



Department
for Environment
Food & Rural Affairs

Consultation on proposed changes to marine licence application fees 2017

Summary of responses and government response

June 2018



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Introduction

We published a consultation on proposed changes to marine licensing application fees on the Gov.UK website on 21 December 2017.

The consultation was open for a 6 week period and closed on 2 February 2018.

Publication of this government response to responses received during the consultation on proposed changes to marine licensing application fees is later than the 12 week deadline set out in published guidance. The reason for this was that it took some time to consider the consultation responses in conjunction with the Marine Management Organisation and agree our response.

Consultation purpose

The purpose of this consultation was to seek views on proposed changes to fee rates and the fees structure for marine licence applications in the UK marine area where the Secretary of State is the appropriate licensing authority, as administered by the Marine Management Organisation (MMO).

The proposed changes consulted on included:

- the introduction of an online application process for Band 1 marine licence applications,
- the introduction of a fixed fee rate for Band 1 marine licence applications,
- a reduction in the number of sub-categories for Band 2 marine licence applications,
- the amendment of the maximum fee levels for each sub-category of Band 2 marine licence applications,
- an increase in the hourly fee rate charged for Band 2 and Band 3 marine licence applications,
- the proposed changes to the charging for travel,
- the proposed transitional arrangements.

These proposed changes seek to ensure that a greater proportion of the cost incurred in the determination of a marine licence application is met by applicants, whilst at the same time minimising the impact on business.

Background

The United Kingdom (UK) vision is for clean, healthy, safe, productive and biologically diverse oceans and seas. To help achieve this vision, the Marine and Coastal Access Act 2009 (MCAA) introduced the current marine licensing system, which came into effect in April 2011. This system aims to support the sustainable use of the marine environment so that any activities such as construction, deposits (e.g. of sediment), removals (e.g. of marine aggregates), and dredging can be permitted, whilst having regard to any environmental impacts and preventing interference with other legitimate uses of the sea.

Part 4 of the MCAA sets out the marine licensing regime for the UK marine area, other than the Scottish inshore region. Marine licences are granted by the appropriate licensing authority, as described in section 113 of the MCAA. An appropriate licensing authority has the power to set fees for marine licence applications by regulation.

The Secretary of State is the appropriate licensing authority for the English inshore and offshore regions, and the Northern Ireland offshore region. Most of the Secretary of State's functions as appropriate licensing authority have been delegated to the Marine Management Organisation (MMO) under section 98 of the MCAA. This delegation is set out in the Marine Licensing (Delegation of Functions) Order 2011.

The Scottish Ministers are the appropriate licensing authority in the Scottish offshore region, the Welsh Ministers are the appropriate licensing authority in the Welsh inshore and offshore regions, and the Northern Ireland Department of Agriculture, Environment and Rural Affairs is the appropriate licensing authority in the Northern Ireland inshore region; in each case subject to certain matters reserved to the Secretary of State. The Marine (Scotland) Act 2010 legislates for marine licensing in the Scottish inshore region.

The current fees regime for the determination of marine licence applications where the Secretary of State is the appropriate licensing authority (other than certain applications relating to petroleum or energy matters) is set out in the Marine Licensing (Application Fees) Regulations 2014 ("the Regulations"). These regulations are made by the Secretary of State under sections 67(2), (3) and 316(1)(b) of the MCAA.

Fees for marine licence transfer, monitoring and variation activities where the Secretary of State is the appropriate licensing authority (other than in relation to certain petroleum or energy licences) are set out in a separate Order - The Public Bodies (Marine Management Organisation) (Fees) Order 2014. These fees were not within scope of the proposed changes consulted on.

Overview of responses received

The consultation on proposed changes to marine licence application fees was open for responses from 21 December 2017 to 2 February 2018; a period of 6 weeks in total.

