



**Cyfoeth
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Wales

Charging Proposals for 2015-16

Summary of Consultation Responses

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1. Introduction

To develop the Natural Resources Wales charging scheme for 2015-16 we are required to consult on our proposals to take account of the responses before finalising.

We recently undertook a 13 week consultation which closed on 9 January 2015. Prior to the consultation we established the Charge Payers Consultative Group to discuss the proposals with some of our major stakeholders and representative groups. We also issued a press release, worked with established stakeholder groups and emailed our customers and those that we regulate directly to raise awareness of the proposals. For the duration of the consultation period, we also placed the Consultation Documents on our website.

We received 14 responses in total and these along with feedback from stakeholder groups was used to further develop our final scheme.

2. Our Proposals

Our consultation document outlined a number of different proposals, including changes to our baseline charges, technical changes within the Environmental Permitting scheme and possible options for the future. This was with a view to gain early input from our stakeholders.

Changes to Baseline Charges

For the first two years of Natural Resources Wales, we have been part of a 3-year charging scheme (2012-13 to 2014-15) agreed by Central Government in consultation with Welsh Ministers, meaning charges (with the exception of Abstraction) have been set at a common rate for both England and Wales. As such, existing rates have not previously been calculated to a level that reflects the costs of our activities in Wales. This has resulted in inherited surpluses and deficits arising across the individual charging schemes.

During 2014/15, we reviewed our charging scheme cost base and modelled predicted income and expenditure for future years. In doing this we have ensured that the costs attributed to schemes relate specifically to our regulatory activity and that our allocation of corporate overheads and financing charges are accurate.

In our consultation, we only proposed changes to schemes which showed a significant balance (surplus or deficit) and needed remedial action. A summary of the proposed changes to baseline charges is in Annex 1.

Technical Changes

Several technical changes within particular regimes were proposed and these are summarised as follows:

Abstraction

- That we introduce a new 'Higher Application Fee' of £1,500 for certain Water Resources applications, to ensure cost recovery.

Environmental Permitting

- That we introduce an assessment charge of £350 for each time we are asked to reassess a waste recovery/disposal plan.
- That we introduce a capped subsistence charge of £3,190 for permitted facilities that are in pre-construction phase.
- That we mirror the Environmental Permitting (EP) Operational Risk Appraisal (OPRA) scheme being operated by the Environment Agency, as a short term measure until the major review is undertaken which is currently planned for the 2018-19 scheme. This will maintain consistency of approach for organisations operating in both countries.

These changes are detailed further in Annex 2.

Other Proposals

We also introduced the idea of charging schemes for Flood Defence Consenting and pre-application Development Planning advice in the future.

3. Consultation Responses

We received a total of 14 responses and a list of respondents can be found in Annex 3.

Key Response Themes

- There was widespread support for the key principles that guide the development of our charging scheme, namely transparency of our charging decisions, avoidance of regime cross subsidy, longer term planning horizons and keeping charges as low as possible. A number of respondents made specific mention of the need to ensure that we restricted ourselves to cost recovery.
- Dwr Cymru Welsh Water sought the return to charge payers of the money collected to pay for potential capital improvements at Llyn Brianne, phased over a 5-year period. They also sought a 9.5% reduction in the baseline Abstraction charge.
- The Hydropower sector, supported by the Countryside Landowners Business Association (CLBA) and farming unions remain opposed to any increase in our application fees particularly for small abstractions. Exemption for small scale developments has been suggested with a banded scale of charges for the remaining.

- There was little support to increase Environmental Permitting Regulations (EPR) Waste and Installation charges. Energy UK suggest that there perhaps should be an increase for Waste at a higher level than Installations due to the greater deficit.
- There was little support to increase EPR Water Quality charges. Concerns were raised by the farming unions that increases could have a significant impact on farm businesses.
- There was some support received in support of the technical changes as long as costs reflect the effort expended.
- We received broad support for the introduction of new Flood Defence Consenting charges with a suggestion to work with Local Authorities on the development of a scheme to introduce a consistent approach when dealing with all watercourses.
- We received cautious support for our proposals to charge for non-statutory pre-planning advice. With a caveat that the advice given is good advice delivered in a timely and professional way. There was general concern that charging will deter developers from seeking advice at the early stages of development, which could be detrimental to the environment.
- There was desire for greater transparency in our charging and a need to understand how these charges are spent. This is coupled with a call for greater, demonstrable efficiency within NRW and for an efficiency plan for the future.

