



Department  
for Environment  
Food & Rural Affairs

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

# **Marine Licensing: revision of fees and charges**

## **Summary of responses**

**17 March 2014**

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# Introduction

1. This document contains the summary of responses and Government response to the consultation on proposals to revise the fees structure for marine licensing<sup>1</sup> as operated by the Marine Management Organisation (MMO) on behalf of the Secretary of State. The consultation was held between 24 September and 19 November 2013.
2. The consultation document outlined the Government's objectives for the revision which include ensuring the administration of licensing is as efficient as possible; costs are fully recovered as far as practicable; risks of cross-subsidy are removed; and applicants are provided with transparency and certainty.
3. In combination with a number of efficiency measures the proposed new fees were designed to achieve cost recovery of around 96% of recoverable costs per year with the remaining 4% subsidised by the Government in order to limit increases in fees for smaller projects. The proposed new structure was based on the principle of hourly charging, at a rate of £94 per hour, but with maximum ceilings (or caps) applied to fast tracked or routine projects.
4. The revised hourly charge reflected a more accurate estimation of annual chargeable hours and the need to cover fixed overheads as well as the higher cost recovery target. "Fast track" cases applies to minor activities where the MMO does not need to consult other bodies and which the MMO expects to be able to determine within 3.5 hours of staff time; "routine" projects applies to specified activities (e.g. deposits, construction and removal activities) which are not fast track cases, are of a project cost less than £1m, but nonetheless have predictable characteristics (because, for example, they do not require an environmental impact assessment (EIA) or assessment of impacts on a marine protected site). "Complex" cases which are neither fast track nor routine and most navigational dredging and disposal projects, would be charged on an uncapped hourly basis.
5. The consultation also proposed removing the "free" travel to offsite case meetings and set out the proposed transitional arrangements in relation to those marine licence applications submitted under the current fees system that will be awaiting determination by the MMO when the new fees structure comes into effect.
6. For the sake of completeness the proposed fees structure set out the charges that were envisaged for monitoring and for varying marine licences. Proposals to change the MMO's powers to enable it to charge for licence variations and monitoring were the subject

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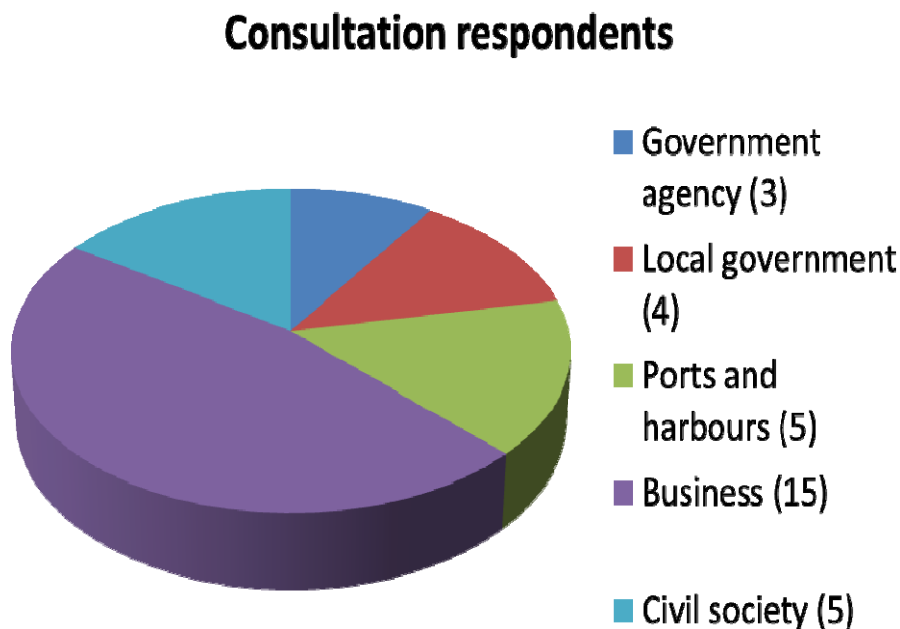
<sup>1</sup> Marine Licensing (Application Fees) Regulations 2011, (SI No. 564/2011)

of a separate consultation over the summer 2013. The [Government response](#) to that consultation was published on 19 February 2014.

## Overview of responses

7. A total of 32 responses were received from a range of sectors including Government agencies, local government, ports and harbours, business and civil society. Responses were received from a mix of individual organisations and representative bodies. Figure 1 provides a summary breakdown; the full list of respondents is at Annex A.

**Figure 1: breakdown of responses to marine licensing fees consultation**



8. The sections below provide more detailed information against each of the consultation questions as well as a summary of other points raised by consultees. However, the main points arising from the consultation were:

- A general recognition of the necessity to recover costs and a welcome to the proposals to limit costs for smaller projects;
- General concern at the increase in the MMO's hourly rate;
- A desire to see incentives for the MMO and its advisors to operate efficiently and provide a quality service to applicants; there are suggestions that the MMO could provide for more customer feedback and review of its charging methods;

- Some wider comments on exemptions and the need for guidance on how certain activities should be treated.