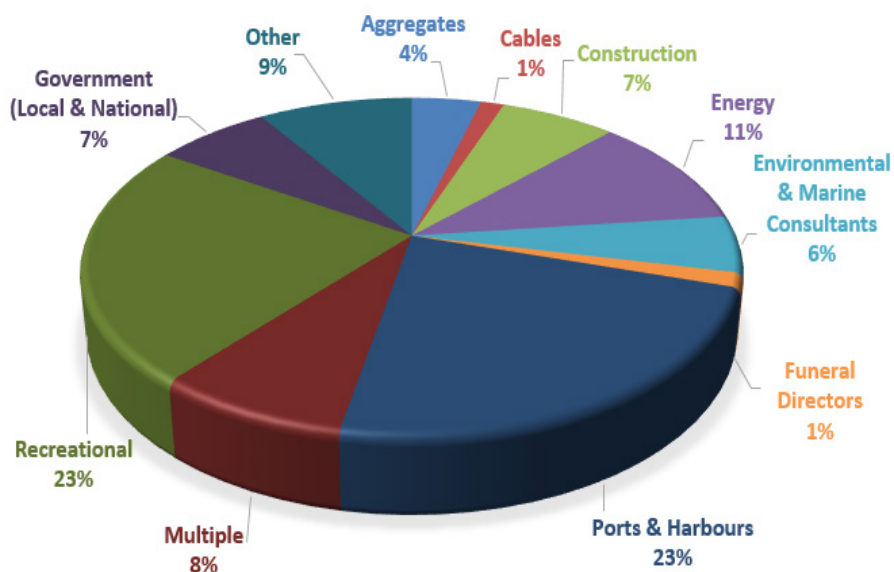
As set out in table 1 below, a total of 76 responses were received: 31 responses from industry, 14 from members of the public, 13 from the Harbour and Ports sector, 13 from divers and associated clubs and 5 responses from government organisations. These responses by proportion are also shown in table 1. Figure 2 below provides a breakdown of received responses by sectoral interest.

67 of the responses were received through the government’s Citizen Space portal, 9 were received by email. No responses were received by letter.

Table 1 Responses to consultation by type of organisation

Response by type of respondent	Number	Proportion as %
Industry	31	41
Public Representation	14	18
Harbour and Port Authorities	13	17
Divers and Associated Organisations	13	17
Government Organisations	5	7
Total	76	100

Figure 1 Responses to consultation by sectoral interest.



Response received to consultation questions

The following section provides a summary of the comments received from respondents in response to each of the questions asked in the consultation document.

Question A: Do you have any comments on the government's reasons for reviewing the fees structure and fee levels for marine licence applications?

A total of 67 responses were received to this question. Around a third of respondents responded positively about the stated reasons for reviewing the fee structure and fee rate for marine licences.

Respondents associated the need to review the fee structure and fee rate for marine licences with the need to consider delivery efficiency and cost savings. Some respondents questioned what efficiency savings had been realised by the Marine Management Organisation (MMO): before the introduction of the online Band 1 marine licence application process; since the introduction of the Band 1 online application process; and across Bands 2 and 3, before arriving at the proposed changes. Respondents also questioned what further efficiency savings were being sought, how delivery of these would be governed, and how any cost savings would be passed on to applicants.

Some respondents expressed concern about the lack of clearly set-out service standards for the operation of the marine licensing regime by the MMO. The point was made that if full cost recovery was the ambition for marine licensing and commercially equivalent fee rates charged, the service should be on par with commercial approaches – service standards needed to be to the same standard and transparent. The lack of transparency around additional costs incurred in the determination of a marine licence with regards to what other teams/input was involved was raised by some respondents as was the concern about the need for transparent governance/scrutiny of marine licensing charging.

Some respondents made the case that where there was a public benefit realised from activities there should be a reduced fee for a marine licence. The majority of these respondents (13) were from divers or associated organisations who are ultimately questioning the need for marine licenses. Similarly, a number of respondents stated that voluntary, not-for-profit or recreational organisations should not be charged for a marine licence or charged at a reduced rate. Some respondents commented that charitable organisations would be penalised under the new fee rate as they relied on donations to fund their work.

Concerns were also raised by some respondents that the increased fees would generate profit for the MMO or would be used to increase the MMO's resources.

