

David Rowlands Chair of Petitions Committee  
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2 May 2018

Dear Mr Rowlands,

**P-05-753 Strengthening the Legislative and Regulatory Framework Surrounding  
Waste Wood Processing Facilities**

Following your letter on the 23<sup>rd</sup> February 2018 to Kevin Ingram. I welcome the opportunity to respond in my capacity as the new Chief Executive of Natural Resources Wales.

As set out in our previous response, Natural Resources Wales is responsible for providing a risk-based approach to regulation of the waste industry to ensure the sustainable management of our natural resources for human and environmental well-being. We seek to achieve this directly through delivery of our regulatory duties, using powers and tools available as set out in legislation; and indirectly through wider interventions that support the delivery of relevant outcomes, such as raising awareness with waste producers to ensure they are taking steps to segregate, classify and manage their waste responsibly.

As previously highlighted the responsibility of complying with permit conditions and relevant legislation lies with the waste operator and they are ultimately in control and responsible for what happens on site. By applying for a permit, they have made a commitment to operate lawfully and in line with the conditions within it.

Permit conditions cover a range of requirements from conditions that define what a site is allowed to do through to the need to submit information on operator monitoring. The majority of permit conditions set within modern permits are objective based. Objective based conditions do not prescribe what a site operator must do, they set the output/outcome that is required (in most cases underpinned by a legislative requirement). It is the responsibility

of the site operator to meet that permit condition objective. To ensure a level of consistency and standards, the regulator has various guidance documents that support compliance with permit conditions e.g. [“How to Comply”](#). The measures chosen by a site operator to assist them in compliance with their permit are embodied in the operators Environmental Management System (EMS). This is owned by the operator but is intrinsically linked to the permit.

Our initial regulatory approach is to work with legitimate operators to bring them into compliance. This approach reflects our wider duty to follow the Regulators’ Code and is reflected in our organisation’s Regulatory Principles. Our response to permit breaches is site specific and follows an assessment of the risk posed by the breach of the specific permit condition. When we undertake a compliance assessment of a sites permit we also assess the adequacy of that sites EMS to achieve compliance with the permit conditions.

Compliance assessment of a permit breach depends on many factors e.g. site location or site infrastructure. When a permit breach is identified, it is assessed on its potential severity (unless they are amenity breaches that are based on “actual” severity assessment). This is called the Compliance Classification Score.

The Compliance Classification Scheme (CCS) is used to classify, in a consistent way, any non-compliance with a permit condition according to its potential severity.

- Category 1 – a non-compliance at a regulated site that could foreseeably result in major pollution of the environment. A category 1 breach attracts 60 CCS points;
- Category 2 - a non-compliance at a regulated site that could foreseeably result in significant pollution of the environment. A category 2 breach attracts 31 CCS points;
- Category 3 - a non-compliance at a regulated site that could foreseeably result in minor pollution of the environment. A category 3 breach attracts 4 CCS points;
- Category 4 - a non-compliance at a regulated site that could foreseeably result in no environmental impact. A category 4 breach attracts 0.1 CCS points

A facility’s compliance performance band is determined by the total CCS scores identified through compliance assessment activities recorded on Compliance Assessment Report forms throughout a calendar year. A facility’s total CCS score (and associated band) will increase in accordance with relative risk posed and the number of the non-compliance identified.

All breaches are recorded on a Compliance Assessment Report with associated actions to mitigate that breach. Actions have an associated timescale where relevant. The mitigation

and timescale is related to the severity of the breach. A copy of the Compliance Assessment Report is sent to the operator for their records and is also available through our public register requirements. In addition to the compliance response there is a requirement to assess the enforcement response required. This is linked to the compliance score and factors laid out in our Enforcement and Prosecution Policy. There are additional powers that can be applied depending on the magnitude of breach, for example, powers to suspend a permit.

All compliance scores for a site are logged onto a database to contribute to a site's overall annual compliance score. A facility's total CCS score (and associated band) will increase in accordance with relative risk posed and the number of cases of non-compliance identified. It is this compliance score that is then used to translate into the site's Operator Performance Banding, ranging from A-F, with Bands D, E and F being considered poor performers. This approach is in line with the "polluter pays" principle in that those that have poor Operator Performance Bandings pay a higher annual subsistence charge which enables us to cost recover for the greater regulator intervention. Our compliance assessment resource allocation is determined by the compliance monitoring deemed necessary and is proportionate to the risk posed by the facility.

All poor performing sites have a site-specific compliance plan in place that details time limited actions agreed with the regulator to ensure that sites work towards improving their performance and compliance with their permit. The response to the issued compliance assessment report / Compliance Plan is then monitored by us to ensure that the site is brought back into compliance. Where compliance continues to be an issue, then measures are available to escalate e.g. notices or suspension.

I trust that this response specifically addresses our process of compliance assessment and how we respond to breaches of permit conditions.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Clare Pillman', with a horizontal line extending from the end of the signature.

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