



Charging for permits for flood risk activities from financial year 2016 to 2017

January 2016

We are the Environment Agency. We protect and improve the environment and make it a better place for people and wildlife.

We operate at the place where environmental change has its greatest impact on people's lives. We reduce the risks to people and properties from flooding; make sure there is enough water for people and wildlife; protect and improve air, land and water quality and apply the environmental standards within which industry can operate.

Acting to reduce climate change and helping people and wildlife adapt to its consequences are at the heart of all that we do.

We cannot do this alone. We work closely with a wide range of partners including government, business, local authorities, other agencies, civil society groups and the communities we serve.

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Foreword

The Environment Agency carries out a wide range of regulatory services, including those that cover flood and coastal erosion risk management, water quality and abstraction, waste, pollution and navigation. We are expected by government to recover the costs of these regulatory services from those we regulate, rather than funding them through government grant.

In 2008 the Environmental Permitting Regulations were introduced to provide a single, common, risk-based framework for permitting and compliance. The Water Act 2014 provided new powers to expand the Regulations to cover other aspects of water regulation; including flood defence consenting. From April 2016 regulation of flood risk and land drainage activities, as defined in the Water Resources Act 1991 will come under the Environmental Permitting Regulations.

The charge for a flood defence consent, £50, has remained unchanged since 1991. It does not recover the full cost of providing this regulatory service in 2015, nor has it done so for many years. As well as being against government expectations, this is not sustainable and risks compromising our ability to carry out our regulatory duties. We need to rectify this and so plan to introduce revised charges in the next financial year.

We are of course aware of the impact our charges have on those we regulate. We strive to keep the costs of providing these services to a minimum, whilst maintaining the quality of the service, for example through timely issuing of permits. We avoid or minimise increasing charges by being as efficient as possible. As a result we are not proposing, within the first year of operation under Environmental Permitting Regulations, to recover through charging the full costs of providing the permitting service. Instead we plan to charge a flat fee representing the minimum issuing such a permit will cost us. We will then look again at our charges so we can be sure they properly reflect the full costs of providing these services once we have experience of implementing the new regime.

This document sets out our proposals for charging for the regulation of these activities in the financial year 2016 to 2017. Beyond this we will consult again.

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1. Introduction

1.1. Changes to flood risk activities regulation

A flood defence consent is currently required for:

- any works to erect or change or maintain a structure in, over or under a main river
- changes or repairs to a structure, on a main river, that helps control flooding
- other activities that affect flood risk in or near a main river or sea defence

Environmental Permitting Regulations came in to force in April 2008, and provide a single, common, risk-based framework for permitting and compliance. They currently cover pollution control, such as water discharges and waste management. The Water Act 2014 provided new powers to expand this to enable the Regulations to be used for other aspects of regulation in the water environment. We are reviewing how we permit flood risk activities so they can come under the Environmental Permitting Regulations. Subject to Parliamentary approval, key changes from April 2016 include:

- reducing or removing the amount of regulation for some activities that pose low flood or environmental risk, for example, small scale structures and maintenance on certain rivers
- introducing a streamlined approach to obtaining a permit, where the customer shows that they are working within 'standard rules' as set by the Environment Agency and where generic assessments of risks can be used
- creating 'bespoke' permits for complex activities, or those where individual assessment of risks is needed, as risks to the environment or flood risk may be higher

These changes will allow us to take a more risk-based approach to regulation, focussing the work we do to assess and grant permits, and helping permit holders comply with their permit conditions. We will spend less time assessing an application for a standard rule permit than for a bespoke permit because a generic risk assessment has already been carried out. We will also do less compliance checking work for lower risk permits than for more complex or higher risk ones.

1.2. Changes to charging

The cost of applying for a flood defence consent was set at £50 under the Water Resources Act 1991 and has remained at this level since then. Consents issued under local flood defence or land drainage byelaws are free of charge. You can download a copy of our existing charging schemes at <https://www.gov.uk/government/collections/environment-agency-charging-schemes>

This does not cover our costs of providing that regulatory service, or for the new streamlined regulatory service we will introduce next year. We are therefore reviewing how we charge for that regulatory service, within the wider context of future permitting and charging. This consultation sets out our proposals for charging for flood risk activities permits for the financial year 2016 to 2017.

We propose introducing revised charges for flood risk activity permits as part of our Environmental Permitting Charging Scheme under s41 of the Environment Act 1995.

We plan to take a staged approach to introducing charges for flood risk activity regulation:

- We will bring in flat charges for all applications for new flood risk activities and the compliance of all flood risk activity permits from April 2016 which reflect the cost of providing a regulatory service to determine a permit for the lowest risk permitted activities. The costs of additional work to regulate more complex or higher risk activities will continue to be funded by government grant - this will reduce, rather than remove, our reliance on government grant during the financial year 2016 to 2017.
- For the financial year 2017 to 2018 and beyond we will review this again with a view to moving towards full cost recovery for our regulatory service.

