner and employer, Merthyr (South Wales) Ltd – MSWL, but is now merely another part of the undertakings which MSWL has reneged on.
- Ensuring that the reclamation work is carried out to achieve a safe and environmentally sound space. See more details from the BBC and residents as noted above

## **RECOMMENDATION**

**We would like to see Welsh Government/National Assembly funding of an independent Community Assembly in Merthyr to find the best way forward for people concerned about the short and longer term future of the site and its workers.**

This should include the public bodies involved, as well as the owners and elected officials. Community Assemblies are a tried and tested way of bringing people together to hear from experts and from each other, share ideas and decide what to do locally on an important topic.

They are starting to happen around Wales, and some have been supported by Welsh Government grants as part of Wales Climate Week or Democratic Engagement. Assemblies are run using tried and tested guidelines from Trust the People. They typically need a team of 10 volunteers to plan, organise and facilitate the Assembly. A well publicised event can attract 40 - 50 people, and feedback shows that they help people to feel better informed, empowered and involved.

We would expect the findings to be reported back to this Committee to be included in the Committee recommendations to the Welsh Government on this topic.

We would also be happy to put forward a more detailed submission on the resources and processes required to make this happen in Merthyr or in other relevant locations.



**Climate Cymru submission to the Climate Change, Environment and Infrastructure Committee (the Committee) has agreed to undertake a short inquiry on the Ffos-y-fran opencast coal mine and related issues, April 2024.**

Climate Cymru is a movement of over 360 organisations from all sectors of society, and 15,000 individuals, calling for urgent, fair action to address the climate and nature emergencies, and mitigating key climate related risks.

We welcome the committee's interest in this subject, an issue which has dominated the lives of campaigners living near Ffos-y-fran opencast coal mine for too many years. We pay tribute to the tireless work carried out by activists such as Chris and Alyson Austin. Without their persistent campaigning, this site may not have even reached the point of closure. They now wish to rest, and to enjoy the land once blighted by open cast mining. For that to happen, we must see a safe and ethical restoration of the land, and for the views and voices of the community to be at the core of any restoration process.

Coal Action Network, Friends of the Earth Cymru, XR Cymru are all key partners of ours, and thus we wholeheartedly support the submissions to this committee.

As a network, we have campaigned on Ffos-y-Fran alongside partners, though we must stress that this, sadly, is not a one off. Other such former opencast sites across South Wales have not been fully restored, leaving residents with dangerous sites on their doorsteps, with pitiful compensation for the damage it has caused to their homes in many instances, and a lack of accountability engrained in the system to hold mining companies to account effectively.

With regards to coaling policy in general terms, Climate Cymru, through our [Warm this Winter campaign](#), has worked alongside communities and elected representatives in the Senedd to call for a Wales free from fossil fuels. Cross party MS's attended our drop in at the Senedd in 2022 to support such a call, and Hefin David MS led a [debate](#) in the Senedd in July 2023 on Warm this Winter principles, which included our coaling demands. The debate was unanimously agreed in the Senedd.

We created a UK manifesto document for all UK parties in the lead up to a UK General election, including the following on fossil fuels, which would be of interest to committee members in relation to this current inquiry-

- Funding support from the UK Government to aid in the restoration of opencast mining sites or legislation to enforce payment from mining companies, especially for opencast sites for which the UK Government gave permission.
- Remove the statutory duty of the Coal Authority "*to maintain and develop an economically viable coal industry*" and move to implement a clear ban on all

new coal mines across the UK, in accordance with climate science and the IEA's *Roadmap to Net-Zero emissions by 2050*. This will allow the Coal Authority and the industry to focus on areas that will benefit people and businesses, such as the proper restoration of coal mining sites and extraction of renewable/ geothermal heat from existing/ disused mines.

We sent a pledge document earlier this year to the Labour Leadership candidates in Wales, which included our call for a clear ban on coal mining in Wales and to fully restore all former opencast mining sites in Wales.

Scotland announced a de facto ban on coal mining in October 2022, distancing it from the UK Government's back-sliding on its coal and environmental commitments, most recently in Rishi Sunak's regressive speech. Wales should now take its place beside Scotland on the international stage as environmental leaders within the UK. Many sites have been left poorly restored or unrestored for many years, with the mining companies walking away from their restoration responsibilities. Nearby communities are left to pick up the pieces or are left to live by dangerous former coaling sites. We called on a future First Minister to find ways to ensure the land is restored, to the high standard these communities were promised.

We have recently drafted a letter to the new Cabinet Secretary for Climate Change, welcoming him to the role, and re-emphasising the points above in a bid to ensure that this matter is at the top of the political agenda.

We concur with the content of the Coal Action Network submission (CAN) when they say that the *'Welsh Government must step in and take responsibility for Ffos-y-fran site, which has escalated to the currently filling void as a result of its refusal to take action earlier, despite the clear evidence of MTCBC's ongoing failure to control the situation.'*

We believe much of this situation could have been avoided had the findings and recommendations from the Welsh Government report on research into the failure to restore opencast coal sites in south Wales (April 2014) been implemented. This research was carried out by the Welsh Government following years of sustained campaigning by Wales against opencast mining, chaired by the former MS, and former Climate Cymru Warm this Winter campaign coordinator, Bethan Sayed.

A summit of campaigners, residents, Government Ministers and Officials took place in 2015, following campaigns by residents and elected members, amid promises that land would be restored and communities compensated. The outcomes of the summit were as follows-

- Improving the resilience of the minerals planning service in Wales by pooling skills and expertise;
- Engaging local authorities, industry and communities in the joint Welsh Government/ Coal Authority work to prepare best practice guidance on the calculation, accumulation and management of bonds which would seek to establish a consistent basis for negotiations across Wales;

- a focused review of MTAN2, the scope of which would include consideration of the exceptions to the buffer zone policy;
- starting a dialogue with the UK Government, particularly their stake on legacy sites (especially the portfolio sites on which there was immunity from bonding) and to feed back to a follow up event at a later date.

We would welcome any work the committee could undertake, therefore, in examining relevant outstanding outcomes from this summit, in conjunction with the research carried out in 2014.

Nonetheless, companies continued to operate, and were not sufficiently held to account. Insufficient funds were placed in escrow accounts, so that Local Authorities who were contacted on the matter continued to emphasise that they could only do so much by means of restoration. Celtic Energy Ltd evaded scrutiny by transferring ownership to a shell company in the Virgin Islands, thus deeming it almost impossible to hold those responsible to account.

Climate Cymru trusts that committee members are aware of the history of the site in Merthyr, and thus will not go into the matter in detail here. Suffice to say, the history is one whereby the mining company, Welsh Government and the Local Authority have continuously ignored concerns of residents living near the site, in terms of the detrimental health impact, the effect on infrastructure, and key environmental concerns.

Climate Cymru has supported and attended recent campaign activities organised by both CAN and Friends of the Earth Cymru in relation to Ffos-y-Fran opencast mining, in terms of calling for an end to the illegal coaling that was taking place at the site, as well as attending the protest outside Merthyr Council in lobbying Councillors to deliver on a stop notice to ensure that the illegal coaling would not continue. It is utterly astonishing that it had to take a public campaign to encourage elected members to stop the illegal coaling, even though the permission to mine coal ran out on 6 September 2022, and even after councillors at Merthyr Tydfil Council planning committee unanimously rejected the application for an extension in April 2023.

