Consultation on our Fees and Charges for 2018-19

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# Annex 1 Charge Payers Consultative Group Membership

# 2 Introduction

Natural Resources Wales’ purpose is to ensure that our natural resources and environment are sustainably maintained, enhanced and used in a way that is good for people, good for the environment and good for the economy.

This means that our remit is wide and includes providing a range of regulatory services. We are required by Government to recover the costs of these regulatory services from those we regulate, rather than through general taxation. The fees and charges raised to cover regulatory costs account for approximately 20% of Natural Resources Wales total funding of £180m[[1]](#footnote-1).

We currently review our Fees and Charges Schemes on an annual basis to ensure we recover our costs and meet any technical requirements. When setting fees and charges, we follow the requirements set out in ‘*Managing Welsh Public Money*’ [[2]](#footnote-2) ensuring that only eligible costs are included within calculations. You can download a copy of our existing charging schemes from our website[[3]](#footnote-3).

Alongside this, we also review the way we work, ensuring our processes are efficient and effective, to keep charges as low as possible. In spite of inflationary pressures, we intend to maintain our current levels for existing fees and charges where possible. We may be required to take on responsibility for regulating new Medium Combustion Plant Directive requirements coming into effect during 2018/19 and propose a range of charges to recover our costs. We have proposed a new higher tier for hydropower abstraction. We also intend to increase our pollution incident response recharge rate.

We regularly meet and discuss our proposals with a Charge Payers Consultative Group, consisting of the various trade and representative organisations of our stakeholders. This helps us to develop our charging strategy and schemes for the future. We would like to thank those in the group for their commitment in representing their members’ views and continuing to work with us in this way, now and in the future. We annually review the membership of this group to make sure we have members relevant to the changes proposed. A list of current attendees is attached in Annex 1.

As well as following our regulatory principles[[4]](#footnote-4), the Regulators’ Code [[5]](#footnote-5)and Managing Welsh Public Money, we are committed to the following charging principles:

* transparency of our charging decisions
* avoidance of cross subsidy between regimes
* providing longer term planning horizons wherever possible
* avoiding cycles of cutting then raising charges by actively managing our surpluses and deficits
* keeping charges as low as possible through a continued drive for increased efficiency

Throughout our charging schemes we refer to two groups of charges: permitting charges and subsistence charges. Both these groups of charges are explained in our schemes guidance document. However, for clarity in the consultation document subsistence fees will be referred to as the Annual Compliance Monitoring Charge. This covers the cost of all work done by us to monitor and report compliance at places we regulate. Our compliance monitoring work includes, but is not limited to site visits, desktop reviews, maintaining the public register and providing technical advice and guidance.

We will keep under review any impact on our charges that the UK’s exit from the European Union (EU) may have in future especially in areas where our regulation is determined or influenced by EU legislation.

We are seeking your views and opinions on proposals for our fees and charges for 2018-19. **This consultation closes on 16 January 2018**. We will use the results to inform our final schemes. The statutory schemes will be submitted to Welsh Government for approval with the aim of introducing the new scheme from1 April 2018.

# Increases to our existing charges

We continue to review our service delivery to ensure our processes are as efficient as possible. We are continuing to develop our place-based approach to regulation, helping us deliver the outcomes needed for the Welsh environment and green growth, forming stronger connections with people and business. This enables us to keep our fees and charges as low as possible.

We continue to develop our cost modelling to make our long-term cost base more certain and increase the transparency of individual schemes for our stakeholders.

## Key Messages

Based on the proposals within this document, all charges raised by Natural Resources Wales for 2018-19 will stay at the current 2017-18 levels. We will endeavour to deliver efficiency savings to absorb inflationary and other pressures on our costs for 2018-19.

All other statutory schemes will remain at 2016/17 levels.

# Changes and additions to Statutory Charging Schemes

This section deals with changes and additions to statutory charging schemes where we propose to introduce charges from 1 April 2018. In reviewing our approach to regulation we have identified areas where we do not fully recover costs.