Government response

The government welcomes and appreciates the public's understanding of the need to regularly review marine licensing application fees and the support expressed for the reasons for undertaking this review of the fees structure and fee rates for marine licensing applications.

The planned implementation date for the changes to marine licensing fees as set out in this document is 1 September 2018.

We agree that it is important that, in implementing the marine licensing regime, the MMO seeks to secure efficiency savings and that these savings should where possible contribute to keeping marine licence fees to a minimum level. Since September 2015 the MMO has undertaken a programme of continuous improvement focusing on both internal and external working. During 2016/17, the MMO introduced improvements across a number of licensing services, which provided greater flexibility to applicants and reduced applicant effort and time spent in making applications; reducing the cost of making an application for a marine licence. Other improvements introduced better online tools for managing licences and monitoring operational efficiencies at a regional level. Collectively the MMO has estimated that these improvements have saved businesses around half a million pounds a year.

Since January 2017, the MMO has implemented an internal programme to improve operational processes. This has resulted in new procedures and improved IT-based recording systems for staff-time to improve the accuracy of costings and updated guidance and refresher training for staff to support greater levels of transparency around customer estimates and billing. Other service improvements have led to the 13 week target for determining marine licence applications being achieved in March 2017; and maintained since.

Changes to the public register, which sets out which sets out the received marine licence applications and the decisions made, have also been undertaken to improve transparency and work is continuing on service improvements in the upcoming year with a greater focus on the monitoring and enforcement side of the process to improve services delivered. To help strengthen stakeholder confidence in the quality of the service delivered, the MMO is working with a group of previous applicants to review the applicant's journey as a customer of its services. This has included for all application band types the design, testing and launch of improvements to services. The MMO has also hosted workshops with other Regulators/ delivery partners in order to realise more efficient joint working.

The fee for a marine licence recovers the cost incurred by the MMO in determining that marine licence. The proposed revised fee rate has been set at a level sufficient to recover costs incurred in the determination of a marine licence but no more. This follows the principles as detailed in the government standards under Managing Public Money guidance.

Action points

- ACTION A1: In response to the issues raised the MMO, working with stakeholders, will take action to ensure that its service standards are clearly published on the MMO website and that delivery against these standards is monitored and performance reported.
- ACTION A2: The MMO will continue to work with stakeholders, other Regulators and delivery partners in identifying and implementing improvements to delivery of the marine licensing regime.
- ACTION A3: Implementation of the marine licencing regime will continue to be monitored by the MMO and any opportunity for passing on efficiency savings to applicants will be considered under the next review of the marine licensing application fees.

Question B: Do you have any views on the proposed changes to the fees structure for marine licence applications and the level of the fees for Band 1 applications?

In total, 60 direct responses were received to this question, there were also comments made on proposed changes to Band 1 within responses provided to other consultation questions.

Overall, the majority of respondents supported the introduction of an online application process for Band 1 marine licence applications. Respondents recognised that this simplified approach realised efficiencies in terms of the time spent in making and appraising an application and thereby reduced the cost to applicants and the MMO.

A question was raised about the purpose of having Band 1 marine licences at all if the process would just be a self-service system; the value the applicant was getting from the self-service was questioned.

A question was also raised about the basis upon which the proposed new £50 fixed fee rate for Band 1 marine licence applications had been calculated. A question was also raised about how cost savings would be passed on to applicants once the set-up costs for the online tool were accounted for.

Respondents also queried whether the scope of activities eligible under a Band 1 marine licence could be extended.

Government response

Band 1 applications will be made via an online portal for a fixed fee of £50 as set out in the consultation, from the implementation date.

Details of marine licences approved under the Band 1 online application process will continue to be published in the public register available on the MMO's website for any interested parties to view.

We consider that the activities which fall within the scope of Band 1 require a certain level of oversight and control in order to ensure that it does not have an adverse impact and that the marine environment is protected.

In developing the Band 1 online marine licence application process the MMO sought to balance the need for necessary checks with the provision of a simple and speedy application process; that is proportionate to the potential risk that the activity being undertaken poses to the marine environment. Applications remain subject to inspection and monitoring activity and ultimately enforcement if required and considered appropriate.