## Summary of responses to consultation questions

### A. Do you have any comments on the Government's approach to charging for issuing of marine licences?

9. The responses received from stakeholders indicated general agreement with the principle of the MMO recovering the costs of administering marine licences. It was important for licence fees to be proportionate to the likely risk of the activity, but increased hourly charges needed to be delivered alongside improvements to the licensing process so that it is as efficient as possible and of a high quality. This included strengthening the knowledge base and training of MMO case officers and improving transparency. One respondent considered that this principle should be equally applied to the pre-application advice function. Some respondents considered that there should be more stakeholder oversight and mechanisms to challenge the quality of advice/service.

#### Response

10. Proportionality is one of the founding principles of the fees revision. The levels of actual casework required on licence applications are aligned to the risk of the licensable activity, so a minor fast track application is for an activity that is so low risk that it does not require consultation with expert advisors and can be controlled with standard conditions. Conversely, complex cases will attract a higher fee because more casework hours are required to determine the activity as licensed.

11. The consultation proposals were designed to achieve 96% cost recovery, but the first priority has been to improve efficiency. For example Defra and the MMO have brought in exemptions for some minor activities, fast-tracking and longer licences (particularly for maintenance dredging). The MMO will use Key Performance Indicator (KPI) reporting to demonstrate improved delivery of marine licensing – for example a comparison of the timescale from receipt of application to consent year on year, or the average duration of time for categories of applications. It will include reporting on the average number of casework hours required for each category of casework and demonstrate a reduction over time.

12. We recognise the importance of delivering a service that is both high quality and efficient. All MMO case officers undergo a thorough package of training. This training has developed over time and is reviewed periodically to ensure staff have the best knowledge and experience for their roles. The training is targeted at the need to improve delivery and

consistency of advice. This includes training on EIA regulations, ensuring consistency of practice on screening and scoping as part of the pre-application advice function.

13. The MMO places a high value on customer feedback and uses a range of methods, including surveys and external review through its Stakeholder Focus Group (SFG), to collect feedback across its activities. Nonetheless, in response to this consultation the MMO believes that more can be done to increase the transparency of charging and provide greater opportunity for customers to feed back on the MMO's charging methods. Such mechanisms would help to maintain a healthy degree of challenge to the MMO on the numbers of hours worked on different types of cases or levels of service provided.

14. The MMO will therefore implement a new process whereby a customer feedback form/postcard is issued along with each new licence to gather feedback on the levels of customer service and the efficiency and effectiveness of the marine licensing delivery (drawing on a review of the KPIs). The MMO will act upon the feedback gathered and provide an update at each quarterly SFG meeting. The SFG membership includes representative bodies for social, economic and environmental stakeholders and would be the ideal forum to provide critical review. The MMO will discuss with the SFG possible mechanisms for strengthening this role.

## **B. Do you have comments on the effectiveness of the current charging system?**

15. Only a small number of responses dealt with this aspect. Some respondents commented that they felt the current fees structure was not value for money and that fees had already gone up with the new marine licences as the Government was moving forwards full cost recovery. In certain cases, for example on aggregates licences, it was felt that the MMO sometimes over-estimated likely costs and this could affect a business's budgeting. It was also recognised that there had been problems with cross-subsidy and the relatively wide charging bands.

16. Some respondents believed that there was a lack of competition and transparency in testing and monitoring activities carried out by Cefas and that these should be subjected to competitive tendering.

### **Response**

17. The Government recognises that, starting with the old "FEPA" licensing system, there has been a steady movement towards the full cost recovery of marine licensing and this has meant several successive increases. The Government's view remains that where practicable charges should be set at a level to enable public authorities to fully recover their costs. However, it is also essential that public authorities control their costs so that public money is used efficiently and effectively. The MMO's aim is therefore to use efficiency measures to keep any increases in fees to the minimum necessary to deliver the service. Examples of such measures include exempting activities from the need for a

licence where the risks to the environment or navigational safety are negligible; use of “fast track” licensing to limit the number of hours spent on relatively simple cases; bringing in longer licences for on-going activities such as maintenance dredging; and improving coordination with other regulators such as the Environment Agency or local planning authorities.

18. In the past the MMO has over-estimated the total cost of a licence because the levels of information provided by the applicant did not allow accurate assessment of the total amount of casework required to make a determination. The MMO has since improved the levels of information requested upfront and now has data on which to base future estimates.