As we said at the outset, the issues in Merthyr are not exclusive to Ffos-y-Fran, sadly. We are acutely aware of examples from other parts of Wales, where communities are still suffering the consequences of failed restoration of sites.

For example, in relation to the site at Kenfig, (Margam opencast coal mine) resident and long-standing campaigner Gaynor Ball informed us in April 2024 that the *'restoration of the opencast here was effectively hardly a restoration at all. We were told the site needed £40m for the planned, agreed and proper restoration of the site, but only £5.7m materialised- not nearly enough. The promises that were made to us were broken.*

*The company planted a few trees and allowed the 'lake' (the void) to fill with water- far too deep and dangerous, but a magnet for kids in the summer. The site is still very barren in places, not helped by scramblers ripping up the ground. The rough roads they put in place are already breaking up. We were promised proper roads that link across the valley. Again, Celtic Energy said they had no money to do this. We feel let*

*down, and our site was a catalogue of broken promises by a company who had made millions and then were allowed to walk away.'*

We believe that any committee report on outcomes for Ffos-y-Fran must consider other sites in Wales. To fail to do so would be to undermine the situation in other parts of Wales, such as in Kenfig, where restoration is still required.

In relation to East Pit, resident and community Councillor Sue Jordan has provided us with information on the situation affecting her and other local residents. The failure to restore all these sites has been described by Sue Jordan as '*part of a systemic failure to safeguard valleys communities.*' She informed us that '*the situation at East Pit is dangerous. The Welsh Government has acknowledged the risks posed by coal tips across South Wales, but the equally dangerous problem of 30-40 million cubic metres of water in an un stabilised void ~150m above the valley floor is not mentioned.*'

Sue Jordan's home was seriously damaged to the extent of being an insurance write-off due to subsidence 2017-19, and compensation was paid by the mine owners' and her insurers. Sue Jordan's engineers believe that the damage was caused by works at the open cast site (blasting operations on the site etc), as predicted in the Groundsure report of 2012. They want this matter to be taken as seriously as the coal tips, as they do not wish for this to happen to any other house in an area close to a former opencast site.

There is also a water void at East Pit, as in Merthyr and Kenfig, and residents are concerned as to the dangers to anyone falling into the void. They informed us that the rate of rise of the lake - c40mm/day - is rather more than the average rainfall, and it is almost inevitable that water is entering the void from elsewhere. This highlights their call for analysis by independent, qualified, indemnified engineers.

Specific requests in relation to East Pit include the following, as communicated to us from residents-

1. full disclosure of the geotechnical reports plus full reports of the hydrology of the area
2. Detailed computer modelling of the new hydrology of this area, to identify risks so that actions can be taken to prevent them becoming reality. Programs such as Fluent may be appropriate.
3. A report was issued by James Associates in 2015. Residents wish to know which recommendations of this report have been delivered, and which remain outstanding.
4. A report on the East Pit void by a member of the Reservoirs panel of the ICE.

Neath Port Talbot (NPT) Local Planning Authority should be monitoring the rising levels of water in the abandoned void, and keeping everyone informed. Residents have seen no information to date.

We would be more than happy to share contacts of residents in both Margam and East Pit with Committee members should you wish to engage with them directly, and hear first-hand their experiences in this regard. Again, any recommendations made by the committee must, in our mind, reflect the needs and concerns of people affected by the lack of restoration in their respective areas.

In relation to outcomes, we list our main asks below for the committee. A representative from Climate Cymru will be part of the panel giving oral evidence on the 24th of April to your committee, but should you require more information, please do not hesitate to contact us.

We would also wish to inform you that as a network we have regular partner meetings where we discuss our cross-cutting work, joint initiatives and campaigns. Should any MS wish to attend and speak with the network or visit one of our partner organisations, we would be more than willing to facilitate this.

#### Main asks of the Committee-

1. Lobby the UK Government to fund support to aid in the restoration of opencast mining sites or legislation to enforce payment from mining companies, especially for opencast sites for which the UK Government gave permission.
2. Lobby the UK Government to remove the statutory duty of the Coal Authority *“to maintain and develop an economically viable coal industry”* and move to implement a clear ban on all new coal mines across the UK, in accordance with climate science and the IEA’s *Roadmap to Net-Zero emissions by 2050*. This will allow the Coal Authority and the industry to focus on areas that will benefit people and businesses, such as the proper restoration of coal mining sites and extraction of renewable/ geothermal heat from existing/ disused mines.
3. For the committee to examine any relevant outstanding outcomes from the findings and recommendations from the Welsh Government report on Research into the failure to restore opencast coal sites in south Wales (April 2014) and the Welsh Government Opencast coal summit 2015.
4. For the committee to call on the Welsh Government to step in and take responsibility for the Ffos-y-fran site, and explore ways in which to restore East Pit and Kenfig Hill and any other former sites in Wales.
5. For the committee to write to the Welsh Government calling on the new Climate Change Cabinet Secretary to include the restoration of former open cast coal mines as part of the new coal tip safety legislation. For the committee to seek its own legal advice on the viability of including the restoration of former open cast mine sites should the Welsh Government refuse this addition to the legislation, and explore possible amendments to said legislation.
6. Calls on the Committee to draft a separate piece of legislation on the restoration of former opencast coal mining sites should the Welsh Government reject attempts to include it in the new Coal Tip Safety legislation.
7. For the committee to ask the Welsh Government to set up a Citizens Assembly of residents and campaigners of former opencast coaling sites to engage them on next steps in relation to ideas for the funding of restoration. It is important to include the voices of those most affected by the matter in any solution.

Again, we welcome your interest and work in this area, and look forward to engaging with the committee in the future.



Lesley Griffiths AS/MS  
Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd  
Minister for Rural Affairs and North Wales, and Trefnydd



Llywodraeth Cymru  
Welsh Government

Llyr Gruffydd MS  
Chair  
Climate Change, Environment and Infrastructure Committee  
Senedd Cymru  
Cardiff Bay  
Cardiff  
CF99 1SN  
[SeneddClimate@senedd.wales](mailto:SeneddClimate@senedd.wales)

15<sup>th</sup> March 2024

Dear Llyr,

I refer to my letter to you of 29 February 2024. I am writing to inform the Committee I have given my consent to the Minister for Biosecurity, Animal Health and Welfare to lay the The Environment and Rural Affairs (Revocation and Consequential Provision) Regulations 2024 (“the Regulations”) in relation to Wales. I have laid a Written Statement which can be found at: [Written Statement: The Environment and Rural Affairs \(Revocation and Consequential Provision\) Regulations 2024 \(15 January 2024\) | GOV.WALES](#)

The Regulations intersect with devolved policy and will apply to Wales.. The Regulations extend to Northern Ireland, England, Scotland and Wales. The Statutory Instrument (SI) is subject to the negative procedure and was laid before Parliament on 13 March 2024.