To identify the fee rate for the Band 1 online marine licence applications, MMO considered what activity would need to be undertaken in order to appraise and manage such applications. The MMO concluded that this work achievable against a £50 fee. This equates to approximately 30 minutes of case worker time and included an element to cover operational system maintenance and wider support costs.

Respondents' suggestion to extend the range of activities eligible for consideration under a Band 1 marine licence application is noted. The Regulations set out a specific range of minor activities for which a marine licence can be applied for under Band 1, as well as any 'activity of a similarly minor nature'. We will consider whether any other specific activities could be added to the list of Band 1 activities when the Regulations are next reviewed.

Action points:

ACTION B1: The MMO will continue to ensure that details of marine licences approved under the Band 1 online application process will be published in the public register available on the MMO's website for any interested parties to view.

ACTION B2: Defra will consider whether any other specific activities could be added to the list of Band 1 activities when the Regulations are next reviewed.

Question C: Do you have any views on the proposed changes to the fees structure for marine licence applications and the proposed level of fees for Band 2 and Band 3 applications?

A total of 61 responses were received to this question.

Proposed change to the fee rate for Band 2 and Band 3

Most respondents expressed concern or strongly objected to the proposed increase in the fee rate from £94 per hour to £122 per hour for both Band 2 and Band 3 marine licence applications. Many respondents also commented that the 30% increase in the fee rate would be well above the rate of inflation. Further concerns were raised about the lack of transparent evidence and justification provided on how the proposed new fee rate had been calculated.

Some respondents expressed concern about the quality and value-for-money of the service provided. The proposed new fee rate was compared to that paid for senior / director level staff and respondents felt that the service currently being provided by the MMO was not reflective of this.

Many of the respondents objected to the proposed implementation date of March 2018 for the proposed change to the hourly fee rate for Bands 2 and 3 and the lack of lead-in time to enable business planning.

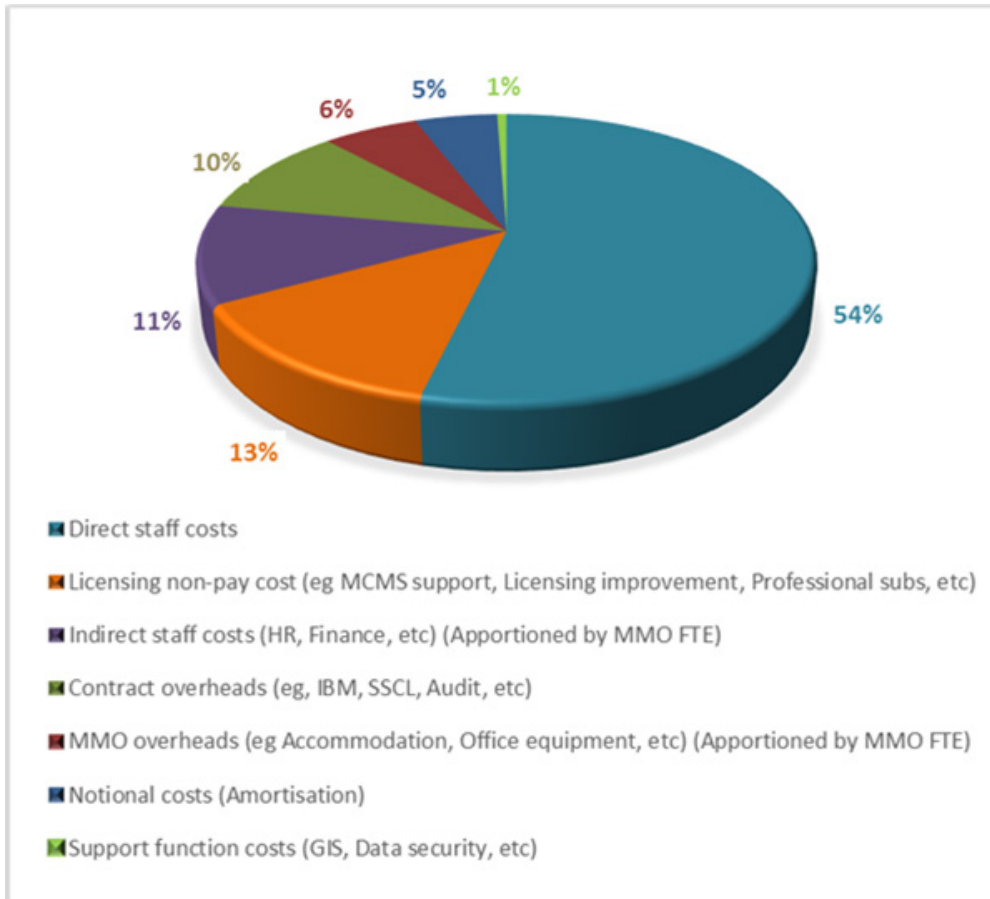
Some respondents suggested that the introduction of a cap for Band 3 applications would help address uncertainty about the extent to which costs could escalate and in order to assist in budget planning for licence applications.

