



Department
for Environment
Food & Rural Affairs



Llywodraeth Cymru
Welsh Government

Changes to water abstraction licensing exemptions in England and Wales: New Authorisations

Summary of consultation responses

29 September 2016





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Introduction

Water is a precious resource. It is essential for people and the environment. It is vital to the economy, our health and well-being and it is used to generate power to run industries and grow food. Access to clean, safe and secure water supplies is fundamental to society.

The UK and Welsh Governments consulted in 2009¹ on implementing the abstraction elements of the Water Act 2003 which would end most exemptions from water abstraction licensing control and bring these into the licensing system.

Ending exemptions:

- Will help create a level playing field for all existing licensed abstractors and those that will be licensed;
- Will enable regulators to better manage water resources effectively; and
- Is part of a much wider effort to manage our natural capital in a sustainable way, both now and for future generations

Most currently exempt abstractors can legally abstract without controls to protect other abstractors or the environment, while existing licensed abstractors are subject to control. Some of these exempt abstractions are causing environmental damage, and some are in areas that are already water stressed, but they are currently able to continue abstracting unchecked. This makes it difficult for the regulators (the Environment Agency and Natural Resources Wales) to manage water resources effectively. Ending exemptions will also enable the regulators to better manage water at catchment level.

Following the 2009 consultation, the UK and Welsh Governments, the Environment Agency and Natural Resources Wales have investigated the range of complex issues that respondents raised.

This work, explained in Part 1 of the joint response and further consultation² document that we published in January 2016, contributed to our development of a revised light-touch, risk based approach to bring the majority of exempt abstractors into the licensing system.

We explained and consulted on the revised approach in Part 2 of the document including our intention to begin bringing these currently exempt abstractions (known as New Authorisations) into the licensing system in 2016. We are now publishing this summary of responses that were received on the proposed approach set out in the consultation.

The UK and Welsh Governments also published in January 2016 our respective consultation responses for reforming the water abstraction management system in England and Wales. Starting the process to bring New Authorisations into the licensing

¹ In 2009, the UK and Welsh Governments jointly consulted on 'implementing the abstraction elements of the Water Act 2003' <http://webarchive.nationalarchives.gov.uk/20091205011114/http://www.defra.gov.uk/corporate/consult/water-act/index.htm>

² January 2016 - Joint response & further consultation - https://consult.defra.gov.uk/water/water-abstraction-licensing-exemptions/supporting_documents/Consultation%20Document%20%20New%20Authorisations.pdf

system is intended to allow sufficient time to bring all abstractors into licensing before reform.

Our approaches for both ending exemptions and reforming the abstraction management system recognise that all abstractors should be treated fairly, both when these abstraction exemptions are ended and under the reformed system which will come into effect in the early 2020s.

The consultation policy proposals

In the consultation we confirmed that the normal licensing threshold of 20m³/day would apply to New Authorisations, and that those abstracting more than 20m³/day would need to apply for an abstraction licence.

We explained that the exemptions we proposed to end were:

- transferring water from one inland water system to another in the course of, or as the result of, operations carried out by a navigation, harbour or conservancy authority;
- abstraction of water into internal drainage districts;
- dewatering mines, quarries and engineering works;
- warping (abstraction of water containing silt for deposit onto agricultural land so that the silt acts as a fertiliser);
- all forms of irrigation (other than spray irrigation, which is already licensable), and the use of land drainage systems in reverse (including transfers into managed wetland systems) to maintain field water levels;
- abstractions within currently geographically exempt areas, including some rivers close to the border of Scotland; and
- the majority of abstractions covered by Crown and visiting forces exemptions.

We explained also that the government expected the regulator to take a light-touch, risk based approach to licensing these abstractions.

We proposed allowing two years for abstractors to apply for their licences, with the regulator determining all applications within three years from the end of the application period. We suggested that potential evidence to support applications could include meter readings, pump ratings, invoices for equipment, photos of infrastructure, or business receipts/contracts.

We proposed that licences would be granted with conditions to protect rivers during very low flows, and that licensed volumes would be in line with volumes abstracted over the four years preceding the exemption removal. Abstractions would only be significantly curtailed or refused where there was a risk of serious damage to the environment.

The UK and Welsh governments explained the expectation that the regulators would normally grant the licences with a time limit to the relevant common end date, in keeping with their published position. Once within the licensing system, these abstractions would be dealt with in the same way as all other abstractions. This would include becoming subject to proposals to remove time limits as part of the transition to a reformed system.

The proposed policy also considered potential compensation liabilities. We explained that we expected to make provision for compensation to be paid for loss or damage arising from a refused or constrained application, except in certain circumstances, such as where:

- it prevented the abstraction causing serious damage; or
- a basic universal “Hands off Flow³” condition was included in the licence to restrict abstraction during low flow periods.

Our proposals explained that we would not include applications for new or increased abstractions (planned abstractions) in our transitional arrangements and there would not be any compensation provisions for these. Such applications could be made through the usual application process once the regulations are in force. We explained that if we were to make provision for such abstractions in our transitional arrangements, we considered it would place previously exempt abstractors in a more favourable position than existing licensed abstractors. It would also prevent us from continuing to take a light touch approach, as described above, as an application could no longer be considered environmentally neutral.

³“Hands off Flow” conditions restrain abstraction when water levels are low. For example, a licence could restrain abstraction where river flow is at or below the flow that is exceeded 95% of the time and this HoF would be shorthanded as Qn95.

Purpose of the consultation

The purpose of the consultation was to invite views on the proposed policy approach to end most water abstraction licensing exemptions in England and Wales. Defra, the Welsh Government, the Environment Agency and Natural Resources Wales consulted jointly on the intended approach to remove most exemptions from water abstraction licensing and bring these abstractions under licensing control (New Authorisations).

The consultation did not seek views on the proposals to reform the water abstraction licensing system as these are separate issues outside the scope of this consultation.

The consultation was an open one, applying to England and Wales, and lasted for 12 weeks, closing on 8 April 2016. The consultation can be found at:

https://consult.defra.gov.uk/water/water-abstraction-licensing-exemptions/consult_view

The responses to the consultation will help to inform final policy decisions on the approach to changing water abstraction licensing exemptions in England and Wales.

During the consultation period the UK and Welsh Governments, the Environment Agency and Natural Resources Wales held a series of consultation meetings with interested parties in England and Wales. The meetings were held to give participants the opportunity to seek further information or clarification and tell us their views about the consultation proposals. Those views are not included in this summary of responses, but they did mirror many of the points raised in the consultation responses submitted and will inform our considerations when making policy decisions.

Handling of responses

Defra, the Welsh Government, the Environment Agency and Natural Resources Wales are grateful to everyone who took the time and effort to respond. The responses have been seen in full by the Defra, Welsh Government, Natural Resources Wales and the Environment Agency staff dealing with the consultation proposals. They may also be seen by other Welsh Government and Defra, Natural Resources Wales and Environment Agency staff to help them plan future consultations.

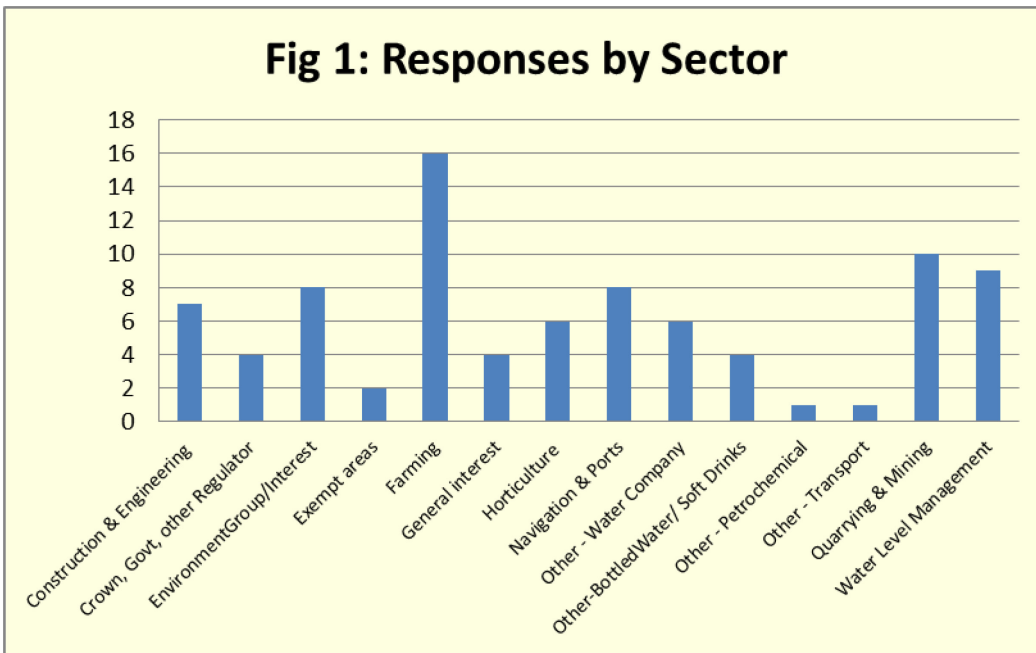
This summary includes responses submitted online through citizen space, by post and by email. This summary is a high level overview of the main messages from the consultation responses; it tries to reflect the views offered but, inevitably, it is not possible to describe all the responses in detail.

A broad analysis has been made of the key issues raised, including (where feasible) a numerical estimate of those for and against each proposal and the breakdown of respondents by sector.

Overview of responses

The total number of consultation responses received was 86. Figure 1 shows the breakdown of responses by sector.

Some respondents classified themselves as being from more than one sector, but for the purpose of this summary, responses have been counted for a single sector only. A list of organisations that responded is at Annex A.

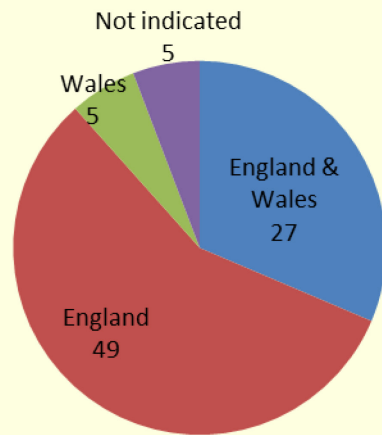


The highest number from any one sector (16) was from farming.