Summary of Responses to proposed changes to baseline charges

We received 1 positive and 4 negative responses to our suggested 5% increase to charges under EPR Installations and Waste. Some objected to this as it is greater than inflation and others were concerned about the lack of transparency and need for greater efficiency

We received 1 positive and 1 negative response to our suggested CPI increase to charges under EPR Water Quality. There was concern that this could possibly lead to rises again the following year leading to uncertainty for customers and that a scheme that covers more than one year would probably be more suitable. Respondents also raised concerns again over a lack of transparency and the need for greater efficiency.

There were 3 positive and 1 negative responses in relation to our proposal to reduce Abstraction charges by 5% with customers supporting the reduction to reflect current spending. It was also suggested that there should be a refund of the money collected to fund works at Llyn Brienne rather than a reduction to balance the surplus within the regime.

With regard to leaving other regimes as they are and NRW absorbing cost pressures on those schemes, we received 6 positive and 1 negative response.

Summary of Responses to proposed technical changes

We received 2 positive and 5 negative responses to our proposal to introduce a new 'Higher Application Fee' for some abstraction licence applications. Respondents were concerned that the charge was not proportionate and would be detrimental to smaller schemes and suggested a more proportionate banded charging scheme and exemption for smaller schemes. Respondents were also keen to see further efficiency savings and greater transparency.

We received 3 positive responses to our proposal to charge each time an operator requests a review of the waste recovery plan, however the issue of transparency was also raised.

We received 3 positive responses to our proposal to cap the annual charge for those sites still in pre-construction, with a request to make clear what this actually means for sites.

There were 2 positive and 1 negative responses to our proposal to mirror the Environment Agency's EP OPRA scheme. Respondents recognised the need for consistency in the short term provided there is a commitment to review the scheme and introduce a simplified scheme in the longer term.

Summary of Responses to other proposed changes

There were 4 positive and 1 negative response in regard to our broad proposals and principles for a new charging scheme for Flood Defence. This came with a caveat that respondents would wish to see more detail on the proposals when they are developed.

There were 7 positive and 2 negative responses in regard to the option to charge for non-statutory planning advice in the future. Respondents were supportive of the principles but stressed that any service provided must be timely and professional and represent value for money to the customers and provided some examples of how the system could operate. Respondents also raised concern that charging for this advice could deter some developers and therefore losing the opportunity for NRW to suggest environmental improvements early on in the scheme.

A summary table of responses and NRW comments on the responses can be found in Annex 4.

4. Conclusion

We have undertaken additional financial modelling since the commencement of the consultation, using improved data to better characterise any deficits and surpluses within particular regimes. We have also continued to drive efficiencies in our systems and processes across departments which will allow us to absorb some of the cost pressures inherited through the existing charging scheme.

We have taken this updated financial position and the views of respondents and our wider stakeholders into account in the development of our final scheme. Therefore the final charges to be included in our scheme are in Annex 1.

We have also worked with Welsh Government and our stakeholders in the Hydropower sector to develop a banded scheme for Hydropower application fees, made possible through a grant from Welsh Government.

We will continue to review our data and make efficiency savings which will involve changes to both our direct and corporate cost bases over time as well as considering any modification required as a result of legislative change. We will highlight the results of our review when we consult on the next revision of our charging scheme in the Autumn of 2015.

Annex 1 Proposed Changes to Baseline Charges

Charge Scheme	2015-16 Original Proposed Change %	2015-16 Final Proposed Change %
a) Environmental Permitting Regulations (EPR)		
Installations (Application & Subsistence)	+5%	+2.5%
Waste (Application & Subsistence)	+5%	+2.5%
Water Quality (Application & Subsistence)	+CPI	0
b) Abstraction		
Water Resources - Abstraction (Subsistence) - Standard Unit Charge	-5%	-10.4%

Annex 2 Proposed Technical Changes

Technical Changes to Abstraction charges

Currently our abstraction charges are in two forms:

1. Application fee plus annual subsistence
2. Application fee only with no annual subsistence,

We do not fully recover the cost of the work we undertake to assess the application information we receive or to issue the licence, where we only charge an application fee. Therefore, we need to make some changes to abstraction charges to cover the cost of this work.

