



**Cyfoeth
Naturiol**
Cymru
**Natural
Resources**
Wales

Charging Proposals for 2018-19

- Consultation summary and NRW response.

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1. Introduction

To develop the Natural Resources Wales charging scheme for 2018-19 we consult with our stakeholders and take account of the responses before finalising our proposals.

We undertook a 12-week consultation which closed on 16 January 2018. Prior to the consultation we met with the Charge Payers Consultative Group¹ to discuss the proposals and refine them based on feedback from our major stakeholders and representative groups. We also worked with established stakeholders and emailed our customers and other interested parties directly to raise awareness of the proposals. For the duration of the public consultation period we placed the Consultation Documents on our website.

We received 11 responses in total and these along with feedback from stakeholder groups were used to develop our scheme. We value the input from stakeholders and have taken account of their views. We have summarised the key elements and our response in this paper to help explain our proposals.

2. Our Proposals

The detailed proposals as outlined within the consultation can be found in Annex 1. A summary of those changes is below:

1. Medium Combustion Plant Directive (MCPD)

We intend to recover the costs for permitting any plant within scope of the Medium Combustion Plant Directive which came into force 15 December 2015 and will apply to new plant from 20 December 2018 and existing plant from 2024 and 2029 depending on their size, fuel type, age and operating hours.

2. Hydropower – Introduction of an Upper Band

We intend to introduce a higher band for large hydropower schemes over 250kW to ensure full cost recovery. The larger schemes tend to be more complex and at a scale which requires greater technical input from NRW.

We intend to apply a base charge of £1500 and cost recover time and materials where this is exceeded.

¹ The Charge Payers Consultative Group consists of members of the various trade and representative organisations of our stakeholders.

Scheme Capacity (kW)	Proposed Application Fee (£)
25kW or less	375
>25 to 50kW	750
>50 to 100kW	1,125
>100 to 250kW	1,500
>250 kW	1,500 plus time based charge

3. New capital requirements – Standard Unit Charge (SUC).

We are proposing to maintain the SUC at the current rate for 2018/19. We will however continue to review investment costs and recharge options with DCWW for future years.

We communicated that we are reviewing how we fund reservoir infrastructure improvements which are needed to ensure assets are maintained appropriately. This cost is recovered through the SUC therefore capital upgrades over the next few years will put pressure on this charge.

4. Pollution Incident Cost Recovery

We are proposing to increase our pollution incident cost recovery charge to £125 per hour in line with our standard hourly charge. The current hourly rate on which we base our cost recovery is £84 and has remained at this level for a number of years whilst our cost base has increased.

5. Nuclear Regulation in Wales

We communicated with key stakeholders in Wales who operate Nuclear sites in Wales which are regulated by Environment Agency on our behalf. The EA have consulted separately on their fees and charges and published their charging scheme on their [website](#).

3. Consultation Summary and NRW Response

We received a total of 11 responses through the consultation. The full responses can be found in Annex 2.

Medium Combustion Plant Directive

There was a general acceptance of the principle of cost recovery for the regulation MCPD although the hourly rate was challenged. The main responses came from the agricultural sector and related to lack of clarity around the extent to which farmers would be impacted and inconsistency in charges proposed by EA. It was argued that Agriculture sector should be exempt from the regulations due to the added burden. Whether this is the case or not a request was made that implementation is supported by a regulator resourced to promote, communicate and implement the scheme.

NRW Response

We are working with other UK Regulators to develop technical guidance which we hope to make available in Spring 2018. The regulations apply to all combustion plant with a rated thermal input between 1-50MW. This could potentially apply to agricultural activities such as cereal drying, heating livestock houses, horticulture or large dairy units for heating water, but there are several exemptions included in the amendments to the Environmental Permitting (England and Wales) Regulation 2016, reflecting the provisions described in Article 2(3) of the MCPD, that might apply in certain circumstances. The amending regulations implementing the MCPD do not prescribe exclusion for a specific sector and as the statutory instrument is now laid and approved by the National Assembly for Wales there is currently no scope for such an exemption relating specifically to agriculture other than the exclusions set out in the legislation.

There are transitional arrangements in place for the implementation of the regulations for existing plant.

We based our proposals on the information available at the time and intend to review these annually as with other fees and charges to ensure cost recovery. We are working with other UK regulators to be as consistent as possible in regulating the MCPD across borders.

We are in regular contact with other UK regulators on the implementation of the amendments to the Environmental Permitting (England and Wales) Regulation 2016.

