



# Charging for permits for flood risk activities: A summary of consultation responses

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Acting to reduce the impacts of a changing climate on people and wildlife is at the heart of everything we do.

We reduce the risks to people, properties and businesses from flooding and coastal erosion.

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We can't do this alone. We work with government, local councils, businesses, civil society groups and communities to make our environment a better place for people and wildlife.

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# Foreword

This document provides a summary of all responses submitted during the consultation on charging for permits for flood risk activities from financial year 2016 to 2017.

The Environment Agency's response and decision on new charges will be published as an updated document.

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## Introduction

Regulation of flood risk activities was incorporated into Environmental Permitting Regulations (EPR) on 6 April 2016 to replace flood defence consents. The Environment Agency consulted on proposals for charges for new flood risk activity permits.

### Purpose of this document

All responses received during the consultation have been fully reviewed and analysed by the Environment Agency. The purpose of this document is to describe how we carried out the consultation and to provide a summary of comments received in relation to each of the questions. This focuses on points raised by multiple respondents, rather than comments submitted by only one or two respondents.

This document does not contain the Environment Agency's response or decision on the implementation of charges. This is because we are still finalising the charges we will implement in relation to comments submitted during the consultation.

## Background

The consultation set out proposals for charging for flood risk activity permits for the financial year 2016 to 2017. We proposed the introduction of revised charges for flood risk activity permits as part of our Environmental Permitting Charging Scheme under section 41 of the Environment Act 1995.

The existing charge of £50 for flood defence consents was set in legislation in 1991 and has not changed since. This does not cover our costs and we currently subsidise the process with flood defence Grant in Aid. The proposal in the consultation was to introduce charges that cover the costs of the Environment Agency's basic level of regulatory work under EPR from 2016/17.

In the consultation we proposed to introduce the following charges:

- An application charge of £170 for one standard rule activity
- An additional charge of £40 for each subsequent activity on the same application
- A charge of £70 for a compliance check

EPR introduces some exclusions and exemptions from regulation for which there will be no charge. The above charges will apply for all other applications and compliance work during 2016/17. They will cover the cost of providing the regulatory service to determine a standard rule permit application and the compliance of permits for the lowest risk activities. This represents the minimum service every customer will receive.

These charges would improve cost recovery compared with the existing charge, bringing charging for flood risk activities more in line with HM Treasury guidance and the majority of our regulatory regimes.

The Environment Agency previously received about 5,000 Flood Defence Consent applications a year. In future, the Environment Agency expect to receive about 3,500 applications for permits for flood risk activities. Some of the low risk activities which would have generated Flood Defence Consent applications are now excluded or exempted under EPR from 6 April 2016.

## How we ran the consultation

We ran the consultation from 15 January to 14 February 2016. We consulted for 4 weeks because we were consulting on only one of our charging regimes and the proposals were simple and straightforward.

During this time we sought views on proposed changes to charges for permitting for flood risk activities, designed to better reflect the costs of providing this service.

We emailed over 500 external stakeholders to announce the launch of the consultation. We took papers to Regional Flood and Coastal Committees (RFCC) meetings in January to seek their views; we sent targeted communications to local authority, agricultural and water management contacts; and the Environment Agency's area teams promoted the consultation locally with partners and stakeholders.

We asked whether consultees supported our proposals for 2016/17 to:

- Introduce new charges for applications and compliance
- Introduce flat charges for all permit applications and for compliance

In total we received 104 responses to the consultation. The best represented sectors were environmental and other Non-Governmental Organisations (NGOs) and local government. Flood and coastal erosion risk management and land management partnerships were also represented, as were land and environment managers. Seven responses came from RFCCs. 26 respondents opted not to choose a sector from the list provided. These consultees included representatives from RFCCs, flood and land management partnerships and local government.

The following table summarises consultation responses by sector.