If licence holders in this scheme pay an annual subsistence fee, we will retain the current £135 application fee; this will be referred to as the Lower Application Charge. Where there is no annual subsistence fee we propose to introduce a new Higher Application Charge of £1,500 from 1 April 2015 to recover costs for these activities. We project that this will affect between 100 and 300 permit applicants each year over the next three years.

In calculating this figure we assessed the number of hours taken to determine a range of abstraction and impoundment licences. Costs ranged from £2,000 - £10,000 depending on complexity. We have now introduced a more streamlined approach to this permitting regime, so anticipate these costs will be reduced slightly as a result. Therefore, we propose an application fee of £1,500 reflecting the lower end of the identified range. We will continue to monitor actual costs involved to ensure the fee proposed represents full cost recovery.

The Higher Application Charge would apply where an application is made to transfer, vary or gain a new licence for:

- a transfer abstraction licence;
- an impoundment licence; and
- a full licence for water abstracted directly for use in the production of electricity or any other form of power by any generating station or apparatus of a capacity of not more than five megawatts.

If both the abstraction and impoundment licence applications are made at the same time we would only charge one fee, provided they relate to:

- associated activities at a single site, **and**;
- we could do the technical determination simultaneously

We will be closely monitoring the cost of our licensing work and the effects of streamlining our approach. We want to ensure that we are recovering the costs involved with this work by charging the right amount in the right way. We accept that there are other possible approaches that would enable us to recover our costs, such as further banding of application fees for example, and would welcome views on this. In the coming year (2015-16) we will be working with stakeholders to explore this more fully and establish what other options are viable; with the aim of consulting on any further changes during that year.

Certain abstractions are currently exempt from licence control. However, these may be repealed in the future and such applications would then fall under the higher rate charge. We still will not charge for the exceptions listed in section 4.2 of our current Abstraction Charges Scheme.

Technical changes to the Environmental Permitting Scheme (Installations and Waste Facilities)

We propose the following changes to the Environmental Permitting (EP) Charging Scheme for 2015-16.

Assessment of recovery or disposal

Before we issue some types of permits we need to assess if the process is waste recovery or disposal. The initial assessment is covered in the permit application fee but we find increasingly that operator's plans change and we need to carry out further assessments. There is no mechanism for us to recover these costs at present.

We therefore propose to introduce an additional charge of £350 for each time we are asked by the operator to reassess the waste recovery plan. This is to ensure we recover the costs of reassessment once we have issued the permit and will be triggered by a specific request by the operator for us to do so.

Permit subsistence charge for pre-construction phase

We introduced some changes to our previous charging scheme, reducing the annual fees due to be paid by environmental permit holders where construction of the permitted facility had not yet started. Previously the waiver remained in place until construction work started or April 2015, whichever was sooner. This benefitted everyone, but unless we make changes to our scheme now the reduction will stop during 2015/16.

We are proposing a fee cap because we recognise that our costs reduce if construction has not yet started. However, there are still costs incurred in maintaining liaison with the operator and developer, assessing documents provided by them and maintaining permit records.

Therefore, we want to introduce a capped subsistence fee where permitted activities are in the pre-construction phase. Under our proposals environmental permit holders would not pay more than £3,190 per year for the time their site remains in pre-construction. Once construction starts, the cap on fees would be removed and permit holders would pay fees at the full rate thereafter. This would be pro-rated for the year construction begins.

Links to Environmental Permitting (EP) Operational Risk Appraisal (OPRA) Scheme

The EP Operational Risk Appraisal (OPRA) Scheme is currently used to calculate charges for some Natural Resources Wales regulated activities. We intend to carry out a substantial review of our current approach as part of our future charging arrangements. In the meantime we will not be making any major changes to our approach.

The OPRA Scheme is amended from time to time by the Environment Agency. We want to inform Natural Resources Wales charge payers as to the ways our charges are linked to the EP OPRA Scheme and to enable them to track any changes made.

We also want to minimise the potential for confusion. Therefore, until we have completed our wider review, as indicated above, we are proposing to continue using the most up to date version of the EP OPRA Scheme, as published by the Environment Agency.