Some respondents, such as West Sussex Growers Association, Lee Valley Growers Association, Mineral Products Association, NFU Cymru and Association of Drainage Authorities represent a collective response on behalf of a number of members, although some of their members also responded separately.

Respondents were asked to indicate whether responses related to England only, Wales only, or England and Wales. Figure 2 shows the breakdown by country.

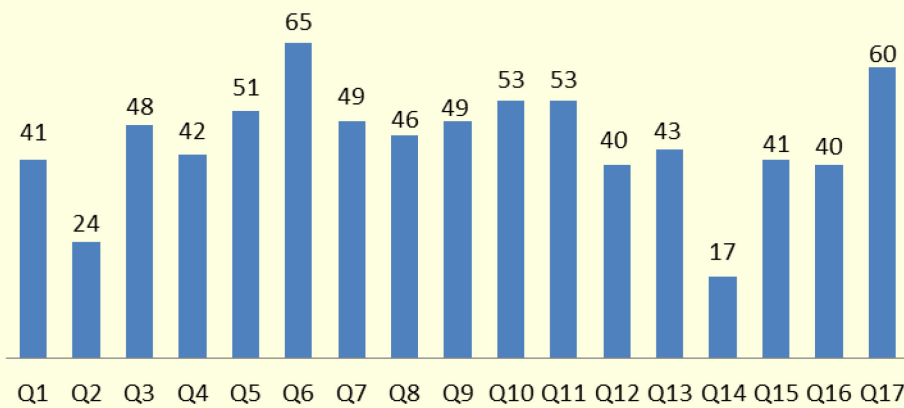
Fig 2: Responses by country



Analysis of all responses has shown that there are no issues raised that are unique to England only or Wales only. However, respondents from the Bottled Water and Soft Drinks sector raised a general concern about the impact on their sector and highlighted a particular concern about the impact in Wales.

Figure 3 shows the number of responses to each question in the consultation.

Fig 3: Number of responses to each question



Key themes

The key themes that emerged from the consultation, across a number of different sectors, were:

- Support for a light touch approach to bring currently exempt abstractors into the abstraction licensing system;
- Broad agreement that it is fair to end most exemptions to licensing;
- Suggestions that specific activities within sectors should continue to remain exempt from licensing;
- Some suggestions for additional information to be taken into account when assessing the historical abstraction for the licence;
- Suggestions for further information / analysis to be included in the impact assessment [Question 2];
- General support for the change from the 2009 policy so that planned abstractions should not be compensated, though concern about the impact of not making allowances for planned abstractions or including 'headroom' for growth in the licensed volumes under the transitional arrangements [Questions 3&4];
- Suggestion that flexibility is required in terms of the type of evidence submitted with applications [Question 5];
- Agreement in principle to flow controls being placed on licences, but questions about the approach of using universal Hands off Flows (HoFs) [Questions 6-10];
- Concern about volumes being placed on transfer licences and the requirements to measure and monitor those volumes [Question 11];
- General support from currently exempt abstractors about using the Environmental Improvement Unit Charge (EIUC) already collected to meet compensation payments, but divided opinion about collecting further EIUC from existing licensed abstractors [Questions 12 – 14]; and
- Suggestions around the application process for transitional and planned abstractions and concerns around unnecessary burden on applicants.

Responses to individual questions

We received responses from a range of currently exempt and existing licensed abstractors and other interested parties, expressing a wide variety of opinions on some of the questions. The key points emerging from the responses for the questions are given below.

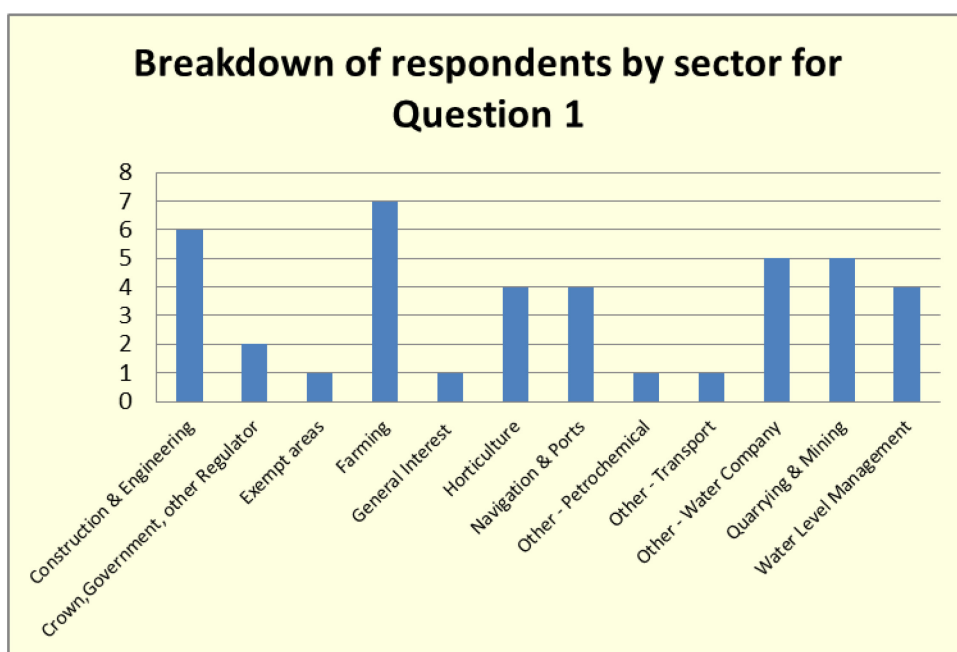
We have not attempted to report the detail of the points made by every respondent, nor have we always repeated points made more than once if they have already been identified as a key theme in response to a previous question.

In many cases we are already following up with respondents on the points they have raised and will continue to engage with interested parties as we finalise our policy approach which we will publish as a joint Government Response early 2017.

Question 1: How long do you think the period applicable for the temporary construction abstraction exemption should be?

- *Four weeks*
- *Three months*
- *Six months*
- *Longer than six months*

Please explain the reasons for your answer above.



There were 41 responses to this question.

Twenty-four (24) respondents supported the exemption for temporary abstraction being six months or less and seventeen (17) for it being longer than six months. Responses relating to Wales only were evenly spread across three months, six months and longer than six months. Some responses also appeared to be beyond the scope of the question as they referred to temporary irrigation periods instead of construction periods.

Most that favoured a period longer than six months were from sectors involved with construction projects (such as construction and engineering, navigation and ports, water level management and 'Crown, government and other regulators'). The full breakdown of responses by sector, country and period of time is at Annex B.

Some of the reasons given for favouring six months or less included:

- Six months being an acceptable time period for the majority of construction projects involving ground works and groundwater dewatering. Those ground works taking longer than six months were likely to relate to infrastructure projects and would require site specific groundwater management;
- Three months minimising the impact of discharges associated with the abstraction;
- Three months being consistent with the period for discharging uncontaminated water from excavations without needing an environmental permit; and
- Four week period being in line with the current period for a temporary abstraction licence.

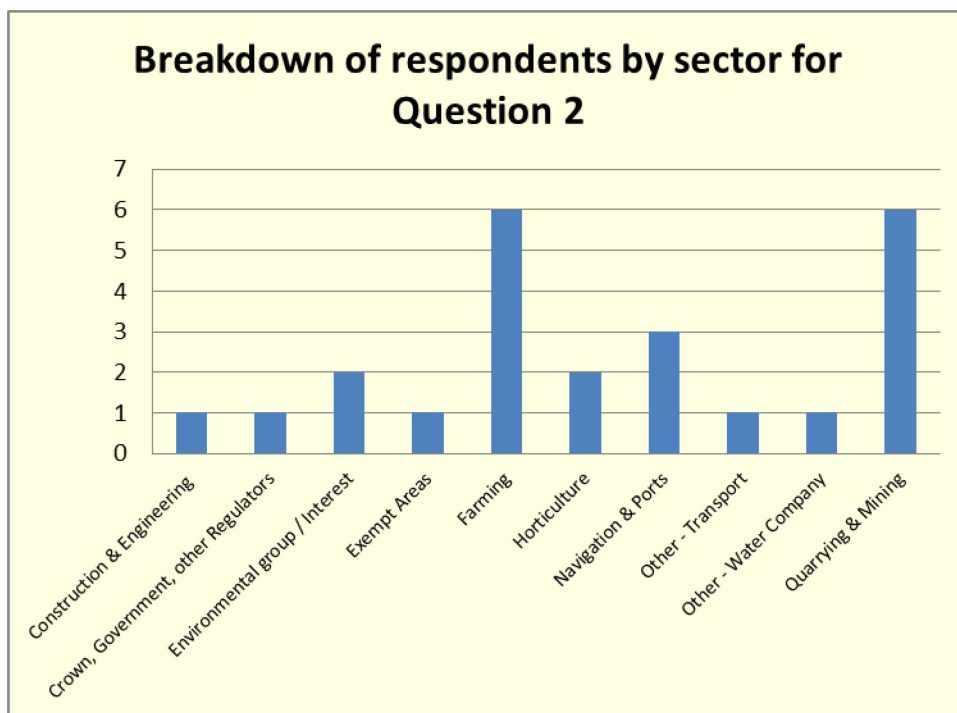
Those favouring more than six months explained that:

- Some construction and dewatering projects (rail / road projects or mine water treatment systems) required more than six months of abstraction and the exemption should be flexible or for the period of time abstraction was required;
- Some navigation construction projects were reliant on volunteers working one or two days a week which made the work intermittent and lasting for more than six months;
- Longer exemption periods could have restrictions, such as capped abstraction rates or compensation flows for more sensitive sites, taking account of time of year; and
- An exemption for six months or less could result in repeat applications for further exemptions, increased workload and regulatory burden.

Some reasons against a period of more than six months included there being potential impacts if the time period overlapped with periods of low flow, and more than six months was not considered to fall within the definition of 'temporary'.

Some respondents sought clarification about whether: it would be possible to extend exemption periods; dewatered volumes could be used for purposes prior to discharge as part of the exemption or if such use required a licence; and sought clarification on the definitions of 'continuous period', 'surface water' and 'immediately discharged downstream'.

Question 2: The Impact Assessment [at Annex D of the consultation] discusses the evidence for the proposal around planned abstractions. Please let us know of any other evidence you are aware of that should be considered in respect of planned abstractions?