Government response

The government will implement the new £122 per hour fee rate for Band 2 and Band 3 applications as set out in the consultation, from the implementation date.

The revised hourly fee rate has been calculated based on the direct, indirect, over-head and support costs incurred by the MMO in the determination of a licence application (a breakdown of these cost can be seen in figure 2 below. The revised hourly fee rate has been calculated from total costs incurred (based on historic figures) and hours (based on historic volumes) required to process all applications during the same period. This methodology is in line with government guidance and has been substantially assured by HM Treasury.

Figure 2 Breakdown of marine licencing costs incurred by the MMO.



Proposed change to Band 2 sub-categories

Most of those who responded to this question were in favour of the simplification of the number of sub-categories under Band 2 marine licences and the retention of a cap on the maximum fees chargeable for each Band 2 sub-category.

A small number of respondents raised questions about how the proposed new fee rate sat alongside the proposed Band 2 sub-category fee caps; as a multiple; and on the number of hours that could be accounted for under each cap based on the proposed new hourly fee rate. In particular there was uncertainty about whether the proposed level of Band 2 fee caps would be sufficient to enable cost recovery by the MMO. Some respondents questioned whether there would be disproportionate impact on applications at the lower end of Band 2a licences. Some respondents questioned whether large but simple, or repeat, applications should fall under the Band 3 marine licence category; whether such applications should benefit from falling under Band 2 instead by adjusting the upper threshold for this category.

Government response

The government will implement the simplification of Band 2 marine licence sub-categories and the revised caps on maximum fees chargeable under each sub-category as set out in the consultation, from the implementation date.

Proposed Changes to Recovery of Travel Expenses

A third of respondents objected to the proposed approach to recovery of travel expenses and the lack of a cap being placed on these expenses. Respondents expressed concern about the level and quality of the staff attending meetings; particularly when set against the proposed new fee rate. Similarly there was concern raised about the attendance of multiple MMO staff at meetings and the additional cost that this might generate. Respondents also expressed concern about paying for staff time whilst they were travelling to meetings, especially where this time was not being used to work on their application.

Government response

The government will implement the new travel fees as set out in the consultation, from the implementation date.

The MMO will ensure that communication with applicants will be via telephone or other electronic means where possible, helping to avoid additional costs to the applicant.

MMO staff will travel to attend meetings in person with the agreement of applicants and when any other form of communication has been declined or is not practicable. In these circumstances, the anticipated travel expenses will be discussed and agreed with the applicant prior to travel.

The MMO will take into consideration the views of consultees regarding the numbers of employees travelling and working practices, this will inform a refresh of internal guidance which will be made available to all employees.

The MMO will operate a transparent approach to charging for travel expenses which will be published in guidance ahead of implementation of the new charges.

Action points:

ACTION C1: The simplification of Band 2 marine licence sub-categories for Band 2 marine licences along with the proposed caps on maximum fees chargeable under each sub-category to be confirmed by Defra.

ACTION C2: The MMO will take into consideration the views of consultees regarding the managing of employees travelling and working practices and use this to review its published and internal guidance.