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

[Gohebiaeth.Lesley.Griffiths@llyw.cymru](mailto:Gohebiaeth.Lesley.Griffiths@llyw.cymru)  
[Correspondence.Lesley.Griffiths@gov.wales](mailto:Correspondence.Lesley.Griffiths@gov.wales)

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

I have written similarly to Huw Irranca-Davies MS, Chair of the Legislation, Justice and Constitution Committee and Paul Davies MS, the Chair of the Economy, Trade and Rural Affairs Committee.

Yours sincerely,

A handwritten signature in cursive script that reads "Lesley Griffiths". The signature is written in a dark ink and is positioned above the printed name and title.

**Lesley Griffiths AS/MS**  
**Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd**  
**Minister for Rural Affairs and North Wales, and Trefnydd**

Chair, Children, Young People, and Education Committee  
Chair, Climate Change, Environment, and Infrastructure Committee  
Chair, Culture, Communications, Welsh Language, Sport, and International Relations Committee  
Chair, Economy, Trade, and Rural Affairs Committee  
Chair, Equality and Social Justice Committee  
Chair, Health and Social Care Committee  
Chair, Legislation, Justice and Constitution Committee  
Chair, Local Government and Housing Committee

22 March 2024

Dear Committee Chairs,

### Scrutiny of the Draft Budget

You will recall that I wrote last year inviting Committees to express views on improvements that the Welsh Government could make to the documents it produces alongside its Draft Budget and in ministerial written evidence provided to Committees.

Your responses were considered by the Committee on 21 June 2023 and I subsequently wrote to the Minister for Finance and Local Government (the Minister) on 23 June 2023 asking for the concerns raised to be taken into account ahead of the 2024-25 budget round. These related to:

- the late publication of the Draft Budget leading to truncated scrutiny;
- a lack of transparency regarding the impact that the Draft Budget has on policy areas within each Committee's remit;
- the poor quality of written evidence provided by the Welsh Government; and
- the Welsh Government not providing responses to certain Committee recommendations ahead of the Final Budget debate.

These issues were raised again during the consideration of the Welsh Government Draft Budget 2024-25 earlier this year. Our report made the following recommendations and conclusions building on the views previously expressed:

***Conclusion 2.** The Committee will consult Senedd Committees involved in budget scrutiny ahead of the 2025-26 budget round to gain a better understanding of the evidence provided by the Welsh Government in support of the Draft Budget, and to explore ways to maximise budgetary scrutiny throughout the year*

***Recommendation 1.** The Committee recommends that the Minister publishes ministerial evidence papers at the same time as the Draft Budget in order to provide clarity on the criteria and priorities behind ministerial decisions, with the aim of enabling stakeholders to engage in the scrutiny process more effectively and at an earlier stage.*

***Recommendation 2.** The Committee recommends that, if the Draft Budget is delayed again in future years:*

- *the Minister and officials continue to attend a pre-scrutiny session with the Finance Committee; and*
- *the Minister works with the Finance Committee to identify approaches that can enhance scrutiny opportunities, including providing documentation relating to the Draft Budget, at an earlier stage.*

These recommendations were accepted in principle, with the Minister highlighting the practical difficulties in responding to the quantity of information requested by individual committees, at the same time as the publication of the Draft Budget.

We therefore ask you to consider the following issues, and to provide a response by Friday 24 May 2024.

- What improvements, if any, have you seen in the documentation provided by the Welsh Government alongside the Draft Budget 2024-25?
- Have you identified any further improvement that could be made to the information provided alongside the Draft Budget?
- Given the short time available for scrutiny, what consideration, if any, have you given to scrutinising budgetary matters within your remit at an earlier stage, for example considering longer terms strategic planning, following up on previous scrutiny recommendations or pre-scrutiny of decision making processes before the Draft Budget is published?

- The Committee is also currently working with the Minister and other stakeholders to review the Budget Process Protocol to ensure that the Senedd's budgetary processes reflect custom and practice developed in the Sixth Senedd to date. Do you have any views regarding the Senedd's budget procedures more widely?

We are grateful to you for your ongoing engagement with us on these matters and welcome any further correspondence responding to the points above.

Our aim is to raise these issues on behalf of Committees with the Minister in advance of the Plenary debate on budget priorities for 2025-26 that will take place before summer recess.

Yours sincerely,



Peredur Owen Griffiths MS  
Chair, Finance Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

# Agenda Item 5.3

Planning, Selection Process and the loss of Welsh Countryside

Llyr Gruffydd MS

Matt Davies

Ref DNS/3276725

Dear Llyr,

I am writing to you as an individual on the climate change committee (not constituent) to raise some concerns about the proposed Wind farm project at Mynydd-Maen Mountain, the 2016 DNS planning process and to hear your own individual views?

First of all I would like to say that the location choice is totally unsuitable for a huge heavy industrialized site of this size.

I would like to ask how this area has even been considered when there are so many other locations away from peoples homes and areas of natural beauty that could have been chosen?

The process for granting planning approval to the developer is currently biased towards the developer as hardly anyone knows about this project in the surrounding areas of the mountain and I only found out myself from a leaflet raid through my door in December 2023 from some people opposing the project.

This meant I missed the public exhibitions along with huge amounts of other local residents. Totally unfair. Do you think this is expectable?

I have tried to alert as many people as I can. I have been all around the mountain and out of well over 300 people I spoke to, only one woman said she had heard about this project but was unsure of the exact details?

I started a petition a few weeks ago which has already got several hundred people objecting to this project in this small space of time. Change.org search:- Stop Mynydd-Maen wind farm

I have spoken to PEDW and they have said that DNS application is not their area and is the Welsh ministers decisions.

The pre-selection process seems to be specifically targeting densely populated areas in Wales? Basic Common sense tells anyone to avoid such areas as this. The mountain itself provides a place of recreation for the people to get away from it all as there are housing estates and towns built all around it. To destroy it means there's nothing left.

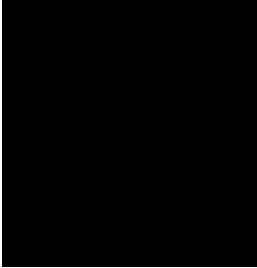
The whole 2016 planning process seems to of been created for a means of creating wealth for individuals in these energy companies, most of which don't even live here.

What is it that is holding the Welsh Government back from choosing suitable locations and consulting local people about these projects? Areas such as the mountain should not have even been considered to begin with!.

If you are sure that you have to hit "net zero" to save the planet, can you please tell me why the current process the Welsh Government is taking part in is the most destructive the country has ever seen since the bombings in the second world war?

sincerely  
Matt Davies

Matt Davies



27 March 2024

Dear Mr Davies

Thank you for your letter and for sharing your concerns regarding the proposed wind farm project at Mynydd-Maen.

I appreciate the time you have taken to express your views and understand the importance of the issues you have raised. However, I must clarify that the Climate Change, Environment and Infrastructure Committee's remit does not extend to considering specific projects.

The Committee's work is focused on scrutinising policy at a strategic level. We have recently considered the Infrastructure (Wales) Bill and called for more and better communication and engagement with the communities that are affected by developments, particularly for renewable energy projects such as the proposed one at Mynydd-Maen. We hope to see improvements in this policy area as a result.

For specific enquiries related to planning processes or individual projects, I would encourage you to contact the relevant local planning authority or the Welsh Government, who are better positioned to address these concerns directly. You may also wish to contact your local Senedd member or councillor.