## Medium Combustion Plant Directive

The Medium Combustion Plant Directive (MCPD) came into force on 15th December 2015 and must be transposed into UK law by 19th December 2017. The Directive seeks to improve air quality by introducing emission limits for key pollutants and by bringing within regulatory control all combustion plant in the 1-50MW input range. The emission limit values apply from 20th December 2018 for new plants and by 2024 and 2029 for existing plants, depending on their size, fuel type, age and operating hours. We currently regulate combustion plant on installations with an aggregated rated thermal input over 50MWth and those below 50MWth, which are part of EPR Part A1 installations as Directly Associated Activities. Local Authorities (LAs) regulate the 20-50MWth plants as Part B EPR installations.

Welsh Government intend to transpose the requirements of the MCPD through the Environmental Permitting (England and Wales) Regulation 2016 (EPR2016). In addition, in England and Wales, further provisions will be included for “specified generators” which will also require permits under EPR2016. These specified generators are combustion plant used to generate in the Capacity Market and are potentially short period operation, but high polluting (e.g. unabated diesel engines). The Capacity Market was introduced by Government and designed to ensure sufficient reliable sources of electricity are available by providing payments to encourage investment in new capacity or for existing capacity to remain open. These Capacity Market contracts are managed by the Department for Business, Energy and Industrial Strategy (BEIS) and are not devolved.

Welsh Government have yet to confirm their preferred approach with regard to the regulator. However, one of the options included in the consultation on medium combustion plant and specified generators was for NRW to be the sole regulator in Wales for these activities. In advance of that eventuality, and given that new medium combustion plant and specified generators will require a permit from 20 December 2018, we need to have a charging arrangement in place at that time should NRW be confirmed as the regulator, hence the need to include this in the consultation on the 2018/19 scheme.

UK regulators will provide detailed technical guidance and definitions to help operators understand the extent and requirements of regulations. We have provided the cost table below as an indication of the permit types to help clarify the potential extent of activities subject to these regulations.

This activity does come under Section 41 Environment Act 1995 and as such will not require Ministerial approval. In addition, the Welsh Government / Defra consultation on the transposition of the MCPD and specified generators included the intention for cost recovery in the consultation.

We intend to recover the costs of permitting any plants within scope through an initial fee to cover the cost of permitting and an annual subsistence charge to cover the costs of compliance checking. We regularly review our fees and charges as well as our processes to ensure costs are kept to a minimum.

Our permitting costs are based on the estimated number of hours it would take to determine an application and experience from similar regimes.

|  |  |  |
| --- | --- | --- |
| **Permit type** | **Number of hours** | **Application fee** |
| Bespoke ‘Specified’ generators | 78 (with AQMRAT) | £4056 |
| 37 (without AQMRAT) | £1924 |
| Bespoke MCP | 23 | £1196 |
| Low risk MCP | 13 | £676 |
| Standby MCP | 3 | £156 |
| Backup MCP | 2 | £104 |

Note: Bespoke ‘specified’ generators may need detailed air quality modelling (AQMRAT) due to risk and attracts a higher fee to reflect this additional assessment.

### Compliance

We have based our compliance costs on the compliance schedule in the Defra / Welsh Government Impact Assessment and the estimated number of hours to undertake the work. We are investigating payment options with regards to subsistence fees and the associated compliance schedule (as illustrated in the table below) for low risk, standby and back up permits.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Permit type** | **Compliance schedule** | **Number of hours** | **Resource costs** | **Annual subsistence (spread over number of years in compliance schedule)** |
| Bespoke ‘specified’ generators | 1 inspection every year | 7.4 | £385 | £385 |
| Low risk MCP | 1 remote check\* every 2 years | 4 | £208  | £104 |
| Standby MCP | 1 remote check\* every 3 years | 2 | £104  | £34.67 |
| Back-up MCP | 1 remote check\* every 6 years | 2 | £104  | £17.33 |

\*a remote check is defined as a desk-based compliance exercise to check data and documentation submitted by the operator covering emissions testing, operation of abatement equipment and reporting of operating hours

### Additional charges for advice and guidance - MCPD

The permitting approach for MCPD is designed to be as simple as possible, so it is expected that pre-application advice will be at a minimum. We are not proposing to include any pre-application time within the fees and charges at application, helping to keep application fees as low as possible. Therefore, any pre-application discussions would need to be recovered separately through our discretionary advice scheme.