There were 24 responses to the question and various suggestions of both new evidence to include and existing evidence to consider in more detail. The quarrying and mining, navigation and ports, farming, and horticulture sectors made a number of sector specific evidence suggestions.

Sector specific evidence

The quarrying and mining sector suggested evidence on the:

- Wider economic impacts on businesses, jobs and investment in the UK, where existing or future planned abstractions might be affected, including long term investment cycles of mineral extraction operations;
- Funding mechanism including costs of establishing new mineral operations or extending current operations; and
- Impacts on different mineral extraction types, such as clay quarrying, as different operations were not generic.

They also called for further evidence to support a number of the statements made about their sector in the Impact Assessment.

The navigation and ports sector suggested more investigation of the:

- Economic impacts of 'Hands off Flows' on canals - particularly the effects of canal closures on canal based wildlife, flora and fauna;
- Socio-economic benefits of potential long term canal restoration projects; and
- Published plans for funded / possible canal operations, and modelling for new and restored canals. (Canal and River Trust offered data to help with assessments.)

Both the farming and horticulture sectors asked for further assessment of:

- the impact on trickle irrigation – taking into account the extent of its use and the sector's projected growth;
- historical usage, with headroom needed for future growth;
- carbon impacts of importing food; and
- the impact on marginal profitability of small farms.

They also suggested an assessment of the economics of domestic food production in a global market, including possible impact on jobs and production if production were moved overseas due to the uncertainty of water supply.

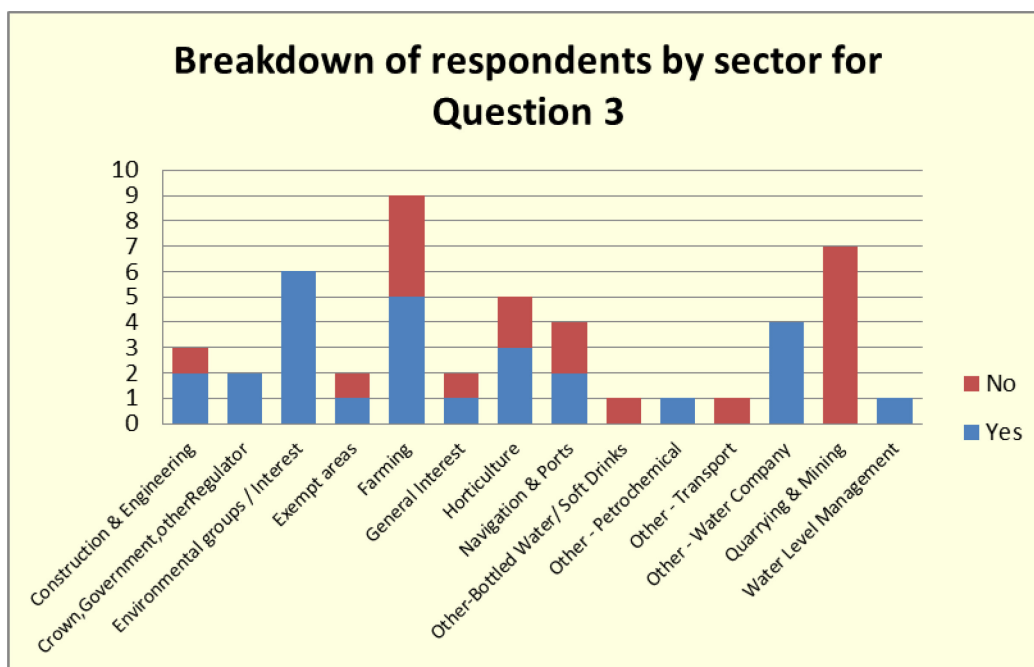
The water level management sector also requested more evidence be included on the potential impact of licensing on their sector. Network Rail was also concerned that the impact assessment did not include an assessment of the impact on the transport sector (road or rail).

Other comments

Other general comments included:

- More account be taken of the complexity of and variability within individual sectors, including their operational practices;
- More information on how we assessed the potential impact on planning and investment of not including either planned abstractions in the transitional arrangements or headroom on licences;
- Considering any possible impact on: supply chain links (such as an abstraction supporting a canal boat operator or one into a drainage district supporting irrigation); and other policy – specifically the five-point plan on salmon; and
- Considering the ecological benefit of some environmental abstractions.

Question 3: Do you agree with the Government's proposal to exclude from transitional arrangements compensation provisions for those who have plans to abstract in the future?



There were 48 responses to this question. Twenty eight (28) agreed with the proposal, and twenty (20) were against.

While opinion was divided across some sectors, all six (6) environmental group respondents agreed with the proposal, whilst all from the quarrying and mining sector (7) were against it.

Agreement with the proposal

Reasons given for agreeing with the proposal included:

- 'Planned for' abstractions potentially taking up much of the available water and removing flexibility around future water trading;
- It would be difficult to assess the impact on future business / investment when it may not actually take place. This would create too much uncertainty to enable the provision of a satisfactory compensation framework;
- Including 'planned for' abstractions would make it much more difficult for the regulator to ensure the environment would not be over abstracted; and

- It was fairer to abstractors who were already in the licensing system and who themselves had plans to increase abstraction in the future.

Many existing licence holders also explained that they supported the proposal because they felt that they could otherwise face additional costs - either through reduced access to water or potentially higher abstraction charges to fund compensation costs.

Disagreement with the proposal

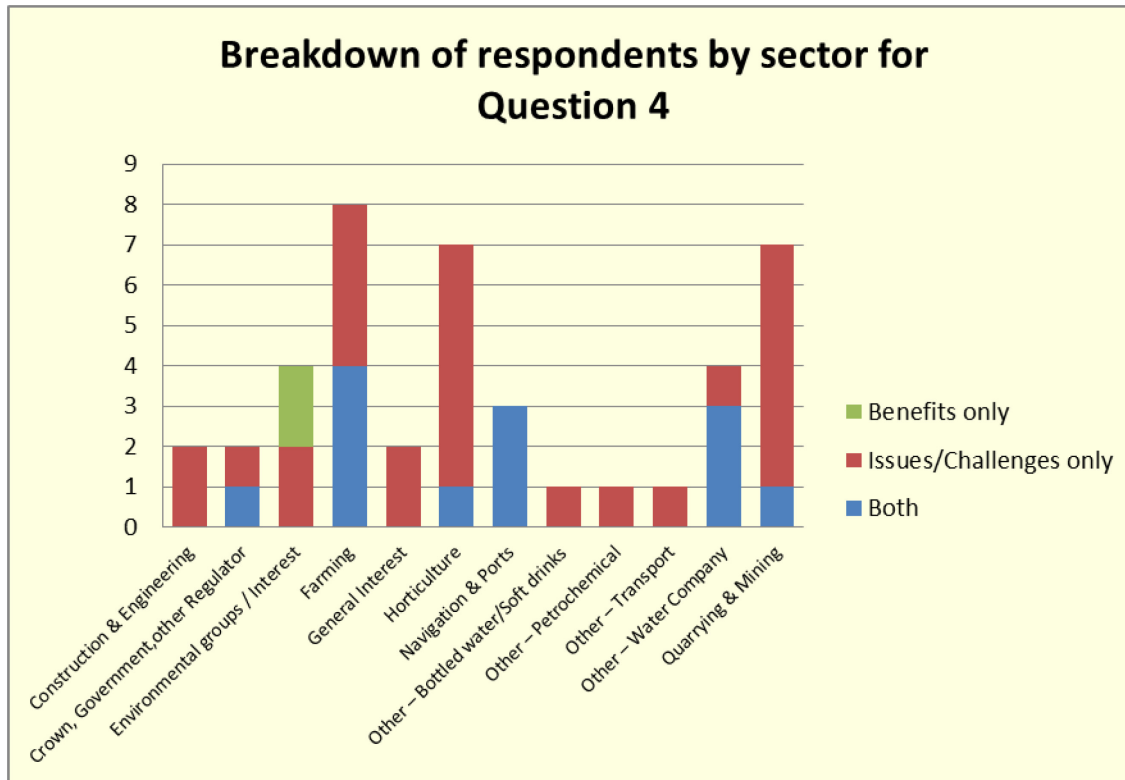
Those respondents who disagreed explained that:

- The proposal would undermine investor certainty and ability to develop [quarry and mining] sites, and an uncertainty about obtaining adequate transfer or abstraction licences could have potential impact on the provision of minerals for construction products;
- Mineral operation planning permissions and de-watering exemptions (or abstraction/discharge permits) were viewed as 'licences to operate'. Removing any element of them affected a site's economic viability.
- Compensation provisions had been in place in other circumstances such as loss of old mineral planning permissions with Habitat Directive Modification Orders or Review of Old Mineral Permissions and eligible for compensation if the economic viability was affected as a result of more restrictive planning conditions;
- Including provision for planned abstractions would be in keeping with the light touch policy approach; and
- There has been significant capital investment in bottled water production [in Wales] in preparation for future growth. The policy would remove the justification for the current and planned investment, and potentially impact on jobs.

Other comments

The question as to how abstractions 'planned' in Water Resource Management Plans and Drought Plans would be treated was also raised.

Question 4: What do you think are the main issues or challenges that might arise from excluding planned abstractions from the New Authorisations transitional arrangements? And what do you think are the main benefits?



There were 42 responses to this question.

- Thirteen (13) responses identified both issues / challenges and benefits;
- Twenty seven (27) identified only issues / challenges; and
- Two (2) identified only benefits.

As with the previous question, the main issue that respondents across all sectors made was that many had invested and anticipated future expansion. They felt that the policy could remove the justification for current and planned investment and make it difficult for them to meet their business commitments.

Issues and challenges

Respondents also suggested that:

- Abstractors may make applications for more water than needed to circumvent the uncertainty about future increased abstraction;

- Abstractors should be considered differently depending on whether they were or were not definitely expecting to increase abstraction. Increases should be considered as an amendment to the licence for the existing abstraction.

Sector specific issues and challenges were:

- Many horticultural businesses needed to increase production simply to retain their market position. If unable to expand production, they could fail to meet retailer expectations and risk losing their market position;
- The farming sector suggested that existing licensed abstractors had “buffer volumes” on their licences, which disadvantaged exempt abstractors as they would not have this;
- A significant number of consented mineral developments could be curtailed leading to sterilisation of mineral reserves;
- Uncertainty compromising the quarry and mining sector’s policy requirement to provide a steady and adequate supply of minerals for the construction sector; and
- Delay in granting of licences for planned abstractions could have a negative impact on delivery of critical [road and rail] projects.