I'm sorry I can't be of further assistance on this occasion. Thank you again for your correspondence.

Yours sincerely,



Llyr Gruffydd MS,  
Chair, Climate Change, Environment, and Infrastructure Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.





The Rt. Hon. Philip Dunne MP,  
C/O the Clerk of the  
Environmental Audit  
Committee  
House of Commons  
London  
SW1A 0AA

26 March 2024

Dear Philip,

Thank you for your letter of 6 February 2024 on the proposals the Environmental Audit Committee (EAC) have made for ensuring parliamentary scrutiny of the Carbon Budget 7 (CB7) target and associated Carbon Budget Delivery Plan (CBDP).

Firstly, can I reiterate the Government's unwavering commitment to meeting our ambitious emissions targets, including the legislated carbon budgets and the net zero by 2050 target. We will take a pragmatic, proportionate, and realistic approach to doing so, easing burdens on working people. The news last month that we have significantly over-delivered on Carbon Budget 3 (CB3) was yet further evidence of how we are delivering. And, as you know, we are also committing to delivering on these targets in a way that brings people with us and ensures democratic debate about the way we get there.

Official statistics published last month showed that the UK has halved its emissions since 1990. This makes us the first major economy in the world to do so and puts us in essence halfway to net zero. This is an enormous achievement by itself but also because we have done this in a pragmatic way - growing our economy by around 80% at the same time.

Your letter notes that the Climate Change Committee (CCC) has commenced the preparations for its advice to government and Parliament on the level of the Seventh Carbon Budget. And within government planning for CB7 is underway, albeit in its early stages. There is a huge amount of work to be done between now and the statutory deadline of 30 June 2026 to get CB7 right. It will be one of the most important periods for delivering on net zero as we seek to tackle the remaining emissions, which are likely to be amongst the most challenging to achieve.

As you note, the Prime Minister has criticised the relative lack of Parliamentary scrutiny of the last carbon budget. Seventeen minutes of time in a House of Commons Committee was given to debating the level of the budget, with very little discussion of the choices, costs, and trade-offs that would be involved in achieving it. A failure to properly scrutinise both the level of our targets and the means by which we plan to achieve them is not in the public interest, not what any environmentalist would wish for, and ultimately not in the interests of maintaining the vital public consensus on this most important issue.

I very much welcome therefore your committee's proposals on an approach to provide better scrutiny of the setting of CB7. In response, I set out the key elements of our approach below:

- The Climate Change Committee plays a key role in this process as the statutory advisers to government on the level of the budget. Their advice has been accepted on all previous budgets, though this has sometimes been the subject of robust debate within government. I would therefore very much support your committee (and other parliamentary committees) taking evidence on the CCC's proposals in the early part of 2025, and where appropriate, publishing their own recommendations.
- In addition to the advice of the CCC, the Secretary of State is required by the Act to "take into account any representations made by the other national authorities". I would therefore suggest that your sister committees in the parliaments and assemblies of Scotland Wales and Northern Ireland should similarly take evidence and engage Ministers in the Devolved Administrations (DAs) so that their views can be properly understood and taken into account.
- As you know, the Secretary of State for DESNZ has an ongoing duty under s.13 of the Act to prepare policies and proposals to meet carbon budgets. Separately, the Secretary of State for DESNZ must lay in Parliament a s.14 report as soon as reasonably practicable after setting CB7, which sets out the policies and proposals to meet carbon budgets.
- I support your proposal that the Government's publication of the proposed level of CB7 be accompanied by a draft plan for delivery of emissions reductions in the CB7 period. This should not be unduly burdensome. It should set out the policies required to deliver the proposed target - recognising that in some areas these may not be fully developed. Fiscal policies will of course continue to be scrutinised via established parliamentary processes. We expect the world to change between now and the end of CB7, so we expect that the package of proposals and policies would evolve to adapt to changing circumstances, new evidence, to utilise technological developments and address emerging challenges.
- Advanced publication of the draft plan will enable its consideration by the EAC and other parliamentary committees as they scrutinise the setting of CB7. In addition to your proposal for the SoS to appear before the EAC, it may be appropriate for other Ministers to give evidence in areas such as transport or agriculture.
- Your proposal to ensure the draft Carbon Budget Order setting the level of CB7 is debated on the floor of the House is also welcome. And I thank you for the thought you have clearly given to how to operate the proper parliamentary processes to make sure this is achieved.
- Your final proposal relates to the publication of an s.14 report. As you will know, that is a requirement of the Act which must be fulfilled "as soon as is reasonably practicable" after the making of the Order. The process of scrutiny described above, and in your letter, should make it quicker and more straightforward for that obligation to be discharged.

Can I once again welcome your committee's engagement with this process and support for the Prime Minister's proposals for greater democratic accountability. I am heartened to understand that we both share the view that proper democratic consideration of this vital carbon budget is critical to maintaining public support for the approach the UK is taking in leading the world on emissions reductions. I very

much look forward to working closely with the EAC throughout CB7 planning to ensure that the Government delivers on its stated commitments.

I am copying this letter to the Net Zero, Energy and Transport Committee in Scottish Parliament, the Climate Change, Environment and Infrastructure Committee in Welsh Parliament, and the Agriculture, Environment and Rural Affairs committee in NI Assembly as well as the Chairs of the Procedure, Liaison and Energy Security and Net Zero Committees in the Commons; the Chairs of the Procedure, Liaison and Environment and Climate Change Committees in the Lords; and the Acting Chair and the Chief Executive of the Climate Change Committee.

Yours ever,

A handwritten signature in black ink, appearing to read 'Claire Coutinho', with a long horizontal stroke extending to the right.

**RT HON CLAIRE COUTINHO MP**  
Secretary of State for Energy Security & Net Zero

# Agenda Item 5.5

Date/Dyddiad 8th March 2024  
Ask for/Cofreiofweliam Mark Thomas

Telephone/Rhif ffôn 01446 709279

Fax/Ffacs

Your Ref/Eich Cyf

My Ref/Cyf MT/JP

e-mail/e-bost methomas@valeofglamorgan.gov.uk

**The Vale of Glamorgan Council**  
Civic Offices, Holton Road, Barry CF63 4RU

Telephone: (01446) 700111

Textphone: (01446) 741219

**Cyngor Bro Morgannwg**

Swyddfeydd Dinesig, Heol Holton, Y Barri CF63 4RU

Rhif ffôn: (01446) 700111

Ffôn testun: (01446) 741219

[www.valeofglamorgan.gov.uk](http://www.valeofglamorgan.gov.uk)

[www.bromorgannwg.gov.uk](http://www.bromorgannwg.gov.uk)



Llyr Gruffydd MS  
Chair of the Climate Change, Environment, and Infrastructure Committee  
Welsh Parliament  
Cardiff Bay  
Cardiff  
CF99 1SN

Dear Mr Gruffydd,

## **Changes to the target date from 2030 to 2034 for public sector homes to reach net zero.**

I write to you as Chair and on behalf of the Vale of Glamorgan Council's Corporate Performance and Resources Scrutiny Committee.

At its meeting in January, the Scrutiny Committee received a report and update regarding Project Zero. The update and subsequent discussion covered the Vale of Glamorgan Council's efforts, in conjunction with Welsh Government and other Welsh Local Authorities, in tackling the climate emergency.