**Question 1. What are your views on the proposed charges for medium combustion plant directive regulation?**

## Hydropower Charges

We have stated that we would review our charges for hydropower. The number of applications for new hydropower schemes has declined following the reduction in Feed In Tariffs. We have decided to retain the current fee structure for schemes up to 250 kW in 2018-19.

We have identified potential under recovery when determining large scheme licences due to the scale and often complex nature of the proposals. We therefore intend to introduce a higher tier for large hydropower schemes over 250kW to ensure full cost recovery.

We intend to apply a base charge of £1500 and cost recover time and materials where this is exceeded. The initial cost is based on our experience of permitting schemes and we are confident that this will apply to most applications of a high quality providing information and addressing risks fully as detailed in our guidance. This includes an initial internal consultation with technical specialists administered by our permitting service. We continue to work to ensure our process is as efficient as possible.

The additional charges within this upper tier would most likely apply to complex schemes and sensitive locations. These are where we often need to seek further input from our technical specialists or where the submission is of limited technical quality and does not provide enough evidence to enable a simple determination.

We intend to cost recover using our standard hourly rate of £125.

The existing tiered fee table has been amended below to include the additional upper tier.

|  |  |
| --- | --- |
| Scheme Capacity (kW) | Proposed Application Fee (£) |
| 25kW or less | 375 |
| >25 to 50kW | 750 |
| >50 to 100kW | 1,125 |
| >100 to 250kW | 1,500 |
| >250 kW | 1,500 plus time based charge |

# Other Matters to Note

**Question 2. What are your views on the proposal to introduce a higher band for hydropower schemes over 250kW?**

We would like to highlight other changes we are considering which could have an impact on fees and charges. These have either been consulted upon separately in the past year or relate to particular aspects of our charges that may be of specific interest to charge payers.

## 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 activities regulated by NRW in Wales.

We are reviewing our approach to the OPRA scheme and will continue to use this scheme until we have completed our review and consulted with our stakeholders.

## Abstraction Charges

### New Capital Requirements

We are reviewing how we fund reservoir infrastructure improvements which are needed to ensure assets are maintained appropriately. Capital upgrades over the next few years are estimated to be in the region of £12 million. Section 20 Reservoir Operating Agreements exist to fund capital works by Dwr Cymru Welsh Water (DCWW) on reservoirs.

We recover infrastructure costs through the Standard Unit Charge applied to abstractions. We have been working with DCWW to look at ways of spreading the cost of capital works over a longer timescale, thus reducing the impact of cycles of increases followed by cuts, which will give charge payers longer-term certainty.

We are proposing to maintain the SUC at the current rate for 2018/19. We will however continue to review investment costs and recharge options with DCWW for future years.

### New Authorisations

There is potential for future compensation claims if existing exempt abstractions need to be curtailed when brought under licensing control. This will not impact on 2018/19 Environmental Improvement Unit Charge (EIUC), but may do in subsequent years.

**Question 3. What are your views on the proposed level of the Standard Unit Charge (SUC) and funding investments?**

## Pollution Incident Response Cost Recovery

In carrying out our duties, NRW responds to pollution incidents. This work places a financial burden on our resources reducing our ability to undertake other work that delivers our purpose of delivering sustainable management of natural resources (SMNR). In line with the “polluter pays” principle, legislation[[6]](#footnote-6) allows us to recover our costs wherever possible from the polluter, reducing the burden on the taxpayer. It is important that we fully recover our costs in line with “Managing Welsh Public Money”. The current hourly rate on which we base our cost recovery is £84 and has remained at this level for a number of years whilst our cost base has increased. As a result, we are proposing to increase our pollution incident cost recovery charge to £125 per hour in line with our standard hourly charge.

Recoverable costs include works, operations or investigations to identify the responsible person, source, nature and effect of pollution.  It also includes recovering costs incurred by NRW where we are required to remove or dispose of polluting matter, remedy or mitigate pollution or restore waters to their state immediately before the pollution occurred. It also includes other additional costs such as specialist advice.