Some respondents recognised that while there were issues and challenges, the approach was justified because:

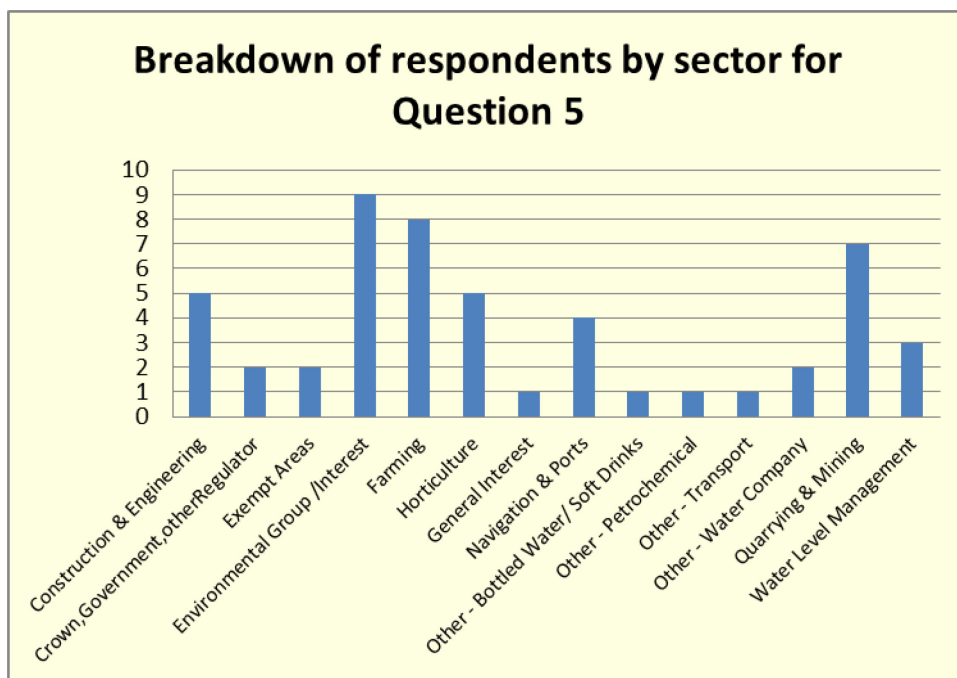
- Ending exemptions had been expected for some time and businesses should have prepared for it;
- There would not be a level playing field with current abstractors if planned abstractions were allowed; and
- There was a risk that abstractors may put further plans in place in the next two years which they would not otherwise have considered doing. Abstractors already in the current system would not have the same opportunity.

An environmental non-Governmental Organisation (eNGO) also suggested that including planned abstractions within the transitional arrangements would mean that the policy would no longer be environmentally neutral.

Benefits

The most mentioned benefit was that the proposal ensured a process that treated everyone fairly, including those existing licensed abstractors planning for growth. It was also felt that it provided greater flexibility for future water availability, stopped speculative applications and avoided the need for more restrictive conditions on existing abstractions.

Question 5: What other pieces of evidence do you think abstractors could use to meet the evidence requirements for applications?



There were 51 responses to this question and there was general support for the evidence suggested in the consultation.

However, it was proposed that the regulator should be flexible regarding evidence, depending on the sector and operational circumstances. Some farming sector respondents felt that a definitive list of evidence was not appropriate and that applicants should have the opportunity to assemble a range of supplementary evidence relevant to the circumstances surrounding the individual abstraction.

The following generic evidence suggestions were made:

- Meter readings
- Physical dimensions of the weir, pipe or structure
- Flow rates for abstraction equipment
- Pump ratings / test results / running hours
- Photographs (infrastructure, pumping equipment)
- Site logs/records
- Outputs from “QA” systems
- Estimated volumes (including methodology)
- Witness testimony/signed declarations
- Information regarding water discharges e.g. linked discharge consent
- Productivity information e.g. litres of water per tonnes of produce

- Energy consumption records from pumping stations illustrated through electricity bills
- Entry Level Stewardship / Higher Level Stewardship⁴ agreements which include details regarding required periods of irrigation
- Business / Investment plans.

Some sectors also suggested sector-specific evidence such as:

- Crop plans including area/density; evidence of crop yield / water requirement for crop in relation to yield; difference in production between irrigated and non-irrigated crops; and evidence of efficiency and productivity of the operation - e.g. irrigation / growing methods [farming and horticulture sectors]
- Planning Permission documentation; Mineral Planning Permission documentation; and Environmental Impact Assessments [construction & engineering; and quarrying & mining sectors]
- Water Level Management Plans; and Site management records [water level management]
- Supporting historic abstraction data, where available, to determine the yield and sustainability of the source; Water Resources Management Plans; Drought Plans [Water Companies]
- Water Company bills (if are also connected to mains) to demonstrate water use is less than an average household / livestock / dairy farm etc. If not on mains, a letter from Water Company confirming that they are not on mains and have not been for 4 years or more [Exempt areas]

Additional points

Respondents also suggested that the regulator should:

- produce guidance on evidence requirements if abstraction volumes were not measurable / available; and if they were measurable, how to provide volumetric estimates;
- consider strategic needs and an operation's economic contribution, not just the environmental consequences;
- ensure evidence is genuine.

⁴ Natural England Environmental Stewardship is an agri-environment scheme that provides funding to farmers and other land managers in England to deliver effective environmental management on their land. It includes options relating to management of water.

Questions 6 - 10: Use of basic universal Hands off Flows (HoFs)

Questions 6 – 10 sought views on the use of basic universal Hands off Flows (HoFs) on licences determined under New Authorisation applications. The questions asked for views on:

- **Question 6:** the principle of using universal HoFs on licences to protect the environment from damage caused by low river flows or drought;
- **Question 7:** using a universal HoF of Qn95⁵ in over-abstracted catchments;
- **Question 8:** using a universal HoF of 75% of Qn99⁶ in catchments that are not over abstracted;
- **Question 9:** the main issues, challenges or benefits that might arise from using universal HoFs;
- **Question 10:** any alternative approaches that could be used to ensure environmental protection.

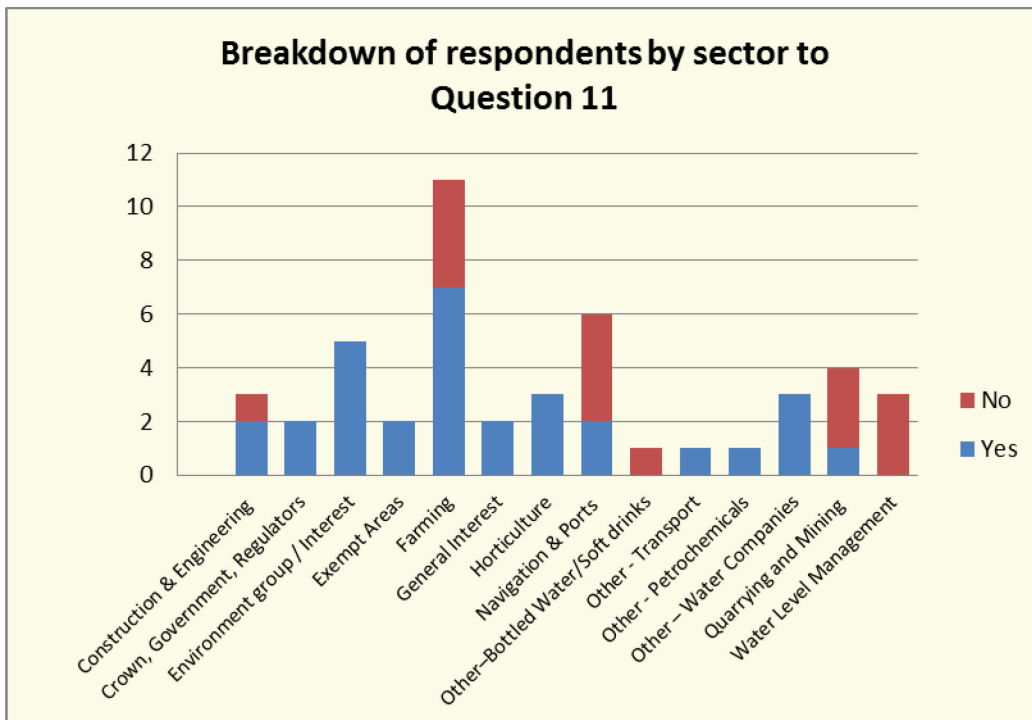
Many responses were repeated across each question and the full assessment of comments is provided at Annex C. In brief, key points made were as follows:

- Thirty two (32) respondents agreed with using universal HoFs, however those that disagreed (twenty one (21) respondents) suggested HoFs needed to be catchment or sector specific, not universal;
- Almost equal support for and against a Qn95 HoF in over abstracted catchments [twenty two (22) agreed, twenty one (21) disagreed];
- Disagreement with using a 75% of Qn99 HoF in catchments that are not over abstracted [fifteen (15) agreed, twenty seven (27) disagreed];
- The main issues or challenges were that HoFs might impose unnecessarily stringent flow restrictions with uncertain consequences for businesses. The main benefit was that of a consistent catchment-wide approach for abstraction;
- Alternative approaches included: variable HoFs; advance warning to abstractors of water availability changes; existing approaches the abstractors used incorporating local knowledge, experience and sector specific approaches.

⁵ A “Qn95” Hands off flow condition can restrain abstraction where river flow is at or below the flow that is exceeded 95% of the time. In an average flow year this would occur approximately 18 days (5% of the time).

⁶ A 75% of Qn99 Hands off Flow condition would only restrict abstraction during very dry / drought periods.

Question 11: Do you agree with the proposal to include volumes on transfer licences under New Authorisations?



There were 47 responses to this question. The majority (31) supported the proposal fully or with a qualified response.

Most support came from farming, horticulture, construction and engineering, and environmental groups. Some sought clarification about the “light touch” approach that would be used, and suggested that volumes be set in such a way so as to enable the abstraction to continue as currently.

Those who disagreed did so primarily because the nature of their abstractions presented a fundamental difficulty in the measurement of them.