Subsequently, it was formally requested that the Committee's concerns be raised with the Senedd Committee on Climate Change, Environment, and Infrastructure concerning the change in the target date from 2030 to 2034 for public sector homes to reach net zero. This was due to the pushing back of the latest Welsh Housing Quality Standard (WHQS) four years from 2030 to 2034 to reach the latest Energy Efficiency EPC level for all public sector homes.

However, it was also noted at the meeting that Local Authorities were still required to reach Net Zero by 2030, despite the changes to the WHQS deadline in this regard.

For more details on the discussion on this matter at January's committee meeting, please see the YouTube recording of the [Corporate Performance and Resources Scrutiny Committee - 17 January 2024 at 6pm](#) (the relevant parts are covered between 2:05:25 and 2:09:27 of the recording), the relevant agenda [here](#) and minutes [here \(Min No. 707 refers\)](#).

The Scrutiny Committee would be interested to have the response from Welsh Government on the concerns raised and the reasons behind the changes outlined above.

I look forward to hearing from you.

Yours sincerely,

**Councillor Joanna Protheroe**

Chair of the Vale of Glamorgan Council's Corporate Performance and Resources Scrutiny Committee

CC Julie James MS

Minister for Climate Change

# Agenda Item 5.6

Y Gweinidog Newid Hinsawdd  
Minister for Climate Change



Llywodraeth Cymru  
Welsh Government

Eich cyf/Your ref  
Ein cyf/Our ref JJ/PO/101/24

Llyr Gruffydd MS,  
Chair, Climate Change, Environment and Infrastructure Committee  
Welsh Parliament,  
Cardiff Bay,  
Cardiff  
CF99 1SN  
[SeneddClimate@senedd.wales](mailto:SeneddClimate@senedd.wales)

14 March 2024

Dear Llyr Gruffydd MS,

Thank you for your letter of 5 February on behalf of the Climate Change, Environment and Infrastructure Committee, enclosing the Committee's *Report on performance of Dŵr Cymru*. Our water sector is facing immediate and unprecedented challenge; it must achieve decarbonisation, climate resilience and reverse biodiversity loss, all against the backdrop of the current cost of living crisis. I have, however, said many times before, both in and out of the Senedd, that Welsh Government expects both water companies in Wales to work much harder to deliver excellent services for customers across all areas of operation.

I note that of the 12 recommendations outlined in the report, eight are directed to Dŵr Cymru and Ofwat. They will respond separately and I will read their response with interest expecting to see ambition, partnership in approach and a drive for improvement. Please find a response to each of the remaining four recommendations directed at Welsh Government, as follows:

***Recommendation 4.*** *The Welsh Government should seek to introduce a ban on wet wipes containing plastic as soon as possible. It should report back to the Committee on the outcome of the joint consultation on a proposed ban and on the timeframe it is working towards for the introduction of a ban in Wales.*

**Accept in principle:** Following the recent UK-wide consultation, we are analysing the responses, some of which have been detailed and scientific in nature. We will publish a Summary of Responses report shortly. This will outline our next steps and provide an indicative timetable for any future actions. I will write to the Committee and the Senedd as part of the publication process.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

**Recommendation 8.** *The Welsh Government and its key partners, including Dŵr Cymru, should identify ways to effectively communicate Wales' approach to tackling sewage discharges from storm overflows to improve public understanding of the approach.*

**Accept:** The Welsh Government has regularly made our approach to tackling storm overflows public through Senedd Written and Oral Statements, including the Oral Statement on Water Quality I most recently delivered on 12 December. As the Committee will be aware, I have also given evidence on our approach to storm overflows at your evidence sessions. Additionally, I have provided written evidence to the UK Parliament's Welsh Affairs Committee Inquiry into Water Quality (see [Water quality in Wales - Committees - UK Parliament](#)). We will continue to communicate our approach through these formal avenues, as well as more informally via the Welsh Government's social media channels, to ensure the greatest public understanding of our approach. Furthermore, both I and my officials regularly meet with Dŵr Cymru to discuss all areas of operation and we will continue these discussions, including on communication of storm overflows.

**Recommendation 10.** *The Welsh Government should consider extending NRW's enforcement powers to enable the regulator to accept environmental undertakings for permit breaches under the Environmental Permitting Regulations (England and Wales) 2016. It should report back to the Committee on the outcome of its consideration.*

**Accept in principle:** Civil sanctions such as Environmental Undertakings (EU) can be a useful enforcement tool in addition to other enforcement powers. I note that Natural Resources Wales already has powers to use EU in certain instances although this is not currently extended to the Environmental Permitting Regulations. We will consider this recommendation further and report back to the Committee in due course.

**Recommendation 12.** *The Minister should provide an update on action taken to relieve pressure on the sewage system since the publication of the Committee's Report on storm overflows in Wales (March 2022). This should include progress towards implementation of the recommendations arising from the review of Sustainable Drainage Systems.*

**Accept:** In July 2022, the Better River Quality Taskforce was established across government and industry to evaluate the current approach to the management and regulation of overflows in Wales and to set out detailed plans to drive rapid change and improvement. It has published a storm overflows roadmap for Wales, available online at [Wales Better River Quality Taskforce | GOV.WALES](#). These plans set out clear objectives and measurable outcomes for delivering improvements to overflow management from the immediate through to the long term.

With regards to Sustainable Drainage Systems (SuDS), the Committee will be aware that the review undertaken by Arup was [published](#) in July 2023 and made more than 70 recommendations covering legislation, guidance and implementation. My officials have since undertaken a programme of review and stakeholder engagement to develop an implementation strategy for the recommendations. We have made good progress so far. This includes establishing a Community of Practice (CoP) group, which first met in December; scoping an All-Wales Commuted Sums Calculator; and developing a SuDS Action Plan, which I will publish in due course.

May I take this opportunity to thank the Committee for its continued work to scrutinise the actions being taken to improve our water quality in Wales. There is much still to do, but I am

confident we are on the right track to continue delivering meaningful improvements for our water environment.

Yours sincerely

A handwritten signature in blue ink that reads "Julie James". The signature is written in a cursive, flowing style.

**Julie James AS/MS**  
Y Gweinidog Newid Hinsawdd  
Minister for Climate Change



Centre City Tower, 7 Hill Street, Birmingham B5 4UA  
11 Westferry Circus, Canary Wharf, London E14 4HD

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By email

Llyr Gruffyd MS  
Chair, Climate Change, Environment and Infrastructure Committee  
Welsh Parliament  
Cardiff Bay  
Cardiff  
CF99 1SN

20 March 2024

Dear Mr Gruffydd

## **Ofwat response to 'Report on performance of Dŵr Cymru'**

I would like to thank you and the committee for inviting me to provide evidence to your inquiry on the performance of Dŵr Cymru in November. We welcome the committee's report and its recommendations, such as requiring Dŵr Cymru to set more stretching targets on reducing pollution incidents and to demonstrate how they are holding executives to account.

As I set out in the evidence session, Dŵr Cymru was identified as a lagging company, along with a number of other companies in England, in Ofwat's latest water company performance report. We are engaging closely with Dŵr Cymru to ensure they address these performance issues and hold them to account. A key element of that is our price control and we have adopted a collaborative approach with Welsh government and Dŵr Cymru for the PR24 period.