These changes will bring charging for flood risk activities more in line with government policy for achieving full cost recovery and with the majority of our other regulatory regimes.

The staged approach will allow us to gain experience of regulating flood risk activities under the Environmental Permitting Regulations before we form proposals for full cost recovery. We will provide further detail and consult on our charging proposals for the financial year 2017 to 2018 onwards during the next financial year.

2. Charging proposals

2.1. Calculating costs for charging

We calculate the costs we include in our charges in line with guidance from HM Treasury. These include the appropriate proportion of:

- staff costs, including salary, pension and national insurance, of those directly providing the application and compliance service set out below
- staff costs of those indirectly contributing to the service, including those providing policy and guidance and legal and technical support
- costs of accommodation, IT support systems, health, safety and wellbeing, financial services and other support costs

2.2. Charging for applications

Our staff carry out a number of activities in processing different permit applications. These will vary depending on whether it is an application for a standard rule or bespoke permit and on the level of complexity and risk of the activity being applied for. This work includes:

- Giving pre-application advice (we have not allowed for this in the proposed basic application charge; pre-application flood risk advice will be funded by government grant during the financial year 2016 to 2017)
- Receiving and logging applications onto our system, checking they are complete and that the payment for the charge is included
- Checking the application meets the requirements of the relevant permit or standard rule
- Checking the application against other known information held, such as hydrology, flood risk, designated environmental sites, as needed
- Carrying out environmental assessments where we are required by law to do so
- Consulting with internal colleagues and other government agencies, such as Natural England when needed
- Site visits and meetings with applicants or other interested parties when needed
- Public consultation where required (we have not allowed for this in the proposed basic application charge; public consultation will be funded by government grant during the financial year 2016 to 2017)
- Preparing permit documentation and conditions and issuing the permit

We have considered which of these need to be included in assessing applications for standard rules activities and calculated the cost of the work we will need to do to for one standard rule activity to be £170. For each subsequent standard rule activity on an application, we calculate the cost of the additional work we will need to do to be £40.

We therefore propose to introduce:

- an application charge of £170 for one activity (whether standard rule or bespoke)
- an additional charge of £40 for each subsequent activity on the same application (whether standard rule or bespoke)

These charges reflect the cost of providing a regulatory service to determine a permit for standard rule activities and the minimum service that every customer will receive. We propose to fund the costs of additional work for bespoke activity applications and applications to vary, transfer or surrender permits through government grant during the financial year 2016 to 2017 and we will not charge for it. This may change with subsequent revisions to our charging scheme, which we would consult on.

Q1 - Do you support our proposal to introduce new application charges, as set out above, for flood risk activities under the Environmental Permitting Regulations?

Q2 - Do you support our proposal to charge everyone the same flat charge for an application, based on the cost of the service we provide to determine permits for standard rule activities?

Q3 - If you do not support our application charge proposals, can you please tell us why?

Q4 - Please tell us if there is anything you would like us to take into account when developing application charging proposals in future?

2.3. Charging for compliance checking

Checking permit holders comply with the conditions of their permit is an important part of the regulatory service we provide during the life of the permit. We do not currently charge for compliance work that we do in relation to flood defence consents. The costs of this work are fully borne by government grant.

When flood risk activities move into environmental permitting, our staff will carry out a number of compliance activities. These may vary according to the level and complexity of the risk of the activity being permitted, but include:

- Desk based information checks
- Telephone calls to verify and confirm information
- Photographic analysis
- Site visits (site inspections may be needed for higher risk activities, but we have not included visits in the time we have allowed in the proposed basic compliance charge. Site visits will be funded by government grant during the financial year 2016 to 2017)

We have calculated the cost of providing a regulatory service to ensure compliance with the lowest risk permits, the minimum service every customer will receive, to be £70 for the financial year 2016 to 2017. We therefore propose to introduce:

- a compliance charge of £70 for all types of permits (for any number of standard rule or bespoke activities)

We will recover the costs of additional compliance work for higher risk permits through government grant during the financial year 2016 to 2017.

The compliance checks we carry out will take place at the time permitted activities are carried out, or afterwards. We will therefore invoice permit holders at the time we carry out compliance work for a one-off charge separate from the application charge. The amount charged will not depend on the timing of the work during the year. However it will be the charge in place in the year in which the compliance work is carried out. So if this charge has changed since the permit was issued then the new charge will be invoiced. These compliance charges are called 'subsistence charges' in the Environmental Permitting Charging Scheme.