Agreement with the proposal

Many respondents felt that volumes were necessary to enable the overall monitoring and control of the abstraction system. Those who qualified their responses suggested that:

- The initial licensed volume could be refined once the system had been in operation for a set period of time: make ending exemptions fairer by providing more flexibility during implementation;
- Local circumstances should be a key factor in the licensed volume;

Disagreement with the proposal

As well as a difficulty in measuring abstractions, respondents disagreeing with the proposal also suggested that:

- Monitoring should be carried out on the basis of need, dependent on the catchment, and not be restricted by volume;
- There would be an additional cost and burden to access pumps and submit volume data;
- Volumes could destabilise existing effective abstraction arrangements already in place; and
- Volumes should not be set at historic abstraction levels.

The point was also made that water transfers were considered as having low environmental risk and were made for a range of purposes including environmental benefit, navigation and to supply a third party abstraction licensed by the regulator. It was felt that the regulator was therefore aware of the amount of water being abstracted for third party abstractors.

Other issues

IDBs and some environmental groups were concerned about the cost of transfer licences and a potentially damaging impact on their activities.

In addition, concerns were raised around using a four year historic period to assess licensed volumes.

Questions 12 – 14: Funding any compensation that may result from the policy

Questions 12 – 14 sought views on using the Environmental Improvement Unit Charge (EIUC) to fund any compensation that may result from implementation of the policy or other ways that compensation might be funded. The questions asked for views on:

- **Question 12:** views on the intention of the Government and regulator to use EIUC funds already collected and potentially not required for the completion of the Restoring Sustainable Abstraction programme, to fund any compensation;
- **Question 13:** the regulator raising and using additional funds through the EIUC from non-water company charge payers to pay any compensation identified;
- **Question 14:** any other suggested alternative way to fund any compensation.

Many responses were mirrored across questions 12 and 13 and the full assessment of comments for all questions is provided at Annex D. In brief, key points made were as follows:

- Twenty nine (29) respondents agreed to using EIUC already collected to fund compensation and eleven (11) disagreed – [Question 12](#)
- Those in agreement tended to be currently exempt abstractors but also included environmental interest groups who supported collecting additional EIUC if required above that already collected.
- Respondents from the farming sector strongly opposed using surplus EIUC funds to fund compensation given that it had been collected for another purpose and they believed that unused EIUC collected would be returned to abstractors who had paid it.
- Twenty six (26) respondents agreed with the approach to collect additional funds through EIUC to fund compensation, eighteen (18) disagreed – [Question 13](#)
- Those that disagreed [eighteen (18)] suggested that the proposal was unfair on existing licensed abstractors.
- Alternatives suggested included a one-off fee in addition to the application fee for exempt abstractors or for Government to fund it – [Question 14](#)

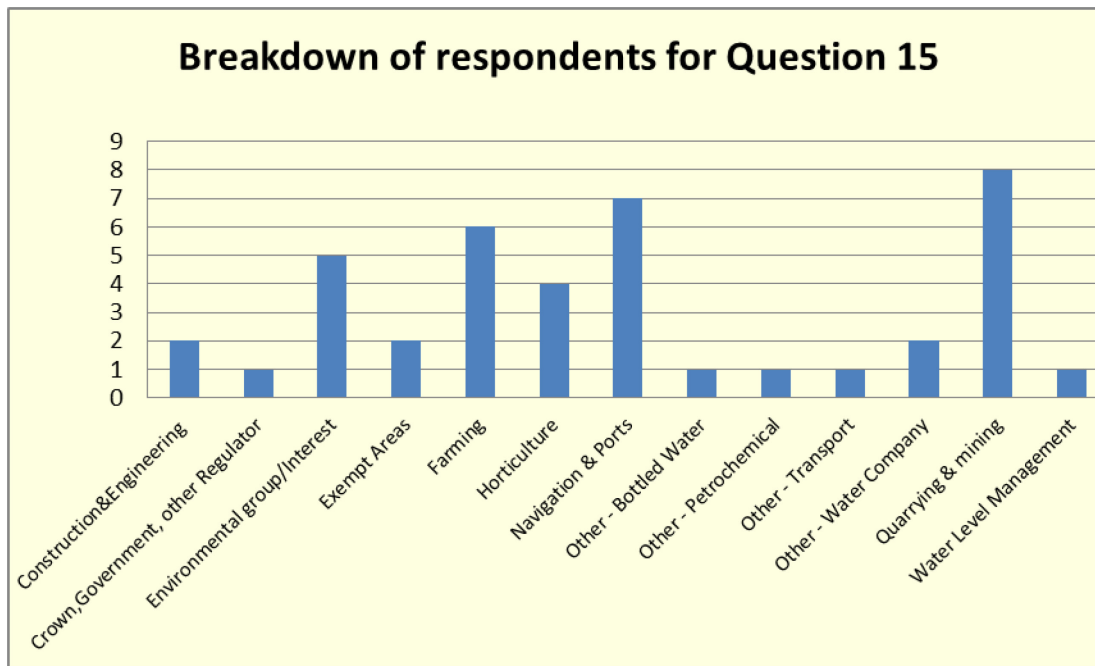
Wales specific points:

Further consideration needed of:

- How compensation is funded and to establish whether any acceptable alternative compensation funding options (to the EIUC) can be identified

- Knock on effects of compensation funding via the EIUC and the increased regulatory effort due to the increased number of licensed abstractors on the annual charges of abstractors (including water undertakers who are not entitled to compensation).

Question 15: Having read the Government Response to the 2009 consultation on implementing the abstraction elements of the Water Act 2003 in Part I and taking account of the revised proposals in Part II, do you have any other comments about the overall policy approach to New Authorisations?



There were 41 responses providing a range of other comments on the policy approach.

Common themes from across all sectors were:

- Suggested alternatives to using a four year period of past abstraction for licences, including taking account of the variability of weather patterns over time;
- Concerns about the impact of the transitional licensing arrangements on plans for growth and requests for including headroom on licences;
- Concern about a “one-size-fits-all” approach not being sufficient given the variability across and within sectors;
- Policy flexibility needed to deal with any unintended policy consequences; and
- Calls for the continuation of some exemptions, such as emergency abstractions for navigation & ports, and dewatering for quarrying & mining.

While the Chartered Institution of Water and Environmental Management (CIWEM) had some concerns about the policy approach they supported ending exemptions explaining:

“CIWEM believes that abstraction permissions must be controlled to avoid the risk of damage to the environment, and that suitably precautionary measures should be taken to ensure so.”

Other general comments made and not included in other question summaries were:

- Concern from the horticulture sector that those who had used water efficiently during the four year period would be disadvantaged over those who had not (in terms of volumes licensed);
- Different quarry dewatering arrangements leading to complexities in the licensing process;
- Policy approach needing to take account of the ongoing Red Tape Review of the Mineral Extraction sector;
- Inconsistencies in approach between 2009 and 2016 consultations;
- Canal and River Trust suggested that applications should reflect “reasonable future need”. They were concerned that many abstractors could be in breach of licence conditions immediately on receiving their licence if their abstractions had changed, legitimately over the total five year application and determinations period.

Other comments

- *Serious Damage*

In addition to setting out that abstractions would only be significantly curtailed or refused where there was a risk of serious damage to the environment, the consultation also sought to clarify how serious damage is assessed, further to our 2012 consultation on serious damage⁷. Although we received a number of comments in relation to serious damage, none specifically addressed the point made in the consultation about the regulator applying the “precautionary principle” in its risk assessments for serious damage to prevent adverse effects on sites subject to European designations. However, there were requests for guidance on “serious damage” to clarify how it would be determined including the evidence that would be used. Both the National Farmers’ Union and CIWEM suggested that the legal process needed to be clear and transparent. They suggested that there should be recourse to the Secretary of State in all cases to determine that abstraction changes were necessary to protect the environment from serious damage (without compensation), in stated accordance with section 27⁸ of the Water Act 2003.

- *Exceptional Cases*

The National Farmers’ Union sought clarification on how ‘exceptional cases’ would be identified and assessed, such as where the regulator was unable to grant licences

⁷ 2012 Consultation on Serious Damage - <https://www.gov.uk/government/consultations/the-water-act-2003-withdrawal-of-compensation-on-the-grounds-of-serious-damage>

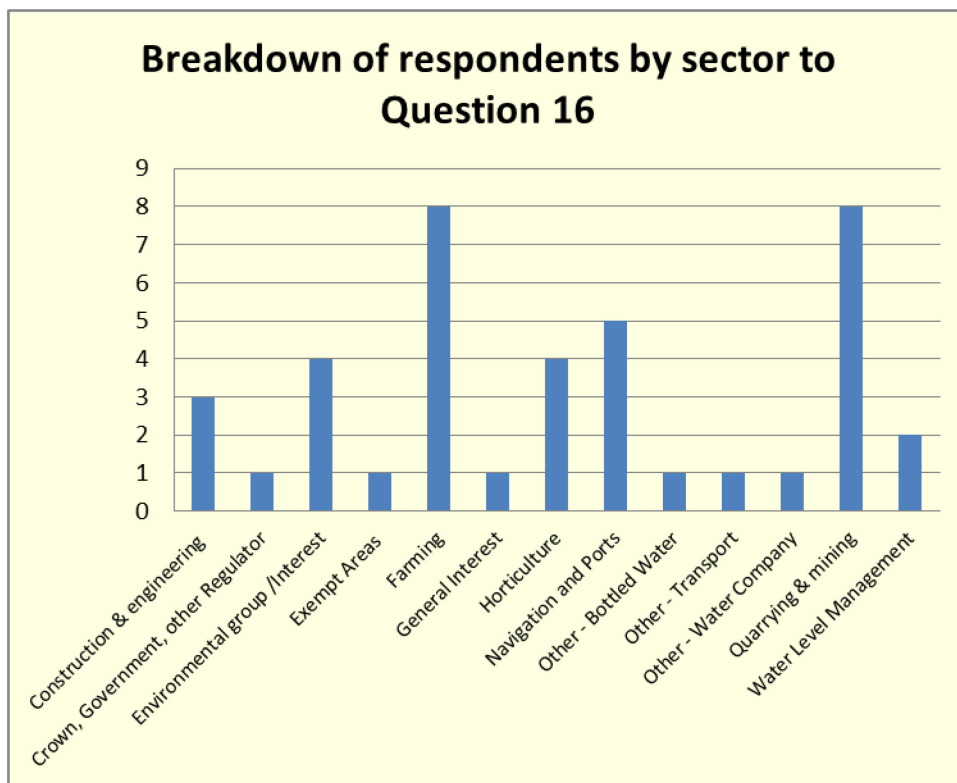
⁸ Section 27 Water Act 2003 – Withdrawal of compensation for certain revocations and variations of abstraction licences

because of unacceptable impacts on protected sites for reasons other than serious damage. They suggested that in all such cases payment of compensation should be made and all applicants informed of the process for claiming.