Hydropower – Upper Band

We received a mixed response to the upper band proposal. There is a general acceptance that fees should be proportionate to complexity and time taken to assess schemes. We received strong objection, mainly from the British Hydropower Association. In their view the fees have only recently gone up for the upper tier so further rises are inappropriate. They see an added risk of protracted dialogue at the applicant's expense which is a disincentive. There is some sector dissatisfaction with the level of service, decision making and the open-ended costs could make it hard to estimate scheme costs for applicants. It is suggested there are savings to be made through engagement with difficult issues.

NFU Cymru asked NRW and Welsh Government (WG) to do more to address barriers to renewables at the farm scale as renewable energy is one of the top priorities for WG Natural Resources Policy.

NRW Response

The upper band has been proposed to ensure the applicants for more complex schemes pay appropriately more for the scheme they propose and smaller simpler schemes pay less. NRW have provided guidance to help customers understand where schemes are likely to become more complex.

The historical rates covered a negligible amount of our Water Resources (WR) licence determination costs. Determination costs for hydropower licence applications were almost fully cross- subsidised by other Licence Charge Payers where hydropower less than 5MW are currently exempt from the annual subsistence fee. A tiered system of charging for hydropower applications that moved towards cost recovery from the applicant and reduced cross subsidy was introduced 3 years ago. The fee of £1500 for Hydro-Electric Power (HEP) schemes with a capacity of >100 kW was not set at full cost recovery but at the lowest end of predicted determination costs. These costs were also based on an hourly rate less than the current £125/hr rate.

We recognise the importance of an efficient licence determination processes and deliver a quality standard of customer service. This is part of an ongoing process of continual improvement and we will be doing more in this area.

We are not proposing any changes to the application fees for existing tiers i.e. 100 kW and less which make up most applications and variations and which will remain supported by Standard Unit Charge (SUC) WR income. The upper tier is intended to recover cost that we incur from additional work presented by large hydropower schemes. The base rate of £1500 for the new tier includes the basic licence determination costs that do not yet meet full cost recovery and remain supported by wider WR SUC income.

We recognise that an uncapped fee may provide uncertainty and risk to an applicant and therefore need to plan and manage the process to provide clarity for an applicant on likely costs. This could be achieved by developing estimates based on a work plan that is specific to the issues associated with the proposal. The fee estimate could be agreed between parties prior to work being undertaken.

For larger and more complex schemes, time spent considering the application in detail and spent planning the work required to complete the determination process will help ensure the issues are fully understood with a clear strategy in how to efficiently address them. Agreeing a fee estimate for additional work, will involve provision of a clear plan for how regulatory issues associated with proposals will be addressed enabling a more efficient determination process and providing clarity to the applicant.

Whilst we have not seen many complex applications, determining just one large, complex scheme has the potential for NRW to undertake significant work, particularly if the proposal is located within a designated site. We need to make provision for this in the future to reduce the risk of high, unfunded determination costs.

Our highest value areas of nature conservation are afforded protection through designated site status. Hydropower proposals in designated sites are more complex to determine as the regulatory requirements are much greater than for other non-designated sites.

Whilst we are seeking to ensure our processes are as efficient as possible and to improve our hydropower guidance supporting renewable energy, we still have statutory duties to protect the environment and some regulatory costs will remain. We are required to seek cost recovery and costs of licence determination will therefore be passed on to the applicant.

New capital requirements – Standard Unit Charge (SUC)

We communicated an intention to maintain the current SUC which did not receive any significant comment. We raised the issue of future investments and how this could be achieved. Dwr Cymru confirmed a commitment to working with NRW to achieve this over coming years (Asset Management Plan [Period 7] 2020-2027).

NRW hourly rate

Many responses challenged the hourly rate charged by NRW (or EA in the case of Nuclear Regulation) as being notably higher than comparable sector specialists.

NRW Response

We have established our regulatory hourly rate at £125 per hour which is based on full cost recovery principles (recovers direct costs, enabling services, overheads and financing charge). In doing so we aim to standardise hourly rates across regulatory regimes and work areas. It is important to recognise that these costs may vary between regulators as our remits, policies and priorities change.

To properly compare NRW's hourly rate to other regulators, it is important to take into account all fees and charges that they may levy.

Pollution Incident Cost Recovery (PICR)

The proposal to increase the PICR hourly rate raised concerns from a variety of sectors. The key points raised are;

1. Deterrent effect - discouraging early self-reporting;
2. Lack of clarity around NRW's discretion when applying the PICR;
3. Consistency between SEPA, EA and NRW hourly rates;
4. Clarity around the use of specialist advice by NRW when responding to incidents;
5. Higher costs will lead to less resource available for investment on farm to avoid pollution;
6. A perception that this charge is income generation;

NRW Response

Our hourly rate has remained constant at £84/hr since April 2010 and is under recovering costs. The increase reflects the full cost recovery of our staff attending, investigating or managing a pollution incident to prevent harm or mitigate the effects of the pollution. It is reasonable and consistent with Managing Wales Public Money, that the polluter meets the cost for this and not the public purse. SEPA and EA have retained their PICR at the same rate for some time and their rate depends on how they calculate their specific overheads and costs.