In some cases, for example, where permit conditions are ongoing over a period of time, we may need to carry out compliance checking on multiple occasions. Where this is the case, we will charge for this in each year in which compliance work is carried out.

Worked examples of how our charges for application and compliance charges will work are set out in Annex 1.

Q5 - Do you support our proposal to introduce a new compliance charge as set out above for flood risk activities under the Environmental Permitting Regulations?

Q6 - Do you support our proposal to charge everyone the same flat charge for compliance, reflecting the cost of the level of regulatory service that we carry out for the lowest risk permits?

Q7 - If you do not support our compliance charging proposals, can you please tell us why?

Q8 - Please tell us if there is anything you would like us to take into account when developing compliance charging proposals in future?

Q9 - Please tell us if you have any further comments on our charging proposals for the financial year 2016 to 2017.

3. Responding to this consultation

We are running this consultation in accordance with the guidance set out in the government's consultation principles, which can be viewed at

<https://www.gov.uk/government/publications/consultation-principles-guidance>

3.1. How to respond

You can view this consultation document and the questions online at

https://consult.environment-agency.gov.uk/portal/ho/br/charging/flood_permits

We would welcome your comments through our online form, as this will help us record your comments more accurately.

To request hard copies of the consultation document and questions and the response form, please contact eacharges_consultations@environment-agency.gov.uk or telephone 03708 506506.

Please send your completed response form, by Sunday 14 February 2016, to:

eacharges_consultations@environment-agency.gov.uk or a hard copy to

Jeremy Risdon, Environment Agency, Horizon House, Deanery Road, Bristol BS1 5AH

3.2. How we will use your information

Throughout the consultation we will look to make all comments (excluding personal information) publicly available on the Environment Agency website. This includes comments received online, by email, post and by fax, unless you have specifically requested that we keep your response confidential. We will not publish names of individuals who respond, but we will publish the name of the organisation for those responses made on behalf of organisations.

If you respond online or provide us with an email address, we will acknowledge your response. After the consultation has closed we will publish a summary of the responses on our website. We will contact you to let you know when this is available. We will also notify you of any forthcoming consultations unless you tell us otherwise.

In accordance with the Freedom of Information Act 2000, we may be required to publish your response to this consultation, but will not include any personal information. If you have requested your response to be kept confidential, we may still be required to provide a summary of it.

If you have any queries about how this consultation has been carried out, please contact:

Emma Hammonds, Consultation Co-ordinator, Environment Agency, Horizon House,

Deanery Road, Bristol BS1 5AH

3.3. Next steps

Your response will inform our charging proposals for flood risk activity permitting from the financial year 2016 to 2017.

We will use your feedback to update our proposals during January and February 2016, with a view to agreeing the new charging regime for implementation alongside the new Environmental Permitting Regulations.

Annex 1 - worked charging examples

Example 1

Mrs Smith wishes to do reinforcement work with natural materials to prevent 15 metres of river bank eroding on her land. She applies for a standard rules permit for flood risk activities in May 2016 and submits her application charge payment of £170 with her application. The permit is granted.

Mrs Smith carries out the work over the next few weeks and notifies the Environment Agency when the work has been completed, as required by the permit conditions. The Environment Agency carries out compliance checks in July 2016 and Mrs Smith is invoiced for this work in August 2016. She pays the compliance charge of £70.

The total cost of Mrs Smith's permit application for a single standard rules activity and single compliance charge is therefore £240.

Example 2

The Acme Building Company is constructing a new bridge and access road to service their new factory development. The bridge will need to cross a 10 metre wide main river. Acme also wants to put in some reinforced river bank protection near the new bridge.

Acme applies for a bespoke permit for these two discrete flood risk activities in November 2016. It submits its basic application charge payment of £170, plus an additional charge of £40 for the subsequent activity. The application is granted, subject to the condition that Acme notifies the Environment Agency when each of the two phases of the work (bridge construction and reinforced bank protection) are carried out.

The construction work for the bridge is carried out in January and February 2017. In line with the permit condition, Acme notifies the Environment Agency of the completion of this first flood risk activity and the Environment Agency carries out compliance checks. Acme is invoiced for the basic compliance charge of £70 for this compliance work in March 2017.

Between March and May 2017, Acme completes the work to reinforce the river bank and, in line with the permit condition, notifies the Environment Agency. The Environment Agency carries out compliance checks. Because the work and the compliance checks have been carried out over the longer term and required a second compliance check in a new financial year, the Environment Agency invoices Acme for a further compliance charge in June 2017. The second compliance charge will be £70, unless revised charges have been brought in for the financial year 2017 to 2018.

The total cost of Acme's application for multiple bespoke activities and compliance charges in two financial years is therefore £350.

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