ACTION C3: The MMO will publish guidance setting out the agreed approach to charging for travel on the MMO website prior to implementation.

Question D: Do you have any comments on the proposed transitional arrangements for marine licence applications already received but not determined by the implementation date for the proposed changes?

In total, 57 responses were received to this consultation question. Most respondents supported the transitional arrangements proposed for Band 2 marine licence applications.

21 respondents raised objections to the lack of a transition period for Band 3 applications; respondents reported that this would be unacceptable to businesses with ongoing licence applications who would have already set budgets based on the estimate agreed with the MMO. The immediate implementation of proposed new fee rate was considered by many respondents as likely to have a detrimental impact on businesses.

It was suggested by some respondents that any change in fee rate should only apply to new Band 2 or Band 3 applications received after the implementation of the changes.

Government response

The following transitional arrangements will apply from the implementation date – 1 September 2018.

No transitional arrangements will be put in place for Band 1 marine licence applications under the new online system.

The new fixed fee rate of £50 per licence will apply from the implementation date. In relation to travel fees, the new fee rate of £122 per hour will apply from the implementation date.

Band 2 marine licence applications already received, but not determined, by the implementation date will be subject to transitional arrangements as set out in the consultation, from the implementation date.

Band 2 marine licence applications in progress will continue to be charged under the old fee regime from the implementation date until they are determined.

In the case of marine licence applications that fall under the existing 2E category, the cap on total costs payable will be based on the new arrangements as this is set at a lower level than under the existing scheme; to ensure that such applicants are not disadvantaged.

We acknowledge that the text provided in the consultation document could have been clearer. We have set out below examples of how transitional arrangements will apply in order to address any misunderstanding.

There will be no transitional arrangements put in place for Band 3 marine licence applicants.

The new fee rate of £122 per hour will be payable by applicants from the implementation date irrespective of when the application was submitted. There will be no transitional arrangements for travel fees for Band 3 marine licence applications. The new fee rate of £122 per hour will apply from the implementation date.

Transitional arrangements – Example 1:

Applicant A applied for a marine licence before the implementation date.

Total project costs were estimated to be £250,000. The application therefore fell into the old Band 2E sub-category with a maximum fee cap of £2,700.

The application was not yet determined at the implementation date, transitional arrangements will apply.

Under transitional arrangements, the fees for determination of this application will be based on the old fees regime: £94 per hour for the determination of a marine licence application and £94 per hour travel fees. The maximum fee cap under the new Band 2B sub-category will apply - £2,200.

Calculation:

The MMO spent 10 hours at £94 per hour on the application before the implementation date, which amounted to **£940**.

The MMO spent 20 hours at £94 per hour on the application after the implementation date, which amounted to **£1,880**.

There were no travel costs.

Total application costs: **£2,820**

Under the transitional arrangements, maximum fee cap under the new Band 2B sub-category will apply - £2,200.

The applicant would pay a maximum fee of £2,200.

Transitional Arrangements - Example 2:

Applicant B applied for a marine licence before the implementation date.

Total project costs were estimated to be £75,000. The application therefore fell into the old Band 2D sub-category with a maximum fee cap of £2,200.

The application was not yet determined at the implementation date, transitional arrangements will apply.

Under transitional arrangements, the fees for determination of this application will be based on the old fees regime: £94 per hour for the determination of a marine licence application and £94 per hour travel fees. The maximum fee cap under the old Band 2D sub-category will apply - £2,200.

Calculation:

The MMO spent 7 hours at £94 per hour on the application before the implementation date, which amounted to **£658**.

The MMO spent 12 hours at £94 per hour on the application after the implementation date, which amounted to **£1,128**.

Travel costs = 2 hours x £94 = **£188**.

Total application costs: **£ 1,974**

Under the transitional arrangements, maximum fee cap under the old Band 2D sub-category will apply - £2,200. The cap has not been reached.

The applicant would pay a maximum fee of £1,974.

Transitional Arrangements - Example 3:

Applicant C applied for a marine licence before the implementation date.