- *Abstraction Reform*

Clarification was sought on the timings for New Authorisations and Abstraction Reform. It was felt that the two were likely to overlap and that with different approaches to some issues, such as time limited licences, there may be impacts on businesses.

Question 16: Do you have any suggestions as to how we could implement the requirement for licensing control in a way that further reduces the burdens for abstractors, whilst achieving effective regulation?



There were 40 responses to this question. Suggestions for reducing burdens for abstractors were both technical and administrative in nature.

Technical

Technical options included:

- Following the Scottish abstraction model under the Controlled Activities Regulations (CAR) - a tiered approach where low risk activities were exempt provided general binding rules applied, there was registration for medium risk, and simple and complex licences for high risk activities.
- Grouping multiple points of “abstraction” from the same source by the same organisation within a single licence where there was no risk of serious damage arising from one or more of the grouped points.
- Reduction in / removal of fiscal and regulatory barriers to reservoir construction to encourage the use of more reservoirs.
- Government to consider how to best support increased use of rainwater harvesting by farmers and growers.

- Monitoring and reporting standards should be fit for purpose and not over engineered, with information / data readily collectable, and not at a disproportionate cost.

Administrative

Administrative options included:

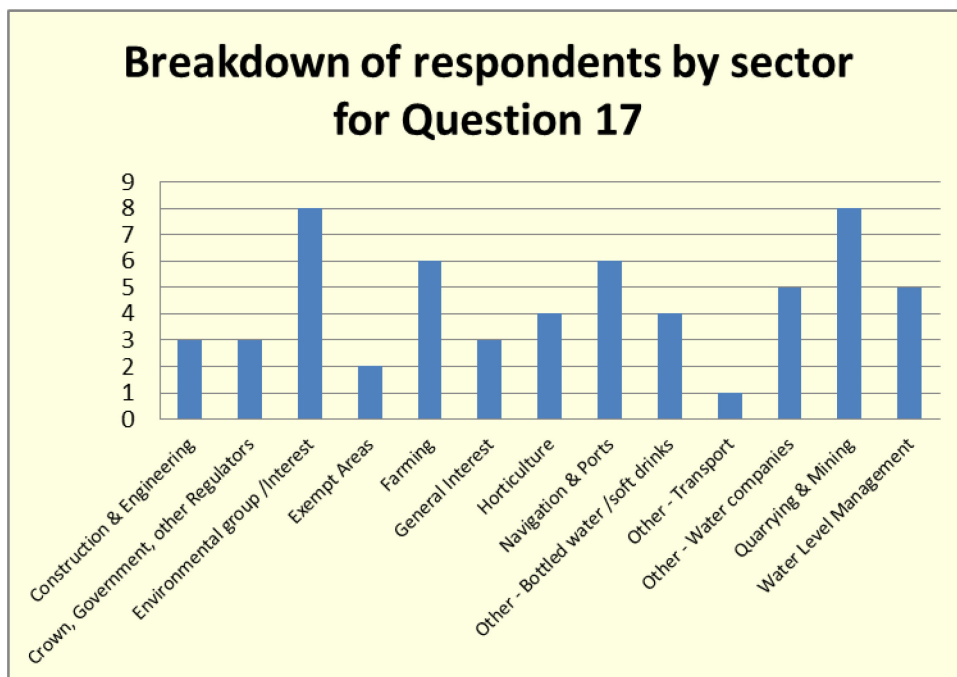
- Specific regulator guidance on the final policy approach;
- Special financial provisions for public bodies to ease financial impact;
- Allowing abstractors to include on their applications a request for additional water for planned future use, above the amount abstracted historically;
- Requests for continuing dialogue with Government and regulators to ensure a better understanding of the consultation outcome; and
- As a first step, registering all currently-exempt activities to allow a greater understanding and monitoring of abstraction activities within a catchment to enable more detailed, sector-specific considerations to be made.

Other issues

A number of other issues were raised in connection with this question:

- Whether a light touch approach would be taken in practice;
- Many areas of England and Wales having sufficient water and no reason to introduce restrictions on abstractions in these areas;
- Make abstraction / dewatering requirements a component of planning permissions where significant dewatering during construction is anticipated; and
- Suggesting engagement with water companies in terms of investment infrastructure to supply businesses that are otherwise dependent on private water supply. [Welsh respondent]

Question 17: If there is anything else you would like to add to your response please include it here.



There were 58 responses to this question.

Twenty (20) respondents, responding via email or letter, who did not answer the individual consultation questions made general comments only. Their responses have been considered within this question, although any points relating to a specific consultation question have been reported under the respective question summary.

There were some common issues across sectors (listed below). Some respondents made sector specific points which are set out in Annex E.

The key issues raised, and not reported in earlier questions, included possible impacts on:

- Investors – concern that proposals and uncertainty about whether licences would be granted could create investor uncertainty;
- Existing licensed abstractors - of bringing additional volumes into the licensing system, particularly in over abstracted areas; and
- Business operations – various impacts such as on passengers / freight customers if an infrastructure operator was unable to get a licence and therefore carry out scheduled maintenance.

It was also felt important for regulators to stress that currently exempt abstractions would remain lawful until regulators determined applications.

Concerns were raised about the practical process of applying for licences given that some abstractors would be applying for them for the first time and with limited resources. As a result the Canal and River Trust felt that decisions on the validity of applications should be an element of the transitional regulations, not an administrative decision by the regulator.

Some respondents felt that the proposals: would be overly bureaucratic and expensive; had not been properly environmentally assessed; were not justifiable in the terms of River Basin Management Planning; and did not provide a “minimum burden” proportionate to the issue.

Comments were also made about the nature of the consultation and further on-going information, guidance and communication was sought from Governments and regulators as part of the process.

Respondents also made comments about Abstraction Reform including: the rationale for ending exemption proposals being presented separately from reform proposals; a possible further impact of reform on licensed volumes and the uncertainty this could create for food producers and investment; and further consideration being needed on the impact on spray irrigators of removing Section 57⁹ under reform.

⁹ Section 57 allows the Regulator to temporarily vary licences for spray irrigation when there is an exceptional shortage of rain

Next steps

We are currently investigating further a number of points raised through the consultation process, including:

- Transfer licences and volumes
- Universal application of Hands off Flows
- Suggestions for additional exemptions
- Updating the impact assessment
- Suggestions for reducing any unnecessary burdens of the proposed policy
- Guidance - including on the application process

After consideration of these and other points raised in consultation responses, UK Government, the Welsh Government, the Environment Agency and Natural Resources Wales will agree our final approach.

We currently expect to publish our response to the consultation and provide details of our final approach by early 2017.

Annex A: Organisations that responded

Agriculture & Horticulture Development Board	Envireau Water
Anglian Water Services Limited	Essex Waterways Ltd
Angling Trust	Exeter City Council (as Port Authority)
Associated British Ports	Frimstone Ltd
Association of Drainage Authorities	GallifordTry
BAM Nuttaal Ltd	Harnham Water Meadows Trust
Banks Group	Highland Spring Group
Blueprint for Water	Horticultural Trades Association
British Aggregates Association	IMERYS Minerals Limited (IML)
British Ceramic Confederation	Inland Waterways Association
British Soft Drinks Association (BSDA)	Institution of Civil Engineers Wales Cymru
British Tomato Growers' Association	ISG PLC
Canal and River Trust	Lee Valley Growers Association
CBI Minerals Group	Middle Level Commissioners
CEMEX	Mineral Products Association
CLA	MJCA
Cucumber Growers	National Farmers' Union
Downham Market Group of Internal Drainage Boards	Natural Hydration Council
Dwr Cymru Welsh Water	Network Rail
East Suffolk Water Abstractors Group	National Farmers' Union Cymru
North Level District Internal Drainage Board	The Company of Proprietors of the Stroudwater Navigation
North Northumberland Agricultural Abstraction Group	The Ely Group of Internal Drainage Boards

Office of Rail and Road	The Wildlife Trust
Ofwat	Volac International Ltd
Parrett IDB, Axe Brue IDB (in Somerset)	Wellend & Deepings IDB
Place UK	Wessex Water
Port of London Authority	West Sussex Growers' Association
Radnor Hills Mineral Water	West Sussex Growers Association & Farming and Rural Issues Group South East
Rail Infrastructure Environmental Forum (RIEF)	Wilkin & Sons Ltd
Royal Parks	Willmott Dixon
RSPB	WWF-UK
SABIC	
Salmon & Trout Conservation UK	
Sandfields Farms Ltd	
Severn Trent Water	
Sibelco UK Ltd	
Somerset Drainage Boards Consortium	
South West Rivers Association	
South West Water	
Southern Water Services	
Tarmac	
The Coal Authority	

Annex B: Detail of responses for Question 1 (period applicable for temporary construction exemption)

The tables below illustrate the breakdown of responses to Question 1.

Breakdown of all respondents to Question 1 by sector (Total 41)

	Four weeks	Three months	Six months	Longer than six months
Construction & Engineering	0	0	3	3
Crown, Government, other Regulators	0	0	0	2
Exempt Areas	0	1	0	0
Farming	1	1	5	1
Horticulture	0	2	2	0
General Interest	0	1	0	0
Navigation & Ports	0	0	0	4
Other – Petrochemical	0	0	0	1
Other – Transport	0	0	1	0
Other – Water Company	1	2	0	1
Quarrying & Mining	0	1	2	2
Water Level Management	0	0	1	3
Total	2	8	14	17

Breakdown of respondents to Question 1 for England only by sector (Total 27)

	Four weeks	Three months	Six months	Longer than six months
Farming	1	1	5	1
Horticulture	0	2	2	0
Navigation & Ports	0	0	0	3
Other – Petrochemical	0	0	0	1
Other – Water Company	1	2	0	1
Quarrying & Mining	0	1	2	1
Water Level Management	0	0	0	3
Total	2	6	9	10

Breakdown of respondents to Question 1 for Wales only by sector (Total 2)

	Four weeks	Three months	Six months	Longer than six months
Construction & Engineering	0	0	0	1
Exempt Areas	0	1	0	0
Total	0	1	0	1

Annex C: Detail of responses for Questions 6-10 (Application of universal Hands off Flows)

Question 6: Do you think putting basic universal Hands off Flows (HoFs) on New Authorisations licences to protect the environment from the damage caused by low river flows or drought is an effective control to protect the environment?