19. The fees and charges system has been restructured to avoid situations where operators may subsidise other applications. The Government will introduce a range of maximum fee ceilings/bands which will be applied for fast track or routine applications. Many small businesses have welcomed the increase in number of bands for routine projects. The ceiling levels applied to those bands limit the impact on smaller projects where that would otherwise result in significant increases in fees and/or would represent an excessive cost in relation to the size of the project. The loss in income to the MMO will be made up by Government subsidy (approximately £130k annually), not by other marine licence applicants.

20. The MMO is currently working with Cefas to review the Cefas/MMO memorandum of understanding. As part of this review, discussions are taking place about the improvements in efficiencies that can be made. The MMO will be publishing guidance to allow open competition between suitably qualified laboratories to conduct sediment analysis in support of marine licence applications. This action will help to mitigate any delays in the licencing processes associated with sediment sampling analysis.

## **C. Do you have comments on the details of the Government’s proposals?**

21. There was agreement that the consistency of a standard hourly rate is appropriate and that the greater number of bands for routine projects would remove the current steep rises with the current band 2 (of the 2011 Regulations). Respondents also welcomed the introduction of longer licence lengths which will reduce the need to resubmit licence applications for on-going activities such as maintenance dredging.

22. However, there were concerns that an hourly charge of £94 was excessive and needed further justification. One alternative would be to phase in the increase from the current £80.

23. While there was a desire to see more projects fast tracked, it was also important to justify the time spent on small applications. In relation to routine projects one respondent considered the £1m ceiling to be too low. There was a need to be more precise in the



definition of “routine” and the MMO would need to ensure timely decisions on whether projects are deemed to be ‘routine’ or ‘complex’. One respondent was concerned that combinations of activities would automatically be treated as complex rather than routine.

24. For complex projects there were some concerns that setting charges on an uncapped hourly basis would not provide MMO/Cefas with a sufficient incentive to be more efficient. One approach would be to have informal ceilings which could only be exceeded if an applicant agrees together with recompense for applicants if determination takes more than 13 weeks without strong justification.

25. Some stakeholders wanted confirmation as to how certain activities would fit into the new fee structure. Examples were recreational diving and ‘not-for-profit’ archaeological operations. If it was not possible to exempt such activities, respondents were keen that they were considered for fast tracking.

26. There were questions about how the MMO would handle charging for small-scale navigational dredging and disposal activities and some were concerned about the consequences of such dredging being treated as complex projects with uncapped hourly charging.

27. One respondent questioned the need to require deposits (e.g. when a local authority is the applicant) and there were several suggestions for improvements in invoicing.

28. Some respondents raised practical questions about the proposals on charging for travel time, for example how to allocate travel time where a case officer is attending multiple meetings or engaged in other work while travelling. Some expressed concern that charging might act as a disincentive to dialogue.

## **Response**

29. The improved marine licensing processes, case officer utilisation and other efficiencies alongside the greater number of bands for routine projects and the longer licence lengths should provide applicants with improved value for money. The calculation of the hourly fee follows Treasury guidance and is made up of direct staff costs along with costs of support staff, overheads and estates. All staff grades work on all cases, and the single hourly rate no matter what the grade of staff working on the case is calculated using the assumed utilisation across all staff grades.

30. The MMO intends to add further activities to its fast tracking initiative and the new fees regulations will allow for that. In relation to the definition of routine projects, analysis of data shows that there is too much variation in casework hours for projects costing more than £1m for the MMO to predict with any certainty a standard amount of time. However it will still be possible for single projects made up of combinations of licensable activities to be treated as routine, provided that they meet the relevant criteria (e.g. the total cost is less than £1m and there are no EIA or similar assessments required). The MMO will aim to assess the fee allocation on valid applications within five working days.

31. There are a number of ways in which the MMO is incentivised to be as efficient as possible in the number of hours spent on marine licence cases, whether complex or not. For fast track and routine projects the maximum ceiling provides a particularly strong incentive, while at a more strategic level the MMO is subject to scrutiny by its Government sponsors, through the normal audit processes, its published performance reports and through the Stakeholder Focus Group.

32. For complex cases the MMO is moving towards an approach where it will operate an informal ceiling. The MMO will provide an estimate of the number of hours and cost for each project based upon the evidence submitted with the application. When the actual costs are approaching the estimated costs, and it is likely that the case will require more hours of processing than was originally estimated, the MMO will contact the applicant to inform them of this and to discuss the reasons for this. The MMO will provide the applicant with a revised estimate. Once the applicant has accepted the revised estimate MMO will continue to process the case.

33. Guidance has been updated on the MMO web-site on licensable activities and how they will be charged. With activities such as recreational diving and 'not for profit' archaeological operations the MMO has worked with representative sectoral bodies to inform their own guidance on licensable activities. For non-exempt navigational dredging the MMO is introducing a system of accelerated cases to be charged on an hourly basis but with defined case officer activities that are proportionate and in line with the level of environmental risks associated with the activity. The licences will also be for longer time periods, for example 10 years, which reduces the frequency with which the applicant must re-apply.