**Table 1: Number of responses from different sectors**

Sector	Number of responses
Business / Commerce	1
Consultant / Contractor	3
Environment / NGO	16
Farming / Land management	4
Local government	13
National government	1
Leisure / tourism	4
Transport / navigation	1
Utilities	4
Individual	22
No sector given	26
Other	9
<b>Total</b>	<b>104</b>

## Key findings from the consultation

The number of consultees responding in support or not for the application and compliance charge proposals and in support or not for the introduction of flat fees are shown in the table below:

**Table 2: Summary of responses to the 'yes or no' questions 1, 2, 5 and 6**

	Q1 Support application charge proposals?	Q2 Support flat charge for applications?	Q5 Support compliance charge proposal?	Q6 Support flat charge for compliance?
<b>Yes</b>	40	30	34	24
<b>No</b>	38	51	36	49
<b>Don't know or no answer</b>	26	23	34	31
<b>Total</b>	<b>104</b>	<b>104</b>	<b>104</b>	<b>104</b>

Overall, support and opposition of proposals for the application and compliance charges were quite evenly matched (questions 1 and 5 respectively). At least a quarter of respondents said they didn't know or gave no answer under both of these consultation questions. The difference in opinion was more clearly marked in responses to the questions about flat charges (questions 2 and 6), where about half of respondents were against the proposals.

Responses in support of the proposals recognised:

- The current £50 charge is outdated and in need of revision
- The benefits of such a regulatory regime are clear
- The need to better reflect costs in charges and move towards full cost recovery
- The regulatory service should be more effective and better resourced as a result of increasing charges

From a sector perspective, the largest representation was from the environmental and NGO sector (16 responses). Whilst around half of this group supported the proposals for the application charge, they did not support the compliance charge or flat charges. Local government was the second most represented sector (13 responses). The majority of respondents from this sector supported all the proposals.

Support also came from the utilities sector (4 responses), with respondents in favour of the application charge proposals but not the flat charges, and also from the national government and transport sectors.

Respondents from the following sectors did not support the proposals: farming and land management (4 responses), leisure and tourism (4 responses), consultants and contractors (3 responses) and business and commerce (1 response).

Those in the 'other' category included some Regional Flood and Coastal Committees (RFCCs) and other flood and land management partnerships. Whilst there was some support for the proposals from this group, the majority of respondents from RFCCs were opposed.

The most frequent comments from respondents in opposition to the proposals were:

- They thought flat charges might have an unfair impact on non-commercial organisations
- A suggestion that charges should be waived or reduced for certain groups including charities, not for profit organisations and those carrying out flood repair or works for wider environmental benefit
- A concern that charges may create a 'negative incentive' and deter people from carrying out environmentally beneficial or maintenance works

Other responses from fewer consultees included:

- They felt the timing of the consultation and new charging proposals was insensitive, occurring so soon after winter storms and severe flooding in some areas
- They thought the proportion of the proposed increase in charges was too high

## Summary of responses to each consultation question

In total the consultation included 9 questions. For questions 1, 2, 5 and 6 we sought 'yes or no' answers. A narrative response was encouraged for other questions. Not all respondents kept to the consultation response format, or answered all the questions.

- Questions 1, 2, 3, and 4 were in relation to application charge proposals
- Questions 5, 6, 7 and 8 were in relation to the compliance charge proposals
- Question 9 was an opportunity to provide further comments on the proposals

Responses to questions 1 and 3 were fairly balanced (with similar numbers in favour and not in favour) across the sectors, apart from local government who gave more support to the application and compliance charge proposals.

Respondents in the environment and NGO sector most strongly challenged the fairness of the flat charges (questions 2 and 6). This sector also provided the most responses suggesting that charges should be waived or that charges might act as a negative incentive.

All responses submitted during the consultation have been reviewed by the Environment Agency and comments relating to each of the questions are summarised under the headings below. Note that this summary does not include comments that were submitted by only 1 or 2 respondents.

### **Question 1: Do you support our proposal to introduce new application charges, for flood risk activities under the Environmental Permitting Regulations?**

There was no overall agreement amongst consultees regarding the proposal to introduce new application charges. Marginally more of the respondents who answered this question were supportive than against. A quarter of respondents said that they didn't know or gave no answer.