	Yes	No	Comment only
Construction & Engineering	3	0	1
Crown, Government, other Regulator	1	0	0
Environment group / Interest	5	1	2
Exempt Areas	2	0	0
Farming	5	4	4
General Interest	1	1	1
Horticulture	6	1	0
Navigation & Ports	1	6	0
Other – Bottled Water / Soft Drinks	0	1	0
Other – Petrochemicals	0	1	0
Other – Transport	1	0	0
Other – Water Company	2	0	2
Quarrying & Mining	3	4	0
Water Level Management	2	2	2
Total	32	21	12

There were 65 responses to this question. Thirty two (32) responded 'yes', twenty one (21) responded 'no', and twelve (12) responded with comments only.

A majority of respondents agreed that universal Hands off Flows (HoFs) licence conditions were an effective way to protect the environment, with strong agreement from environmental sector. There was generally less support across other sectors although no uniform view across any sector.

Agreement with the proposal

Those agreeing with the proposal explained that:

- HoFs were generally seen as a good tool to help manage water resources.

- HoFs were considered a better control compared to the restrictions on spray irrigation that could be imposed by Section 57¹⁰ of the Water Resources Act 1991.
- In addition, environmental non-governmental organisations thought that HoFs should be applied more widely to current licences and Qn95 should be the minimum standard to protect the environment. Where local circumstances indicated it was not adequate, HoFs controlling abstraction above Qn95 should be used.

Disagreement with the proposal

Of the respondents opposed to HoFs, many considered they presented a “precautionary” approach and were too blunt an instrument, especially where they did not reflect the actual water availability situation.

It was suggested that the regulator should consider conditions on catchment or local basis based on local evidence, with some suggesting that HoFs should take account of sectors’ needs. Respondents also felt that HoFs should not be applied to groundwater abstractions.

Some sectors also raised the following points:

- HoF conditions could cause damage to the environment within a canal, drainage district or another water body reliant on the abstracted water from the river;
- Irrigators felt that HoF restrictions were most likely to apply when their need for water was the greatest and that the policy must have regard to the nature of trickle irrigation, particularly protected or container grown crops which needed a continuous supply of water to maintain their crops and the required quality;

¹⁰ Section 57 allows the Regulator to temporarily vary licences for spray irrigation when there is an exceptional shortage of rain

Question 7: Do you think a universal HoF of Qn95 on New Authorisations licences is the right level for licences in over-abstracted catchments?

	Yes	No	Comments
Construction & Engineering	2	0	0
Crown, Government or other Regulator	1	0	0
Environment group / Interest	3	2	2
Exempt Areas	0	2	0
Farming	4	7	0
General Interest	1	0	1
Horticulture	4	0	0
Navigation & Ports	0	5	0
Other – Bottled Water / Soft Drinks	1	0	0
Other – Petrochemicals	0	1	0
Other – Transport	1	0	0
Other – Water Company	3	1	0
Quarrying & Mining	1	1	2
Water Level Management	1	2	1
Total	22	21	6

There were 49 responses to this question. Twenty two (22) respondents agreed, twenty one (21) disagreed and six (6) made general comments only.

There was almost equal support for and against the proposal of a Qn95 HoF in over-abstracted catchments. Responses echoed many of the responses to Question 6.

Environmental non-governmental organisations (such as RSPB) felt that Qn95 should be regarded as the minimum protection (see Question 6). Where robust and statistically sound local evidence indicated that the universal HoF was insufficient to protect the environment at a location, a process was needed to allow for review and amendment of the universal HoF for that site.

Other issues

One respondent sought more information about how the 'Qn' data was derived whether an average over:

- a dry period (season);
- a year;
- more than one year; or
- over a longer record.

They also asked whether the 'Qn' value would be revised as more data became available, or whether it would be a fixed value.

Question 8: Do you think a universal HoF of 75% of Qn99 on New Authorisations licences is the right level in catchments that are not over abstracted?

	Yes	No	Comments
Construction & Engineering	2	0	0
Environment group / Interest	0	7	0
Exempt Areas	0	2	0
Farming	4	7	0
General Interest	1	0	0
Horticulture	4	0	0
Navigation & Ports	0	4	0
Other – Bottled Water / Soft Drinks	0	1	0
Other – Petrochemicals	0	1	0
Other – Transport	1	0	0
Other – Water Company	2	2	0
Quarrying & Mining	0	1	2
Water Level Management	1	2	1
Total	15	27	3

There were 46 responses to this question. Fifteen (15) respondents agreed, twenty seven (27) disagreed and three (3) made general comments only. Many comments mirrored those made in the previous question.

Environmental non-governmental organisations disagreed with the HoF proposed because they felt that it did not provide enough protection for the environment.

Some abstractors did welcome the proposal for a less restrictive HoF. However, some also felt that HoFs should not apply universally; that there was little or no benefit of the HoF if the catchment was sustainable; and that HoFs may add unnecessary cost.

Question 9: What do you think are the main issues or challenges that might arise from using basic universal HoFs? What do you think are the main benefits?

	Issues / Challenges & Benefits	Issues / Challenges only	Benefits only
Construction & Engineering	0	2	0
Crown, Government or other Regulator	1	0	0
Environment group / Interest	4	4	0
Exempt Areas	1	0	0
Farming	6	3	1
General Interest	1	0	0
Horticulture	1	1	0
Navigation & Ports	5	0	0
Other – Bottled Water / Soft Drinks	1	0	0
Other – Petrochemicals	1	0	0
Other – Transport	0	1	0
Other – Water Company	1	4	0
Quarrying & Mining	3	7	0
Water Level Management	2	1	0
Total	27	23	1

There were 49 responses to this question. Twenty seven (27) respondents answered identified issues / challenges and benefits; twenty three (23) identified only issues / challenges; and 1 identified only benefits.

Issues / Challenges

The main issues / challenges identified were:

- Universal HoFs might impose flow restrictions that were either unnecessarily stringent or unduly un-protective relative to a specific location; or that introduced new business risks and uncertainty or more serious business impacts where mitigation was not possible;
- Difficulty implementing the HoF controls depending on how the water was used. The HoF could also affect the availability of abstraction for water trading;
- HoFs needed to be understood, evidence based and site specific.
- Regulator guidance on the application of HoFs was also sought so that abstractors understood the risk of them being applied, their implications and were able to make appropriate business arrangements to mitigate the risk;

- HoFs could create a negative impact on water bodies reliant on abstracted water, such as canals and harbours.
- Qn95 will change in the future as climate changes
- There was a concern that navigation authorities would bear the costs of ensuring that the HoF in the donor river was met. It was felt that any need to install new gauging stations should be the responsibility of the appropriate agency (the Environment Agency or Natural Resources Wales) and costs should not fall upon the navigation authority.
- Similarly, any costs associated with flow naturalisation studies in order to determine naturalised flow values to be used in setting any HoF should fall on the regulator rather than the abstractor.

Benefits

Benefits suggested were:

- HoFs allowed necessary abstraction, while still maintaining necessary control of abstraction to avoid environmental damage and maintain a minimum flow.
- HoFs provided a consistent approach for all abstraction in a catchment and were simple to administer.
- Using basic universal HoFs would mean a level playing field for all permit holders in the reformed abstraction management regime.
- Some environmental non-governmental organisations felt that the HoF levels proposed were only of benefit to the abstractor.

Other issues

An environmental non-Governmental Organisation explained that as the science linking environmental response to flow / level change and to abstraction was complex and evolving, it was important that additional hydrological, water quality and ecological data be collected before, during and after low flow events to improve understanding of impacts of abstraction and the success or otherwise of control measures.

Such data would also be of value in any discussions around local alternatives to a universal Qn95. They suggested that the data should be included in a drought monitoring plan which set out the what, where, how and by who with regards monitoring.

Question 10: Do you think there is an alternative approach that should be used to ensure environmental protection?

Sector	No. of responses
Construction & Engineering	2
Crown, Government or other Regulator	2
Environment group / Interest	7
Exempt Areas	2
Farming	11
General Interest	1
Horticulture	4
Navigation & Ports	5
Other – Bottled Water / Soft Drinks	1
Other – Petrochemicals	1
Other – Transport	1
Other – Water Company	3
Quarrying & Mining	8
Water Level Management	3
Total	51

There were 51 responses to this question. Thirty four (34) respondents suggested possible alternative approaches to ensure environmental protection.

In general it was felt that a universal HoF approach would not work in all circumstances. The suggestion was that HoF conditions should suit local circumstances and react to the requirements at local level in real time and making use of co-operation between abstractors.

Many sectors felt that specific social and economic considerations should also be factored into decisions.

Alternative approaches

A range of alternative approaches were suggested:

- CIWEM suggests that abstraction constraints should be determined by regard to the interests and case of all users, both existing and new. If further reductions to abstractions were needed because a catchment was over-abstracted, then these should be delivered by making adjustments to all abstractions, and not solely to an abstraction which is the subject of a new authorisation.
- If a HoF is to be applied the figure used should be consistent across the board in all catchments for fairness, whether the HoF should be the widely accepted low flow figure of Qn95 or the lower 75% of Qn99.

- A response from the Quarrying and Mining sector suggested that decisions on HoFs should factor in economic damage and no HoF should be applied where dewatered water is returned to groundwater or an adjacent water course. The sector also suggested using the actual data on site by site basis in line with the Environmental Impact Assessment.
- Internal Drainage Boards suggested Water Level Management Plans provide a proven alternative approach. The plans incorporate local knowledge and experience, and are supported by partnership working and co-operation.
- Some trickle irrigators felt they should be given priority and have recognition given to the special characteristics of the protected and nursery stock sectors (the main users of drip irrigation). These sectors are specifically exempted from the Section 57 restrictions. Another suggestion by the sector was that abstractors should be allowed to justify the volume needed to grow the crop during HoF periods.