We therefore encourage Natural Resources Wales charge payers to refer to the Environment Agency's charging consultation where current proposals for technical changes to the OPRA Scheme are explained.

The Environment Agency are currently consulting on the changes to their scheme, which is available on the consultations area of their website.

Annex 3 List of Respondents

Institution of Civil Engineers Wales Cymru

Guardian Global Technologies Ltd

British Hydropower Association

CLA Cymru

Dwr Cymru

Farmers Union of Wales

Caldicot and Wentloog Levels IDB

Clive Payne - The Senghenydd Minerals Site

Vattenfall UK

Environment Roads and Facilities – Conwy County Borough Council

Energy UK

National Farmers Union

WESA

Plus one anonymous

Annex 4 Response Summary Table

The following table shows the spread of responses for questions where we asked a particular question rather than for general comments.

Question	Positive	Negative	Don't know	N/A
1: Do you support the changes to EPR Waste and Installation charges where the increase doesn't fully recover our costs?	1	4	0	9
2: Do you support the changes to EPR Water Quality charges where the CPI increase doesn't fully recover our costs?	1	1	3	9
3: Do you support reducing the Abstraction Licencing charge to ensure cost recovery is maintained?	3	1	0	10
4: Do you support us absorbing cost pressures on our other charging schemes and leaving the current charges unchanged?	6	1	0	7
5: Do you support our proposal to introduce a new "Higher Application Fee" and the level at which it is set?	2	5	0	7
7: Do you support charging each time the operator requests a review of the waste recovery plan?	3	0	1	10
8: Do you support the proposed capped annual charge for those sites still in pre-construction?	3	0	0	11
9: Do you agree with our proposal to mirror the technical changes to the OPRA Scheme proposed by the Environment Agency, in order to maintain consistency on this particular aspect between England & Wales?	2	1	1	10
10: Do you support our broad proposals and principles with regard to any new charging scheme for Flood Defence?	4	1	1	8
11: Do you support the option of introducing charging for non-statutory development planning advice?	7	2	0	5

Annex 5 NRW Comments to responses

Summary of responses and our reply

1: Do you support the changes to EPR Waste and Installation charges where the increase doesn't fully recover our costs?

Generally not supported as too high. Respondents also keen for greater transparency and efficiency.

NRW Reply

Since we opened the consultation we have done additional financial modelling work using improved data to better characterise what we believed was a deficit in the recovery of waste and installations finances as compared to the activity undertaken. This work has allowed us to better understand the size of shortfall in both these areas. We are also in the process of implementing efficiency measures within our Operations Directorates through improved ways of working

2: Do you support the changes to EPR Water Quality charges where the CPI increase doesn't fully recover our costs?

Not well supported and there is the desire for greater transparency and efficiency.

NRW Reply

We have also reviewed our proposed CPI increase in Water Quality application and subsistence charges. This increase was required to help address a backlog of under recovery that we inherited. Our planned efficiency measures going forward will improve this position.

3: Do you support reducing the Abstraction Licencing charge to ensure cost recovery is maintained?

Supported generally but there was also a request for the refund of money intended for work on Llyn Brianne.

NRW Reply

We have undertaken further reviews of the Abstraction cost base and refined modelling to reflect targeted efficiencies and revised options will be considered which reflect the level of current balances and future years modelling. This modelling has been carried out on the assumption of catchment-based billing continuing.

Revised options have carefully considered the future trajectory of our reducing surplus ensuring a 'soft landing' that avoids a 'bounce back' to a higher charging level once the surplus has been eliminated.

4: Do you support us absorbing cost pressures on our other charging schemes and leaving the current charges unchanged?

Supported.

NRW Reply

No other baseline changes are proposed and further work will be undertaken throughout 2015-16 to improve efficiency and transparency within our charging schemes.

5: Do you support our proposal to introduce a new "Higher Application Fee" and the level at which it is set?

Although this proposal was supported by a minority of respondents, the majority did not support it. There was a high level of concern about the level of increase and the impact on smaller schemes. There was a call for a more proportionate banded scheme and exemption for smaller projects. There was also a desire to see further efficiencies and greater transparency.