The sectors that responded with the most support were local government and utilities.

**Table 3: Summary of responses to consultation question 1**

Answer to question 1	Number of responses
Yes	40
No	38
Don't know or no answer	26
Total	104

### **Question 2: 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?**

Almost half of the respondents were against proposals to charge everyone the same flat fee. Just over a fifth of respondents said that they didn't know or gave no answer.

Respondents from the environment and NGO sector were most strongly opposed, whereas the majority of respondents from local government were in favour of this proposal.

**Table 4: Summary of responses to consultation question 2**

Answer to question 2	Number of responses
Yes	30
No	51
Don't know or no answer	23
Total	104

### **Question 3: If you do not support our application charge proposals, can you please tell us why?**

Many responses to question 3 recognised that the current statutory charge for flood defence consents is inadequate and out of date.

Some consultees said they thought higher charges would be off-putting to individuals and small agencies, potentially leading to an increase in those not applying for permission to carry out works.



This response was given by more than half of respondents from environment and NGOs and farming and land management sectors, and those who selected “other” or hadn't selected any sector.

A lot of respondents said they thought a flat rate charge (aimed at full cost recovery for the minimum effort required for any applicant in 2016 to 2017) was unsuitable and that minor and low risk works should not pay as much larger or higher risk works. A few of the respondents said the flat rate was acceptable for the first year of charges but expected to see a tiered system in future years.

A number of respondents voiced their concerns about charges for work required to correct flood damage or for flood protection. A few consultees mentioned that it was insensitive to increase charges following the recent floods caused by storms Desmond and Eva.

Some consultees responded by saying they felt the proposed increase in this charge was too big. Others said they thought that regulatory work should not be charged for or should be covered by general taxation.

Many of the responses suggested changes they thought would improve the proposals. These focused on reducing or waiving charges for particular groups or organisations such as charities, NGOs, Local Authorities and projects that worked in partnership with the Environment Agency. Some respondents said they thought environmental improvement works that contributed towards Water Framework Directive objectives should not incur charges. Suggestions for which type of applications should have their charges waived or reduced tended to vary between responses from the different sectors.

A few respondents asked for greater clarity regarding how the Environment Agency derives its charges and said they'd like to know more about ongoing efforts to minimise charges.

#### **Question 4: Please tell us if there is anything you would like us to take into account when developing application charging proposals in future?**

Many of the responses to this question had previously been covered in answers to question 3.

The main suggestion was that fees for certain groups, for example those working in partnership with the Environment Agency, NGOs, Local Authorities and charities should be reduced or have their charges waived.

Some consultees said they thought proposed charges may cause disparity between the Environment Agency's charges and those of Lead Local Flood Authorities (LLFAs), leading to inconsistency in regulatory activity on main rivers and ordinary water courses. A number of these respondents suggested the flood risk regulatory activities of Local Authorities should also be included in future charging proposals.

A few respondents indicated that a simpler and faster system for making applications would be expected if the charges were to be increased.

#### **Question 5: Do you support our proposal to introduce a new compliance charge for flood risk activities under the Environmental Permitting Regulations?**

There was no overall agreement amongst consultees regarding the proposal to introduce a compliance charge. A similar number of respondents answered in favour and against this proposal. Almost a third of respondents said they didn't know or gave no answer.

As with question 1, consultees from local government responded with the most support for this proposal. More than half of individuals who responded also said they were in favour. Responses from other sectors were reasonably balanced, except the farming and land management sector where all 4 respondents said they were against this proposal.



**Table 5: Summary of responses to consultation question 5**

Answer to question 5	Number of responses
Yes	34
No	36
Don't know or no answer	34
Total	104

**Question 6: 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?**

Almost half of respondents were against proposals to charge everyone the same flat charge for compliance. These responses were mainly from the environment and NGO, farming and land management, or leisure and tourism sectors.

Nearly a quarter of responses were in favour of this proposal (mostly from local government or individuals) whilst the rest of the respondents said they didn't know or gave no answer.