NRW retains discretion to make decisions about how much time is recharged considering specific circumstances of the case. It is in everyone's interest to prevent pollution prior to it occurring by investing in infrastructure, planning and mitigations. Where steps have been taken to prevent pollution or early self-reporting occurs it is more likely costs will be lower as the early intervention stops incidents becoming extended and incurring significant clear up costs. It is also less likely that enforcement action will be pursued where positive actions lead to reduced environmental impact.

Where NRW do recharge for incidents a clear auditable invoice details officer time, materials and other specialist equipment or services which have been deployed. Normally during an incident, the operator or landowner is given the option of employing contractors directly, however where that is not forthcoming or is inadequate, NRW will intervene and recover our costs for doing so.

Nuclear Regulation in Wales

It was acknowledged that the EA carry out some Nuclear site regulation on behalf of NRW and where that is the case NRW have less direct influence over any changes. However NRW were requested to ensure scrutiny on behalf of industry in Wales.

NRW Response

We work closely with the EA to ensure fair and proportionate regulation for industry in Wales.

4. Changes for Final Scheme

Following the consultation process and feedback received we did not make any changes to the proposals that we consulted upon. We continue to welcome and value the input from stakeholders and have fully considered matters raised and laid out our responses in this document to explain why we have come to this decision.

The proposals have been reviewed by the NRW Board and presented to the Minister for approval and have now been agreed.

Annex 1 Charging Consultation Proposals

Medium Combustion Plant Directive

The Medium Combustion Plant Directive (MCPD) came into force on 15th December 2015 and must be transposed into UK law by 19th December 2017. The Directive seeks to improve air quality by introducing emission limits for key pollutants and by bringing within regulatory control all combustion plant in the 1-50MW input range. The emission limit values apply from 20th December 2018 for new plants and by 2024 and 2029 for existing plants, depending on their size, fuel type, age and operating hours. We currently regulate combustion plant on installations with an aggregated rated thermal input over 50MW_{th} and those below 50MW_{th}, which are part of EPR Part A1 installations as Directly Associated Activities. Local Authorities (LAs) regulate the 20-50MW_{th} plants as Part B EPR installations.

Welsh Government intend to transpose the requirements of the MCPD through the Environmental Permitting (England and Wales) Regulation 2016 (EPR2016). In addition, in England and Wales, further provisions will be included for “specified generators” which will also require permits under EPR2016. These specified generators are combustion plant used to generate in the Capacity Market and are potentially short period operation, but high polluting (e.g. unabated diesel engines). The Capacity Market was introduced by Government and designed to ensure sufficient reliable sources of electricity are available by providing payments to encourage investment in new capacity or for existing capacity to remain open. These Capacity Market contracts are managed by the Department for Business, Energy and Industrial Strategy (BEIS) and are not devolved.

Welsh Government have yet to confirm their preferred approach with regard to the regulator [NRW have been confirmed as sole regulator by Welsh Government]. However, one of the options included in the consultation on medium combustion plant and specified generators was for NRW to be the sole regulator in Wales for these activities. In advance of that eventuality, and given that new medium combustion plant and specified generators will require a permit from 20 December 2018, we need to have a charging arrangement in place at that time should NRW be confirmed as the regulator, hence the need to include this in the consultation on the 2018/19 scheme.

UK regulators will provide detailed technical guidance and definitions to help operators understand the extent and requirements of regulations. We have provided the cost table below as an indication of the permit types to help clarify the potential extent of activities subject to these regulations.

This activity does come under Section 41 Environment Act 1995 and as such will not require Ministerial approval. In addition, the Welsh Government / Defra consultation on the transposition of the MCPD and specified generators included the intention for cost recovery in the consultation.

We intend to recover the costs of permitting any plants within scope through an initial fee to cover the cost of permitting and an annual subsistence charge to cover the costs of compliance checking. We regularly review our fees and charges as well as our processes to ensure costs are kept to a minimum.

Our permitting costs are based on the estimated number of hours it would take to determine an application and experience from similar regimes.