NRW Reply

We recognise the need to provide an efficient service that operates on a cost recovery basis. We have streamlined our licence application process by changing how we work and by introducing new technical guidance that also reduces the amount of environmental information we need from applicants. These improvements have reduced the average time input by our Permitting Service to determine a licence by 50%. Analysis of the more efficient approach showed that actual costs of licence determination ranged from £2,000 to more than £10,000 depending on the complexity of the application. The proposed Higher Application Fee of £1,500 is therefore below the lower end of our estimates and is below the current actual cost of determining a simple application for a small hydropower scheme.

A more detailed breakdown of the costs we incur to administer applications for which we propose a higher fee, including hydropower, was presented to the NRW Hydropower Stakeholder Group on 9 October 2014 and subsequently circulated to all members.

We are continuing to seek further efficiency improvements although their introduction is only likely to bring down actual costs for some applications closer to £1500 rather than reduce this value further.

Since the consultation we have received information that presents the proposed higher application fee as a proportion of the costs of hydropower scheme developments. Our priority, however, is still to recover our costs as required by Government. We have proposed that Welsh Government consider providing some financial support for application fees of small hydro schemes and will work with them to administer this.

The suggestion that a registration system for hydropower consenting should be developed was raised at a previous Stakeholder Group meeting. In response we carried out a legal review of whether a registration system would be possible under existing water resources legislation and the review recently concluded that it cannot be achieved under the current regulatory framework.

We support the concept of a future charging scheme where the cost of application is proportionate to the complexity and hence costs incurred for determination. We are collecting more information internally and investigating options to inform the development of a tiered charging scheme for the future.

6: What other options should we explore to recover our costs in determining licences?

A range of suggestions were made, including exemptions for small schemes and a banded charging scheme, with higher costs for bigger projects. It was also suggested that there should be a differentiation between abstraction for Hydro and other types of abstraction as the water is returned rather than consumed. Many stakeholders also made the request that NRW ensures that charges are made on a cost recovery basis where the work is undertaken as efficiently as possible and that these costs are calculated in a transparent way.

NRW Reply

As described in our response to question 5 we support the concept of a future charging scheme where the cost of application is proportionate to the complexity and hence costs incurred for determination. We are collecting more information internally and investigating options to inform the development of such a scheme.

As stated above the suggestion that a registration system for hydropower consenting should be developed was raised at a previous Stakeholder Group meeting, but this would not be possible under existing water resources legislation. Small scale schemes cannot be exempt from licensing under the same regulatory framework. Exemption of small schemes from a higher application fee may only be an option if additional financial support is available from other sources. We will work with Welsh Government to investigate the possibility of future support schemes.

Hydropower is already recognised in water resources legislation as a non-consumptive abstraction whereby schemes less than 5 megawatts in installed capacity are exempt from the annual subsistence

charge. Conversely the rapid increase in the development of hydropower schemes, quadrupling in Wales in the last 4 years to in excess of 250 has shown that due the increasing scale of the industry we, as regulator, have a longer term responsibility of ensuring operator compliance and monitoring of cumulative environmental impacts. These costs are not covered by the application fee and place a further cost burden on us. To address this we will investigate options to remove the current exemption of hydropower less than 5MW from annual charges as set out in legislation.

We have made considerable improvements in the efficiency with which we determine water resources licences. We recognise the need to continue to identify further opportunities for streamlining and seek to minimise the costs that we must recover from applicants. In doing so, the costs we do seek to recover are actual costs and not generic. We are also working with the Stakeholder Group to identify where we can make improvements in the standards of our service for customers.

Whilst we do seek to further streamline our licensing process for Higher Fee applications our analysis shows that this is unlikely to reduce the cost of applications below £1500 as this already represents a cost below full recovery for simple licences (i.e. some small hydro schemes). A tiered or banded charging scheme is therefore likely to better reflect the higher cost of determining applications for low quality submissions, more technically complex or poorly designed schemes. Consequently there is unlikely to be any benefit of delaying introduction of the £1500 fee pending the development of a tiered charging system.

7: Do you support charging each time the operator requests a review of the waste recovery plan?

Generally supported.

NRW Reply

This change would not affect many operators as is not something that occurs frequently. Currently the cost of undertaking this work is being covered by GiA as there is no charge. The cost has been calculated on a cost recovery basis, based on the average length of time taken to assess an application.

8: Do you support the proposed capped annual charge for those sites still in pre-construction?

Supported

NRW Reply

This is a continuation of the current scheme.