PR24 will present all water companies with a sizeable challenge to not only improve performance for customers and the environment but also deliver the significant step-up in infrastructure investment that is required over the next five years. As this investment partly comes from customer bills, Ofwat is ensuring we have all the tools at our disposal to hold companies to account both in terms of delivering that much needed infrastructure and improving performance across the board.

Ofwat will continue to hold Dŵr Cymru to account when their performance does not meet their obligations. As you and the committee are aware, Ofwat announced on 13th March 2024 the outcome of our enforcement investigation into the company. We found it had breached two licence conditions on failures in governance and misreporting data to Ofwat on its leakage and per capita consumption (PCC) performance. As a result, Ofwat required Dŵr Cymru to pay £39.4m of redress for customers to compensate them for these failures as well as commit to an additional investment of £59m into leakage and PCC management in the

current 2020–25 price review period. Dŵr Cymru is now the water company furthest away from its end-of-period leakage target which we will be closely monitoring going forward.

Recommendation 6 of the committee's report called on Ofwat to "*clarify whether and how its performance-related pay recovery mechanism applies to Dŵr Cymru, given its 'not-for-profit' status*". The performance-related executive pay (PRP) recovery mechanism is a price control tool which enables Ofwat to adjust revenue allowances if a company does not meet the expectations we have set out. As such, the mechanism applies to all large regulated water and sewerage and water only companies we carry out price control determinations for, regardless of the company's ownership status and this therefore includes Dŵr Cymru.

We consider that all companies should be meeting our expectations and that customers should not pay for awards when they do not. In Dŵr Cymru's case, if Ofwat decided that an adjustment was needed we would, as for all companies and as outlined in the guidance for the mechanism, reduce the revenue which Dŵr Cymru is able to recover from customers to ensure that they do not pay for any PRP awards that are based on decisions which do not meet our expectations.

Ofwat has been very clear that companies' PRP needs to be linked to performance for customers and the environment. In this regard, we welcome the committee's Recommendation 7 for Dŵr Cymru to commit to an ambition to achieve 100% alignment of its PRP to overall performance to customers and the environment.

As you might be aware, Ofwat is intending to consult later this year on whether to modify licences to enable Ofwat to prohibit executive PRP awards if a company has committed serious criminal breaches. This would look to enhance the current PRP recovery mechanism and add further weight to Ofwat's expectation that bonuses should align and reflect the company's performance for customers and the environment.

More detail on this consultation (which we propose will apply both to companies in England and Wales) will be provided in the coming months and I would be happy to continue to keep the committee updated on this work.

Yours sincerely



**David Black**  
Chief Executive

By Email: [SeneddClimate@senedd.wales](mailto:SeneddClimate@senedd.wales)

20 Mawrth 2024

Annwyl Llŷr,

Yn dilyn eich llythyr dyddiedig 4 Chwefror ynglŷn ag adroddiad y Pwyllgor Newid Hinsawdd, Amgylchedd a Seilwaith ar berfformiad Dŵr Cymru, mae ein hymateb i'r argymhellion hynny sy'n berthnasol i CNC i'w weld isod:

**Argymhelliad 8. Dylai Llywodraeth Cymru a'i phartneriaid allweddol, gan gynnwys Dŵr Cymru, nodi ffyrdd effeithiol o gyfleu dull Cymru o fynd i'r afael â gollyngiadau carthion o orlifoedd storm fel bo gan y cyhoedd well dealltwriaeth o'r dull gweithredu.**

Gallaf gadarnhau bod CNC, ynghyd â phartneriaid y Tasglu Gwella Ansawdd Dŵr, yn canolbwyntio ar ddiweddarau a rhoi gwybod am y cynllun gweithredu "Dealltwriaeth ac ymgysylltiad cyhoeddus" dros yr ychydig fisoedd nesaf. Gwnaethom gyhoeddi ein canllawiau i gwmnïau dŵr ar ddsbarthu gorlifoedd storm a gorlifoedd nas caniateir ym mis Hydref 2023 a chan bod y penderfyniad terfynol ar Gynlluniau Busnes Cwmnïau Dŵr yn cael ei gyhoeddi yn ddiweddarach eleni, mae angen datblygu cynllun cyfathrebu gan aelodau'r tasglu i hysbysu dealltwriaeth ehangach y cyhoedd, ac mae cyfle i wneud hynny nawr.

**Argymhelliad 9. Dylai Dŵr Cymru gyhoeddi manylion ei raglen waith i fynd i'r afael â gollyngiadau carthion sy'n deillio o orlif storm yn y tymor byr, canolig a hir. Dylai hyn gynnwys targedau uchelgeisiol ar gyfer cwblhau asesiadau ecolegol a rhoi diwedd ar y niwed amgylcheddol sy'n deillio o orlifoedd storm a ganiateir a rhai nas caniateir. Dylai Dŵr Cymru ymrwymo i gyhoeddi adroddiadau ar gynnydd tuag at gyflawni yn rheolaidd.**

Rydym yn gweithio gyda Dŵr Cymru a Hafren Dyfrdwy ar gymhwyso ein canllawiau GN066 sy'n nodi sut i asesu gorlif. Disgwyliwn i'r cwmnïau gwblhau'r gwaith hwn erbyn 2030 a chynnig rhaglen o waith gwella. Mae gwaith eisoes wedi dechrau ar yr asesiadau hyn, gyda chynigion yn cael eu hymgorffori yng nghynlluniau busnes PR24. Disgwyliwn i gwmnïau flaenoriaethu'r asedau hynny sy'n achosi niwed i fuddsoddiad yn gyntaf. Rydym yn aros am benderfyniad terfynol gan Ofwat ynglŷn â chynlluniau busnes a fydd yn helpu i lywio maint a chyflymder y buddsoddiad.

**Argymhelliad 10. Dylai Llywodraeth Cymru ystyried ymestyn pwerau gorfodi CNC i alluogi'r rheoleiddiwr i dderbyn ymgymeriadau amgylcheddol am dorri amodau trwyddedau o dan Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016. Dylai adrodd yn ôl i'r Pwyllgor ar ganlyniad ei ystyriaeth.**

Rydym yn croesawu cefnogaeth y Senedd i'r argymhelliad hwn. Wrth fynd ar drywydd rheoleiddio cynyddol a chyflymach, rydym wedi bod yn ceisio pwerau ychwanegol i ystyried sancsiynau sifil ar gyfer ystod ehangach o droseddau amgylcheddol, fel offeryn ychwanegol yn ein pecyn cymorth gorfodi.

**Argymhelliad 11. Dylai CNC adolygu ei ymateb rheoleiddiol ac amgylcheddol i'r materion yng ngwaith Trin Dŵr Gwastraff Aberteifi gyda'r nod o ddysgu gwersi. Dylai adrodd yn ôl i'r Pwyllgor ar ganfyddiadau'r adolygiad.**

Mae camau rheoleiddio yn parhau yn y gwaith yn Aberteifi. Rydym yn parhau i ymchwilio i achosion o dorri amodau trwydded ar y safle ac mae'r ymchwiliad hwn yn parhau. Ymdrinnir ag unrhyw achosion o dorri amodau'r drwydded yn unol â'n Polisi Gorfodi a Sancsiynau. Gall ymateb gorfodi gymryd sawl blwyddyn i ddod i ben ar ôl y drosedd amgylcheddol wreiddiol.