Total project costs were estimated to be £16,000. The application therefore fell into the old Band 2B sub-category with a maximum fee cap of £700.

The application was not yet determined at the implementation date, transitional arrangements will apply.

Under transitional arrangements, the fees for determination of this application will be based on the old fees regime: £94 per hour for the determination of a marine licence application and £94 per hour travel fees. The maximum fee cap under the old Band 2B sub-category will apply - £700.

Calculation:

The MMO spent 5 hours at £94 per hour on the application before the implementation date, which amounted to **£470**.

The MMO spent 3 hours at £94 per hour on the application after the implementation date, which amounted to **£282**.

There were no travel costs.

Total application costs: **£ 752**

Under the transitional arrangements, maximum fee cap under the old Band 2B sub-category will apply - £700.

The applicant would pay a maximum fee of £700.

Question E: We have asked you a number of specific questions throughout this document. If you have any other views on the subject of this consultation, which have not been addressed, you are welcome to provide us with these views in your response.

In total, 44 responses were received to this consultation question. For clarity, also reported in this section are wider comments made within the responses provided to other consultation questions, but which did not respond to the actual question being asked.

Respondents raised concerns about the perceived lack of transparency within the MMO billing process for marine licence applications and particularly how certain costs had been calculated. Some respondents also highlighted the lack of an appeals process against MMO billing.

Concern was raised by 2 respondents over the application of the new fee rates to pre-application advice charges as these are subject to VAT. Respondents assumed that the proposed new fee rate would apply which with VAT added would mean an increased hourly rate to £146.40 for pre-application advice.

Government response

The MMO provides an estimate of the anticipated cost of determining an application to each applicant. Applicants are provided with an opportunity to discuss the estimate and reach an agreement with the MMO on this prior to work proceeding. During the course of the application process spend versus estimate is monitored; the applicant is kept informed and advised if costs approach 90% of the original agreed estimate. In such circumstance applicants are invited by MMO to discuss and agree any additional costs. Detail of this process is published on the MMO's internet site and available to applicants at:

<https://www.gov.uk/government/publications/marine-licensing-fees>

Queries on invoices can be raised with the MMO's billing team in the first instance, whose contact information is included on the invoice. If no resolution is reached the applicant can raise a complaint the MMO Complaint Manager. Detail of how to raise a complaint is published by the MMO at: <https://www.gov.uk/government/organisations/marine-management-organisation/about/complaints-procedure#customer-complaints-process>

Invoices issued by the MMO include the number of hours worked at the appropriate hourly rate; the MMO are unable to provide further detail on the invoice as the format is per the agreement with the Defra third party provider and is part of a government wide contractual

arrangement. Marine licence applicants can request a full breakdown of their billing at any point during the process which will supplement their invoice as it shows detail of the case activity.

The MMO's arrangements for providing pre-application advice were not in scope of this consultation or the proposed changes to marine licence application fees.

Annex A: List of post-consultation actions

Action A1

In response to the issues raised the MMO, working with stakeholders, will take action to ensure that its service standards are clearly published on the MMO website and that delivery against these standards is monitored and performance reported.

Action A2

The MMO will continue to work with stakeholders, other Regulators and delivery partners in identifying and implementing improvements to delivery of the marine licensing regime.

Action A3

Implementation of the marine licencing regime will continue to be monitored by the MMO and any opportunity for passing on efficiency savings to applicants will be considered under the next review of the marine licensing application fees.

Action B1

The MMO will continue to ensure that details of marine licences approved under the Band 1 online application process will be published in the public register available on the MMO's website for any interested parties to view.

Action B2

Defra will consider whether any other specific activities could be added to the list of Band 1 activities when the Regulations are next reviewed.

Action C1

The simplification of Band 2 marine licence sub-categories for Band 2 marine licences along with the proposed caps on maximum fees chargeable under each sub-category to be confirmed by Defra.

Action C2

The MMO will take into consideration the views of consultees regarding the managing of employees travelling and working practices and use this to review its published and internal guidance.

Action C3

The MMO will publish guidance setting out the agreed approach to charging for travel on the MMO website prior to implementation.