9: Do you agree with our proposal to mirror the technical changes to the OPRA Scheme proposed by the Environment Agency, in order to maintain consistency on this particular aspect between England & Wales?

Supported to maintain consistency, with the understanding that this will reviewed as part of a more major review in the future, as the current system is too complex. There was also a request for clarity on how Reg 60 notices will work in Wales.

NRW Reply

We recognise that the current use of OPRA is something we need to review, which is why this will be one of the elements of our charging approach that be looked at as we move to our new charging scheme, currently proposed for April 2018. We believe that to undertake significant changes to the OPRA approach in advance of that, may not allow us to make the appropriate considerations of how we want a risk-based charging system to work. We believe that following the Environment Agency's OPRA scheme, until there has been proper consideration as part of our future charging scheme, is a pragmatic approach and presents fewer risks in the short term, allowing us to properly focus on our new, future charging scheme from 2018. If, during the considerations for the future charging scheme,

we identify significant benefits from earlier changes, we would clearly look to adopt these as soon as practicable.

10: Do you support our broad proposals and principles with regard to any new charging scheme for Flood Defence?

The broad proposals and principles were supported with a desire to see the more detailed proposals when they are developed.

NRW Reply

A more in-depth consultation will be undertaken prior to any changes being made and we will seek opportunities to liaise with our stakeholders in the development of such a scheme.

11: Do you support the option of introducing charging for non-statutory development planning advice?

The broad proposals and principles were supported with a desire to see the more detailed proposals when they are developed. There was also a strong message that the charges should be proportionate and on a cost recovery basis and that any service provided will need to be timely and professional and must represent value for money for customers. Some concern was raised that this could deter developers from seeking advice which may mean the opportunity is missed to make environmental improvements early on in a scheme.

NRW Reply

Further options will be explored prior to any consideration of introducing charges. We endeavour to provide an efficient service that utilises other options such as on-line advice and guidance. Further discussions with our customers and a more in-depth consultation will be undertaken prior to any changes being made.

12: What alternatives to a charged service could be considered, recognising that such a service will need to be funded in some way?

Some suggestions were made including on-line advice and guidance and charges being conditional on approval being granted.

NRW Reply

Please see response to question 11.

13: What features or aspects of our charging scheme works now and what needs to change?

It has been suggested that increases should be capped at the rate of inflation and that all schemes need to be transparent and efficient and in-line with the Polluter Pays principle.

NRW Reply

We intend to continue the work we have initiated to improve our ways of working to drive greater efficiency savings and to increase transparency. We will continue to work to our charging principles:

- Transparency of our charging decisions
- Avoidance of any cross subsidy between regimes
- Providing longer term planning horizons wherever possible
- Avoiding cycles of cutting then raising charges by actively managing scheme surpluses and deficits
- keeping charges as low as possible

We will now begin a major review of our charging schemes, with the intention of the updated scheme being in place for 2018 and will be seeking the views of our stakeholders and customers throughout this process.

14: How can we build best practice into our future scheme?

Respondents suggested that in order to build in best practice we need to consult widely and keep our finances and ways of working under constant review. This will allow for greater efficiency and transparency to enable customers to understand what their charges cover.

NRW Reply

See response to question 13.

15: Do you have any additional thoughts or comments on what should be in our future charging strategy and scheme?

Some of the suggestions received include:

- Need to reflect that all hydropower schemes are different in terms of their scale and revenue.
- Lower charges for environmental permits to incentivise best practice and certainty for charge payers over longer periods.
- An online interactive flow chart that would make it clear which consents were required and the likely charge (including external consent requirements where known) would protect against unconsented works and save officer and applicant time in identifying requirements.
- NRW should consider further incentivizing good performing sites with lower subsistence charges and correspondingly increasing the charges for persistent poor performers. In doing so however, NRW should try to distinguish between operators which engage in lax practices and those which are managing challenging sites and trying to do the right thing. NRW must also be able to demonstrate that scores are being allocated appropriately and consistently by NRW officers.
- Additional scrutiny for new operators that do not have an existing operational track record in the sector. Existing operators with a proven track record should however not be considered to carry the same level of risk and should therefore not be subject to a permit commencement charge.

NRW Reply

We welcome these suggestions and will consider these and be seeking further input when we undertake a more extensive review of our scheme in the future.