Suggestions on the use of HoFs included:

- Variable HoFs to allow some abstraction below the HoF thresholds;
- Providing some means of advance warning to surface water abstractors as the water availability changes - perhaps the adoption of a "traffic light" system warning that a HoF threshold is approaching which will enable growers to plan ahead.
- Possibly introducing an element of market preference e.g. more restrictive HoFs for lower abstraction fees.
- Seasonality was a useful factor to set licence conditions sensitively and flexibly [water companies].

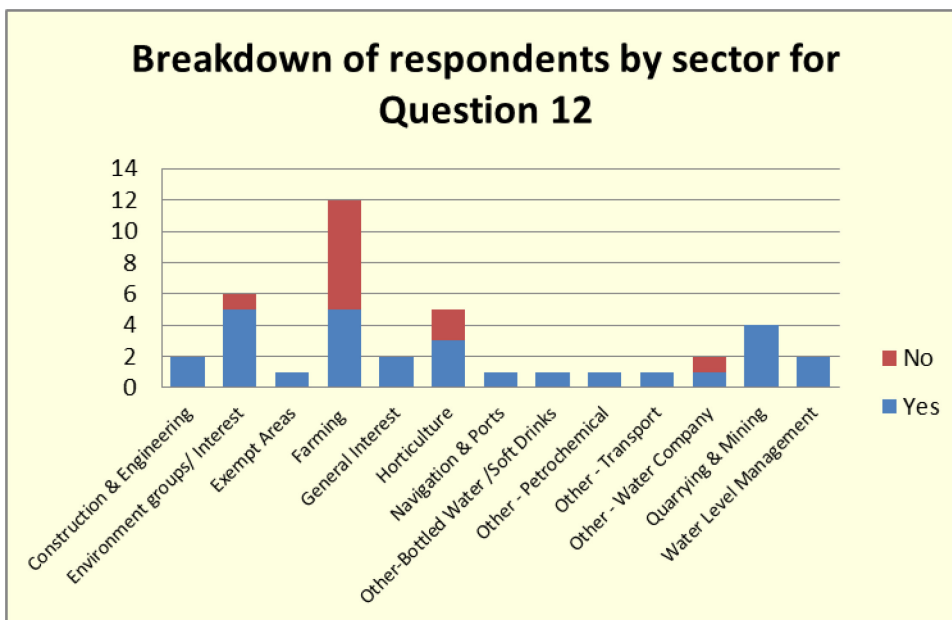
Other issues

Some questioned the fairness in applying such controls when they would not be similarly applied to existing licensed abstractions until the proposed reform of the licensing system. They suggested applying HoFs to abstractors who have only recently been active.

It was felt important to provide information to abstractors on the implication and use of HoFs.

Annex D: Detail of responses for Questions 12-14 (Funding any compensation)

Question 12: Do you agree with the intention of Government and the Regulator to use EIUC funds already collected, that are potentially no longer required for the completion of the Restoring Sustainable Abstraction programme, to fund any compensation that may result from the implementation of New Authorisations?



There were 40 responses to this question.

A majority of respondents (29) supported the proposal, either fully or with a qualified response, to use EIUC already collected to fund compensation associated with ending exemptions. These respondents tended to be currently exempt abstractors but also included environmental interest groups who supported collecting additional EIUC if required above that already collected.

Views across the farming and horticulture sectors were mixed. Existing licence holders tended to disagree, while currently exempt abstractors agreed with the proposal.

Agreement with the proposal

Reasons for supporting the proposal were made as follows:

- Using EIUC funds was a logical extension to abstraction of the Polluter Pays Principle;
- Logical to use spare EIUC funds; and
- The funds had already been collected.

Some examples of qualified support included:

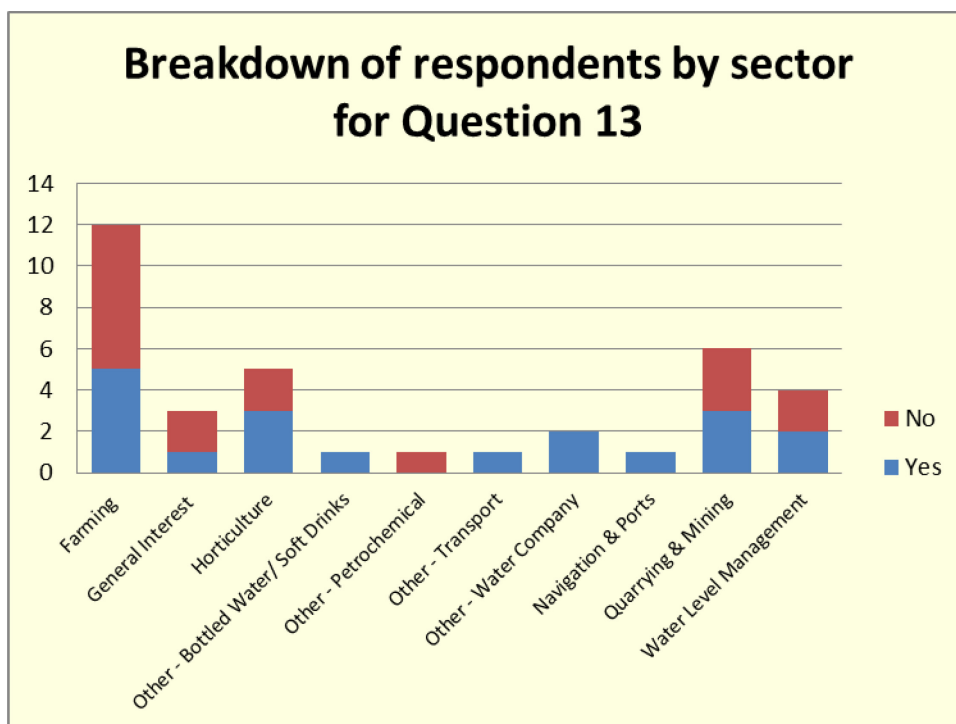
- A rigorous assessment of the needs of the Restoring Sustainable Abstraction programme should be undertaken before using the funds collected;
- Clear processes for any compensation funding should be developed to ensure transparency and fairness; and
- Wider provisions for compensation should also be made.

Disagreement with the proposal

The NFU was strongly opposed to using surplus EIUC funds to pay for New Authorisations. They explained that the funds had been paid through charges on existing licence holders to compensate other existing licence holders. This view was also supported by the horticulture sector (including West Sussex Growers Association & Farming and Rural Issues Group South East) and other respondents such as Anglian Water Services and CIWEM.

It was also suggested that it would set an unacceptable precedent to use the EIUC, collected for a specific purpose over a period of several years, for a different purpose.

Question 13: The Government expects the Regulator to raise and use funds collected through the EIUC from non-water company charge payers to pay any compensation identified under New Authorisations. Taking into consideration that there is unlikely to be additional Government money available, do you agree with this approach?



There were 44 responses to this question.

A majority of respondents (twenty six (26) agreed with the approach to collect additional funds through EIUC to fund compensation.

Agreement with the approach

There was little new comment made about why respondents agreed with the proposal. Many respondents referred back to the comments they made for question 12.

It was felt that it was only fair if the purpose [compensation for New Authorisations] was clear when the charge was collected. The point was also made that existing licensed abstractors could be concerned with the proposal.

Disagreement with the approach

Those disagreeing with the proposal made a range of comments including:

- It was seen as unfair to existing licensed abstractors, although some did agree with using the EIUC already collected to fund compensation;
- Concern that compensation levels would be significant and the proposal would lead to unsustainable rises in costs / fees for all abstractors;
- As compensation was needed as a result of legislative change, it was reasonable for compensation to be funded centrally by Government;
- Currently exempt abstractors had not contributed to the fund and it was inequitable for them to benefit from it.

Other issues

It was also felt that there would be a considerable shortfall in the scale of funds already collected in regions, and the scale of potential compensation needed for New Authorisations in those regions.

Question 14: Can you suggest any alternative ways to fund compensation?

There were seventeen (17) responses to this question. Twelve (12) respondents provided suggestions for alternative ways to fund compensation, with five (5) saying that they could not suggest any alternatives.

Alternatives suggested to using EIUC were:

- The EU or Central Government should fund the compensation
- There should be a one-off fee in addition to the application fee for exempt abstractors
- Third party beneficiaries (e.g. riparian/fishery owners and NGO's such as Rivers Trusts) may be able to provide top up funding where EIUC was insufficient
- Amend policy so that there were no changes to volumes except in cases where there was proven, significant environmental damage and compensation would not be required. Position could be reviewed when implementing abstraction reform and a dedicated EIUC on all New Authorisation licences could be levied.

It was suggested that there be further consideration on funding compensation in Wales following changes to NRW's 2016 – 2017 charging schemes.

Annex E: Detail of responses for Question 17 (Anything else respondents would like to add to responses)

Some respondents made specific comments about the proposals in relation to their sectors.

Farming and Horticulture

- **Incentives for increased water storage capacity** – sought more government encouragement for farmers, growers, land owners and water companies to increase water storage capacity and build more reservoirs, by means of grants, relaxing planning regulations and other incentives.
- **Importance of food production** – there was an essential need of water for increased food production to offset potential disruption of food imports from other countries
- **Limited impact of farming / horticulture on resources** – the sectors only accounted for 2% of total water abstracted, which was minor in comparison to public water supply and energy supply uses.

Construction and Engineering, Quarrying and Mining

- **Cutting Red Tape** - the current regulatory process for planning applications, in which regulators were statutory consultees, should be sufficient for authorising abstraction.
- **Transfer licence duration** - should be long duration such as 24 years or the anticipated life of the quarry (if shorter).

Navigation and Ports

- **River navigations** – were not included in the definition of “water systems”, possibly meaning that abstraction licences might be needed in some circumstances to move water between the river and canal sections of a single navigation managed system.

Transport

- **Conflicting Regulator Priorities** – possibility that the Office of Rail and Road network licensing requirements for dewatering operations for essential maintenance conflict with licensing requirements of environmental regulators.
- **Licence application numbers** - additional financial impacts across all projects nationally and locations of pumps could mean a year long process to assess licensing applications required.