34. The new fees regulations will, as with the 2011 Regulations, allow for the MMO to require a deposit. However, in general the MMO does not intend to exercise this power unless absolutely necessary. Instead, the MMO has implemented financial controls to mitigate non-payment of debts thereby removing the burden of deposit payments. Furthermore, recent changes to invoicing now include greater detail and breakdown of actual case officer activities.

35. Reduced travel does not mean reduced dialogue. In the first instance applicants will be invited to the MMO offices in Newcastle or to make use of electronic conferencing facilities. The MMO will ensure that no double-counting occurs.

## **D. Do you have comments on the proposed transitional arrangements?**

36. Most respondents who commented agreed that the proposed transitional arrangements were fair and reasonable. One applicant proposed that all applications submitted before April 2014 should continue to be charged according to the 2011 Regulations. Others noted that there would need to be accurate time recording by the MMO in order to ensure that the two different hourly rates were correctly apportioned.

## Response

37. The Government will apply the transitional arrangements as proposed in the consultation document. Keeping applicants for band 1 and 2 projects under the 2011 regulations could mean that some people are required to pay more than they would under the new proposals and in effect would still be cross-subsidising other applicants. No such risk arises with band 3 projects, where the new hourly charge is a more accurate representation of actual costs.

38. The MMO operates a detailed time recording system for all casework. This will ensure that case officer time is correctly apportioned in line with the transitional arrangements.

## **E. Do you have comments on the estimates of costs and benefits; do you have alternative evidence related to the data or assumptions used in the analysis?**

39. There was relatively little comment on the estimates of costs and benefits. However it was suggested that the MMO's Stakeholder Focus Group should be involved in reviewing the impact of the new fee structure.

## Response

40. The MMO will be reporting performance on the new system to its Stakeholder Focus Group and will offer an opportunity for a post-implementation review later in 2014/15.

## **Other comments**

41. Some respondents also made more general comments about marine licensing that were not directly relevant to the consultation on fees. These included:

- Proposals for further exemptions from marine licensing, in addition to those introduced in April 2013; these included minor sea defence works, archaeological diving activities and maintenance activities carried out by or on behalf of the Highways Authority;
- Requests for further advice on whether certain activities were licensable or exempt, such as maintenance works, and a suggestion that operators could be issued with exemption statements;
- More flexibility over advertising requirements for marine licence applications.

## Response

42. We note that some stakeholders have requested additional exemptions. Although the exemptions are not part of this consultation exercise, which focuses only on the increase in fees and charges for marine licences, Defra and the MMO will consider additional exemptions from licensing where activities pose little or no risk to the environment or other marine users.

43. Advice is available on the MMO's web-site on whether activities are licensable or exempt. For certain sectors, such as diving, more detailed guidance can be developed to meet specific needs. The MMO will review its guidance in the light of the comments received during this consultation and revise as necessary.

44. The MMO is able to advise an operator on whether a certain activity is exempt or not, but it would be disproportionately burdensome (on both the operator and the regulator) to introduce a system of exemptions statements or certificates.

## The way forward

45. The Government will introduce the new fees structure, as proposed, from April 2014. This will fulfil the objective of achieving cost recovery, but the Government also recognises the importance of maximising efficiency and delivering a quality service to customers. While the hourly charge to applicants will increase to £94, many applicants will benefit from the restructuring of fees to bring in more ceilings for routine projects, efficiency measures to reduce the number of hours charged to certain cases and the move towards longer licences.

46. Transparency and critical review will be important factors in securing these efficiencies and satisfying applicants that they are being treated equitably. The MMO will strengthen opportunities for customer feedback and will work with its Stakeholder Focus Group to increase its role in providing critical review.

# **Annex A: List of respondents to the consultation**

Associated British Ports (ABP) Ltd

Association of Protected Wreck Licensees

Bournemouth Borough Council

Britannia Aggregates Ltd

British Marine Aggregates

British Marine Federation

British Ports Association

Cemex

Centre for Environment, Fisheries and Aquaculture Science

CORMAC Consultancy

DP Energy

EDF Energy

English Heritage

Environment Agency

Gloucestershire County Council

Hanson Aggregates Marine Ltd

Jan Brooke Consultancy

Joint Nautical Archaeology Policy Committee

Kendal Bros, Portsmouth Ltd

Lafarge Tarmac Marine

Local Government Association, Coastal Special Interests Group

National Grid Consents Team

Nautical Archaeology Society

PADI Europe, Middle East & Africa Ltd

Poole Harbour Commissioners

Port of London Authority

Renewable Energy Association

Royal Yachting Association

Scarborough Borough Council

Scottish Power Renewables

UK Major Ports Group

Volker Dredging Ltd