**Table 6: Summary of responses to consultation question 6**

Answer to question 6	Number of responses
Yes	24
No	49
Don't know or no answer	31
Total	104

**Question 7: If you do not support our compliance charging proposals, can you please tell us why?**

As with question 3, the main issue raised by consultees was in relation to proposals for introducing a flat rate for compliance charging (aimed at full cost recovery for the minimum effort required for any permit holder in 2016 to 2017). These consultees thought the flat charge was inappropriate and felt larger and higher risk works should be charged more than minor works.

Some respondents suggested the increased charge would be off-putting to individuals or small agencies and said this may deter habitat improvement and flood protection works or lead to an increase in non-reported activity.

A number of consultees made suggestions about how they felt the proposals could be improved. The most frequent comment was from respondents saying they thought that compliance fees should be reduced or waived for certain groups. Examples included those working with the Environment Agency, charities, non-governmental organisations (NGOs), local authorities and projects contributing towards WFD objectives.

As with question 1, a couple of respondents said they thought local authority flood risk activities should also have been included in the proposals for new charges (to avoid inconsistencies between charges for activities on main rivers and ordinary water courses).

Some consultees questioned the proposal to separate compliance charges from application fees. They said they'd prefer charges to be combined into a single consolidated payment. Other points mentioned by fewer consultees in response to this question were also discussed in more detail in the responses to question 3 (and to a lesser extent in responses to questions 4, 8 and 9). These included some suggestions that fees should be waived where work is required for flood protection

or to repair damage caused by recent storm events Desmond and Eva, challenges around the scale of cost increases, queries about whether the Environment Agency should charge for regulatory work, and comments that a one size fits all approach wouldn't suit local needs. Others questioned why any additional charge was necessary and asked if multiple compliance checks could be undertaken at the same time to reduce the costs.

### **Question 8: Please tell us if there is anything you would like us to take into account when developing compliance charging proposals in future?**

Respondents to this question focussed on the suggestion that charges should be reduced or waived for certain groups including those working with the Environment Agency, charities, NGOs, local authorities and works to repair flood damage or that contribute toward WFD objectives. Many of these respondents said they thought a flat charge was inappropriate because they felt larger and riskier works should pay more than smaller ones.

Some suggested that charges for commercial activities should be set at a higher level to allow lower charges for non-profit organisations undertaking environmental improvement works. A few of the respondents suggested that higher charges would be off-putting to individuals and small agencies, which could deter habitat improvement and flood protection works or lead to increases in non-reported activity.

Some respondents said that local authority flood risk activities should be included in proposals for new charges. They felt this was necessary to avoid inconsistency between charges for activities on main rivers and ordinary water courses.

Other comments from fewer consultees in response to this question (discussed in more detail in responses to questions 3 and 4, and to a lesser extent in questions 7 and 9) suggested the jump in cost was too big, that fees should be covered by general taxation rather than charging for regulatory work and that better costings should be provided to clarify the overall cost for individual circumstances. Some respondents also questioned why additional charges were required and others said they would like projects requiring multiple consents to be considered flexibly, or would prefer compliance and application charges to be combined.

### **Question 9: Please tell us if you have any further comments on our charging proposals for the financial year 2016 to 2017.**

Responses to question 9 frequently reflected the comments discussed under previous questions 1 to 8. A mixture of different opinions were given including some positive statements recognising that the current statutory charge of £50 is inadequate and out of date, or saying that the proposed charges appeared reasonable. However, the most frequent response to this question was a suggestion that higher charges would be off-putting to individuals or small agencies and could lead to an increase in non-reported activity.

A number of respondents repeated the suggestion that charges should be reduced or waived for certain groups including those working with the Environment Agency, charities, NGOs, local authorities as well as habitat improvement or flood protection works. Others repeated the view that flat charges were inappropriate as they felt larger works should pay more than smaller ones. Some consultees felt the timing was insensitive given the impacts of recent flooding events. A few of these respondents said they thought that charges shouldn't be applicable where work is required for flood protection or as a result of damage that occurred during the recent storm events Desmond and Eva.