Rydym wedi sefydlu adolygiad o'n hymatebion ar y safle i nodi pwyntiau dysgu neu welliannau y gellir eu gwneud i'r broses, yn ogystal â nodi arfer da cyfredol. Rydym yn disgwyl gallu cyflwyno adroddiad o'r canfyddiadau i'r pwyllgor erbyn diwedd mis Mai.

Yn y cyfamser, os oes gennych unrhyw ymholiadau pellach, rhowch wybod i mi.

Cofion gorau

Clare



Clare Pillman  
**Prif Weithredwr, Cyfoeth Naturiol Cymru**  
**Chief Executive, Natural Resources Wales**

Croesewir gohebiaeth yn Gymraeg a byddwn yn ymateb yn Gymraeg, heb i hynny arwain at oedi.

Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay.

Our Ref: CX24-057

By Email: [SeneddClimate@senedd.wales](mailto:SeneddClimate@senedd.wales)

20 March 2023

Dear Llyr,

Further to your letter of 4 February on the Climate Change, Environment, and Infrastructure Committee's report on performance of Dŵr Cymru, please find below our response to those recommendations relevant to NRW:

**Recommendation 8. The Welsh Government and its key partners, including Dŵr Cymru, should identify ways to effectively communicate Wales' approach to tackling sewage discharges from storm overflows to improve public understanding of the approach.**

I can confirm that NRW, along with partners of the Better Water Quality Taskforce, are focussing on updating and communicating the action plan "Public understanding and engagement" over the next few months. We issued our guidance to Water companies on classification of storm overflows and unpermitted overflows in October 2023 and with final determination of Water Company Business Plans due later this year, there is a need, and opportunity to develop a communications plan from members of the taskforce to inform the wider public understanding.

**Recommendation 9. Dŵr Cymru should publish details of its programme of work to tackle sewage discharges from storm overflow covering the short, medium and long-term. This should include ambitious targets for completing ecological assessments and eliminating environmental harm from permitted and unpermitted storm overflows. Dŵr Cymru should commit to publishing reports on progress towards delivery periodically.**

We are working with Dŵr Cymru and Hafren Dyfrdwy on applying our guidance GN066 which sets out how to assess an overflow. We expect the companies to complete this work by 2030 and propose a programme of improvement works. Work has already begun on these assessments, with proposals being incorporated into PR24 business plans. We expect Companies to prioritise those assets causing harm for investment first. We await final determination of business plans from Ofwat which will help inform the scale and pace of investment.

**Recommendation 10. The Welsh Government should consider extending NRW's enforcement powers to enable the regulator to accept environmental undertakings for permit breaches under the Environmental Permitting Regulations (England and Wales) 2016. It should report back to the Committee on the outcome of its consideration.**

We welcome the Senedd's support in this recommendation. In our pursuit of progressive and faster regulation, we have been actively seeking additional powers to consider civil sanctions for a broader range of environmental offences, as an additional tool in our enforcement toolkit.

**Recommendation 11. NRW should review its regulatory and environment response to the issues at Cardigan Wastewater Treatment works with the aim of learning lessons. It should report back to the Committee on the findings of the review.**

Regulatory action is continuing at the works in Cardigan. We continue to investigate the permit breaches at the site and this investigation is ongoing. Any breaches will be dealt with in line with our Enforcement and Sanctions Policy. An enforcement response can take several years to conclude after the initial environmental offence.

We have established a review of our responses at the site to identify learning points or process improvements that can be made, as well as capturing current good practice. We expect to provide the committee with a report of the findings by the end of May.

In the meantime, if you have any further queries, please let me know.

Best Wishes

Clare



Clare Pillman  
**Prif Weithredwr, Cyfoeth Naturiol Cymru**  
**Chief Executive, Natural Resources Wales**

Croesewir gohebiaeth yn Gymraeg a byddwn yn ymateb yn Gymraeg, heb i hynny arwain at oedi.

Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay.

Llyr Gruffydd MS  
Chair, Climate Change, Environment, and Infrastructure Committee  
Welsh Parliament  
Cardiff Bay  
Cardiff  
CF99 1SN

**28th March 2024**

Dear Chair,

**Response to Report on Performance of Dŵr Cymru by Senedd, Climate Change, Environment and Infrastructure Committee (February 2024)**

The Senedd's Climate Change, Environment and Infrastructure Committee published its report on the performance of Dŵr Cymru on 9th February 2024. The Committee's investigation had been prompted by media coverage of issues at Cardigan wastewater treatment works and the downgrading of its performance rating by both Ofwat and Natural Resources Wales (NRW).

The report makes 12 recommendations to the company, the Welsh Government and NRW. No response from Dŵr Cymru has been formally requested, though some items require follow-up actions. We are therefore submitting this response on an informal basis to the Committee.

The purpose is to underline our commitment to implementing the recommendations relating to the company and to provide any clarification required to assist the Committee in its work on this issue.

**Response to recommendations pertaining to Dŵr Cymru**

***Recommendation 1.*** *Within six months of the publication of this report, Dŵr Cymru should report back to the Committee with an update on progress towards delivery of its service commitment plan required by Ofwat.*

We will report back as requested. The Service Commitment Plan (SCP) required by Ofwat is available on our website [here](#). We are providing detailed quarterly updates to Ofwat on the progress of the actions required. We will publish a summary of progress on the SCP as of end March by the end of May. The latest annual performance figures will be available in July when our Annual Performance Report is published.

***Recommendation 2.*** *Dŵr Cymru should explain how it is planning against future climate pressures to mitigate the risk of serious pollution incidents such as those which occurred during the drought and high temperatures experienced in 2022.*

We are targeting zero serious pollution incidents going forward, and particularly any pollution caused by asset failure. Any such pollution incidents can have a more serious impact during periods of drought when river levels are lower, as implied by this recommendation. This is why we have included additional expenditure in our plan for AMP8 (2025-30) to renew or replace the wastewater assets, mostly sewer rising mains, which pose the highest risk of failures that could cause pollution in sensitive environmental areas. Subject to Ofwat scrutiny and approval, we're investing £2.5 billion to improve the environment between 2025 and 2030.

***Recommendation 3.*** *Dŵr Cymru should commit to setting a more stretching target for reducing pollution incidents by 2030, rather than the current target of 24%. It should also commit to an ambition of zero pollution incidents in the shortest time possible, with future targets reflecting any ban on wet wipes containing plastic.*

While this target of a 24% reduction in pollution incidents may appear modest, this is in fact a stretching target in view of our strong industry performance on this measure (we recorded the second lowest level of total pollutions of water companies in England and Wales in 2022). For clarification, this performance measure includes Category 1, 2 and 3 pollution incidents, and the vast majority of the incidents - over 93% of incidents in 2023 - are currently classed as Category 3 or considered as "low level". While we accept in principle the ambition of zero pollution incidents, the Committee should be aware that with 36,000km of sewer network and hundreds of pumping stations and treatment works, it is unrealistic to expect this to be achieved in practice. The right thing to do is to seek continual improvement in performance, minimise the impact of such incidents when they do occur, ensure proactive and accurate reporting, and ensure our asset base is fit for the long-term.