We recover our costs from the point that the NRW officer initially assesses the incident up to the point that the source is confirmed and the officer has returned to base / home.

We encourage early self-reporting of incidents by polluters as this helps to minimise the environmental impact and extent of any pollution through early provision of advice and containment measures as well as reducing investigation time. Early self-reporting may help reduce the likelihood of prosecution following a pollution incident by reducing the environmental impact and demonstrating a positive attitude towards minimising the impact. We retain discretion to waive part or all of any pollution investigation costs for those who promptly and effectively self-report incidents to us.

Prior to any recovery of costs managers assess a number of factors to ensure the recoverable costs fairly reflect the necessary actions. For example if 2 employees are out on routine work and divert to attend a pollution incident then we would normally recharge for one member of staff unless the nature of the incident warranted attendance by two.

## Environmental Permitting Regulations – Waste Standard Rule Permits

We are changing some of our standard rule permits for waste activities. We consulted on these changes during autumn 2016. As part of this work some of the standard rule permits available may change. We are not changing the fees and charges or existing permits however some of the options available and limits may be different due to changes in waste types and thresholds. The Fees and Charges Scheme will reflect the new Standard Rule Permits.

# Responding to this Consultation

We are seeking your views and opinions on our proposed fees and charges for 2018-19.

## How to Respond

The closing date for replies is 16 January 2018.

You can reply in the following ways:

**Email**feesandchargesconsultation@naturalresourceswales.gov.uk

**Post**Charging Consultation Response
Natural Resources Wales
Ty Cambria
29 Newport Road
Cardiff
CF24 0TP

**Telephone**0300 065 3000

**Online**Available on our website at [www.naturalresourceswales.gov.uk](http://www.naturalresourceswales.gov.uk)

## Data Protection

**How the views and information you give us will be used**

Any response you send us will be seen in full by Natural Resources Wales staff dealing with the consultation. It may also be seen by other Natural Resources Wales staff to help plan future consultations.

We intend to publish a summary of the responses to this document. We may publish responses in full. Normally the name and part of the address of the person making the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name and address to be published let us know when making your response and we will remove them from published material.

Names and addresses we remove might still be published later, although we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including Natural Resources Wales. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks us to seek information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published that is an important factor that we would take into account. However, there might sometimes be an important reason why we would have to reveal someone’s name and address, even though they have asked them not to be published. We would get in touch with the person and ask their views before we finally decide to reveal the information.

## Next Steps

Following the consultation, we will make all comments (excluding personal information as detailed above) and our responses publicly available on our website. If you respond with an email address we will acknowledge your response and will notify you when the summary of responses has been published on our website.

# Annex 1

**Charge Payers Consultative Group**

|  |
| --- |
| **Membership List** |
| Federation of Small Businesses |
| Dwr Cymru/Welsh Water |
| Welsh Environmental Services Association |
| Countryside Landowners Association |
| British Hydropower Association |
| Micro Hydro Association |
| National Farming Union |
| Energy UK |
| Farmers Union Wales |
| UK Petrochemical Industries Association |
| Chemical Industries Association  |
| CONFOR |
| Chartered Foresters |
| Confederation of British Industries |
| Resource Association |

1. <https://naturalresources.wales/about-us/strategies-and-plans/corporate-plan/?lang=en> [↑](#footnote-ref-1)
2. <http://gov.wales/funding/managing-welsh-public-money> [↑](#footnote-ref-2)
3. <https://naturalresources.wales/about-us/what-we-do/how-we-regulate-you/our-charges/?lang=en> [↑](#footnote-ref-3)
4. <https://naturalresources.wales/about-us/what-we-do/how-we-regulate-you/regulatory-principles/?lang=en> [↑](#footnote-ref-4)
5. <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf> [↑](#footnote-ref-5)
6. Section 161ZC of the Water Resources Act 1991 sets out the provisions which NRW is entitled to recover its expenses which have been reasonably incurred in carrying out works, operations or investigations under section 161 of that Act.  These expenses are recoverable from the person responsible for causing water pollution or where it is likely that pollution may be caused, to prevent that pollution from occurring. [↑](#footnote-ref-6)