Some respondents felt that flood risk activities regulated by local authorities and Inland Drainage Boards (IDBs) should also be included in the new charge proposals. A smaller number of respondents said they thought that clearer information on costing was required, that a simpler application system would be expected if charges were raised, that cost increases were too high, that regulatory work shouldn't incur charges or that they thought charges should be linked with payments for ecosystem services to take account of positive or negative effects on the environment or contributions toward WFD objectives.

# Next steps

The Environment Agency are finalising the charges we will implement in relation to the comments submitted during the consultation.

Once the charges to be implemented are finalised, we will publish our organisational response and the final outcome in an updated document addressing each of the key themes raised by consultees (as described in sections 3 and 4 above).

We will also use the feedback from this consultation, where applicable, to inform future charge proposals.

## Annexes

### Annex A: List of consultation questions

1. Do you support our proposal to introduce new application charges, for flood risk activities under the Environmental Permitting Regulations?
2. 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?
3. If you do not support our application charge proposals, can you please tell us why?
4. Please tell us if there is anything you would like us to take into account when developing application charging proposals in future?
5. Do you support our proposal to introduce a new compliance charge for flood risk activities under the Environmental Permitting Regulations?
6. 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?
7. If you do not support our compliance charging proposals, can you please tell us why?
8. Please tell us if there is anything you would like us to take into account when developing compliance charging proposals in future?
9. Please tell us if you have any further comments on our charging proposals for the financial year 2016 to 2017.

## Annex B: List of consultation participants

The following table names the organisations that took part in the consultation. (Individuals and anonymous respondees are not included in this table.)

**Table 7: Organisations that took part in the consultation**

<b>Organisation</b>
<b>AGMA</b>
<b>Aire Rivers Trust</b>
<b>Anglian (Central) Regional Flood and Coastal Committee (RFCC)</b>
<b>Anglian Northern Regional Flood and Coastal Committee (RFCC)</b>
<b>Anglian Water</b>
<b>Angling Trust</b>
<b>blueprintforwater</b>
<b>British Canoeing</b>
<b>Broads Authority</b>
<b>Broughton Parish Council</b>
<b>Charnwood</b>
<b>CLA</b>
<b>Coastal Group Network</b>
<b>Confor</b>
<b>Cornwall Wildlife Trust</b>
<b>Cumbria Commoners</b>
<b>Dedham Vale AONB &amp; Stour Valley Project</b>
<b>Devon CC</b>
<b>East Riding of Yorkshire Council</b>
<b>English Severn &amp; Wye RFCC</b>
<b>Essex CC</b>
<b>Fishing London</b>
<b>Hampshire CC</b>
<b>Herts &amp; Middlesex Wildlife Trust</b>
<b>Historic England</b>
<b>Hull City Council</b>
<b>Institute of Fisheries Management</b>
<b>LGA Coastal SIG</b>
<b>Lincolnshire CC</b>

<b>Organisation</b>
<b>Mannpower Hydro</b>
<b>Mitchells Land Agency</b>
<b>National Association of Local Councils</b>
<b>National Farmers Union</b>
<b>Natural England</b>
<b>North West Regional Flood and Coastal Committee</b>
<b>Northumberland CC</b>
<b>Northumbria Regional Flood and Coastal Committee</b>
<b>Nottswt</b>
<b>NRPG</b>
<b>River Gipping Trust</b>
<b>River Kennet</b>
<b>River Nene Regional Park CIC</b>
<b>SEPA</b>
<b>South West Flood Risk Managers Group</b>
<b>South West Water</b>
<b>Southern RFCC</b>
<b>Suffolk CC</b>
<b>Sutton and East Surrey Water</b>
<b>Thames21</b>
<b>The Clancy Group</b>
<b>The Wild Trout Trust</b>
<b>Torbay Council</b>
<b>Upper &amp; Bedford Ouse Catchment Partnership</b>
<b>Volker Highways</b>
<b>Warrington BC</b>
<b>Waterdock Consultancy</b>
<b>Westcountry Rivers Trust</b>

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