One of the things we are doing is to install 20,000 in-sewer monitors over the next five years, which should help to reduce incidents. We also need the help and support of local authorities in diverting land and highway drainage or 'flows' away from our sewer network, as the main cause of the increase in pollutions in 2023 was the hydraulic overload of our network, caused by inundation linked to surface water.

***Recommendation 4.*** *The Welsh Government should seek to introduce a ban on wet wipes containing plastic as soon as possible. It should report back to the Committee on the outcome of the joint consultation on a proposed ban and on the timeframe it is working towards for the introduction of a ban in Wales.*



We fully support this recommendation and measures to reduce the use and disposal of microplastics. Our Environment Director recently published an article in Wales Online and the Western Mail arguing for exactly this. (Article available [here](#)). We respond on average to 2,000 sewer blockages per annum at a cost of over £7m, and almost a quarter of these blockages are caused by wet wipes.

***Recommendation 5.*** *Dŵr Cymru should provide details of its internal governance arrangements and demonstrate how they are being utilised to hold company executives to account and to drive performance improvements. In particular, Dŵr Cymru should explain the role of the members of Glas Cymru within its governance structure, the response of the members to the recent performance of Dŵr Cymru, and the actions the members are taking to secure improvements.*

Our Corporate Governance Framework is described in full in the Glas Cymru Annual Report and Accounts (see latest publication [here](#)). We comply fully with the UK Corporate Governance Code (2018). Our Members play an important role in the absence of shareholders in holding the Board to account and challenging the company on its performance. Our Members are recruited from the communities we serve, and we aim to have an effective representation of experience, expertise and capability within our Membership. We are not only looking for them to have an interest in our activities but for them to also be able to challenge us constructively and hold the Board to account. The recruitment of Members is an openly advertised process and our Member Selection Panel currently has Sir Paul Silk as its independent Chair. We currently have 68 Members and they are made up with people from many of the geographical areas we serve and have a broad range of backgrounds, covering for example, commercial, corporate governance, environmental, local government and third sector experience.

There are two full meetings a year, one of which is at the Annual General Meeting of Glas Cymru, and there are further regional meetings. Performance is a principal agenda item at all of these meetings. A number of our Non-Executive Directors have FTSE experience and have commented that the scrutiny provided by Members is akin and even perhaps more detailed than seen in some listed companies.

Members also vote annually on renewal of individual Board Director appointments and periodically on other key governance matters, such as the appointment of our external auditors and executive remuneration policy.

Our Members have been vocal about expressing their concerns about the recent reported performance of the company. While it is incumbent on the company rather than the Members to secure improvements, they expect the company to deliver rapid improvements and to report in detail on progress at each Members meeting. We have a long-standing track record of being fully open and transparent with our Members on all the issues of significance

impacting the business. This not only includes performance, but issues linked to governance and our long-term strategy. We also take into account the views of Members in terms of our regulatory planning cycle and their views and input contribute to our formal price review process, the latest being our 'PR24' submission. Members are also briefed between meetings on key issues that arise affecting the company or wider industry.

***Recommendation 7.*** *Dŵr Cymru should commit to year-on-year improvements on its current 80% alignment of performance-related pay awarded to company executives with overall performance delivered to customers and the environment. It should also commit to an ambition to achieve 100% alignment in the shortest time possible.*

There appears to be a misunderstanding here on the nature of the measure pertaining to the 'alignment of performance-related pay with overall performance delivered to customers and the environment'. Ofwat's report on performance-related executive pay (available [here](#)) does not recommend 100% 'alignment' of the measures underpinning the performance-related pay award with performance. This is because there are other important and entirely justifiable objectives which merit inclusion in a list of drivers of performance related pay. In our case these include the company's credit rating (which ultimately helps keep bills down), and the level of diversity on the company's Board.

Ofwat says that "we identified 60% alignment to delivery for customers and the environment as good practice among the companies we regulate at PR19". Dŵr Cymru's level of alignment was above 80%.

For the reasons set out above, we do not commit to an ambition to achieve 100% alignment as this would require dropping measures that we consider important from those used to drive performance-related pay.

***Recommendation 8.*** *The Welsh Government and its key partners, including Dŵr Cymru, should identify ways to effectively communicate Wales' approach to tackling sewage discharges from storm overflows to improve public understanding of the approach.*

We fully support this. It will be vital to bring the public with us in our efforts to minimise the ecological impact of storm overflows, as well as to tackle all causes of poor river health. Tackling storm overflows causing ecological harm first, as opposed to focusing on the number of spills as in England, will enable us all to go further and faster in improving river and coastal water quality. This is a complex issue where simplistic but well-meaning approaches can do more harm than good. Stakeholders will need to work together to implement effective strategies and communicate our approach to the wider public. This involves continuing to work with the Wales *Better River Quality Taskforce* which brings regulators, government and water companies together to *improve river water quality*.

***Recommendation 9.*** *Dŵr Cymru should publish details of its programme of work to tackle sewage discharges from storm overflow covering the short, medium and long-term. This should include ambitious targets for completing ecological assessments and eliminating environmental harm from permitted and unpermitted storm overflows. Dŵr Cymru should commit to publishing reports on progress towards delivery periodically.*

We published a lot of detail on our plans to tackle sewage discharges from storm overflows in our PR24 Business Plan submitted to Ofwat in October 2023 and available online [here](#). This included our Storm Overflows [Strategy](#).

The plan does include ambitious targets for completing ecological assessments, focused on those overflows which may be causing the most environmental harm. As the committee is aware, our strategy follows the policy set by Welsh Government and NRW which seeks to minimise ecological harm rather than achieve the maximum reduction in the number of spills per se.

We remain committed to upgrading every Storm Overflow that is causing environmental harm by 2040, with the first 100 done by 2030 on a prioritised basis, subject to approval of our plan by Ofwat. With 2,300 Storm Overflows in Wales and a relatively small customer base, the pace of implementation will be largely driven by the affordability of bills. However, we are confident that we will deliver a real and significant improvement to river water quality that will benefit the aquatic environment in Wales.

Progress will be reported in our Annual Performance Report and the Glas Cymru Annual Report and Accounts.

Finally, you may have seen that Ofwat recently published the findings of its report after we notified them last May of our intention to restate performance data for 2020-2022 on leakage and per capita consumption (i.e. the amount of water used per customer). This was after our year-end assurance process identified that elements of the calculations we had submitted did not comply with regulatory requirements. Having proposed a customer redress package of £30m which included a £10 rebate for customers (made during 2023), we also proposed £59 million of expenditure to improve leakage and per capita consumption performance. Ofwat has accepted these proposals and issued a nominal penalty of £1. We know that achieving the planned reduction in leakage will be challenging but I wish to reassure Committee Members that we have committed to a substantial increase in investment in this area and strengthened the relevant operational teams to help us achieve our targets.

I hope we have addressed the relevant recommendations made in the Committee's report and please do not hesitate to contact me should you need any further information.

Yours sincerely,



**Chief Executive**  
**Dŵr Cymru Welsh Water**

# Agenda Item 8

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

# Agenda Item 9

By virtue of paragraph(s) vi of Standing Order 17.42

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