Permit type	Number of hours	Application fee
Bespoke 'Specified' generators	78 (with AQMRAT)	£4056
	37 (without AQMRAT)	£1924
Bespoke MCP	23	£1196
Low risk MCP	13	£676
Standby MCP	3	£156
Backup MCP	2	£104

Note: Bespoke 'specified' generators may need detailed air quality modelling (AQMRAT) due to risk and attracts a higher fee to reflect this additional assessment.

Compliance

We have based our compliance costs on the compliance schedule in the Defra / Welsh Government Impact Assessment and the estimated number of hours to undertake the work. We are investigating payment options with regards to subsistence fees and the associated compliance schedule (as illustrated in the table below) for low risk, standby and back up permits.

Permit type	Compliance schedule	Number of hours	Resource costs	Annual subsistence (spread over number of years in compliance schedule)
Bespoke 'specified' generators	1 inspection every year	7.4	£385	£385
Low risk MCP	1 remote check* every 2 years	4	£208	£104
Standby MCP	1 remote check* every 3 years	2	£104	£34.67
Back-up MCP	1 remote check* every 6 years	2	£104	£17.33

*a remote check is defined as a desk-based compliance exercise to check data and documentation submitted by the operator covering emissions testing, operation of abatement equipment and reporting of operating hours

Additional charges for advice and guidance - MCPD

The permitting approach for MCPD is designed to be as simple as possible, so it is expected that pre-application advice will be at a minimum. We are not proposing to include any pre-application time within the fees and charges at application, helping to keep application fees as low as possible. Therefore, any pre-application discussions would need to be recovered separately through our discretionary advice scheme.

Hydropower Charges

We have stated that we would review our charges for hydropower. The number of applications for new hydropower schemes has declined following the reduction in Feed In Tariffs. We have decided to retain the current fee structure for schemes up to 250 kW in 2018-19.

We have identified potential under recovery when determining large scheme licences due to the scale and often complex nature of the proposals. We therefore intend to introduce a higher tier for large hydropower schemes over 250kW to ensure full cost recovery.

We intend to apply a base charge of £1500 and cost recover time and materials where this is exceeded. The initial cost is based on our experience of permitting schemes and we are confident that this will apply to most applications of a high quality providing information and addressing risks fully as detailed in our guidance. This includes an initial internal consultation with technical specialists administered by our permitting service. We continue to work to ensure our process is as efficient as possible.

The additional charges within this upper tier would most likely apply to complex schemes and sensitive locations. These are where we often need to seek further input from our technical specialists or where the submission is of limited technical quality and does not provide enough evidence to enable a simple determination.

We intend to cost recover using our standard hourly rate of £125.

The existing tiered fee table has been amended below to include the additional upper tier.

Scheme Capacity (kW)	Proposed Application Fee (£)
25kW or less	375
>25 to 50kW	750
>50 to 100kW	1,125
>100 to 250kW	1,500
>250 kW	1,500 plus time based charge

Abstraction Charges

New Capital Requirements

We are reviewing how we fund reservoir infrastructure improvements which are needed to ensure assets are maintained appropriately. Capital upgrades over the next few years are predicted to increase significantly. Section 20 Reservoir Operating Agreements exist to fund capital works by Dwr Cymru Welsh Water (DCWW) on reservoirs.

We recover infrastructure costs through the Standard Unit Charge applied to abstractions. We have been working with DCWW to look at ways of spreading the cost of capital works over a longer timescale, thus reducing the impact of cycles of increases followed by cuts, which will give charge payers longer-term certainty.

We are proposing to maintain the SUC at the current rate for 2018/19. We will however continue to review investment costs and recharge options with DCWW for future years.

New Authorisations

There is potential for future compensation claims if existing exempt abstractions need to be curtailed when brought under licensing control. This will not impact on 2018/19 Environmental Improvement Unit Charge (EIUC), but may do in subsequent years.

Pollution Incident Response Cost Recovery

In carrying out our duties, NRW responds to pollution incidents. This work places a financial burden on our resources reducing our ability to undertake other work that delivers our purpose of delivering sustainable management of natural resources (SMNR). In line with the “polluter pays” principle, legislation² allows us to recover our costs wherever possible from the polluter, reducing the burden on the taxpayer. It is important that we fully recover our costs in line with “Managing Welsh Public Money”. The current hourly rate on which we base our cost recovery is £84 and has remained at this level for many years (pre-2010) whilst our cost base has increased. As a result, we are proposing to increase our pollution incident cost recovery charge to £125 per hour in line with our standard hourly charge.

Recoverable costs include works, operations or investigations to identify the responsible person, source, nature and effect of pollution. It also includes recovering costs incurred by NRW where we are required to remove or dispose of polluting matter, remedy or mitigate pollution or restore waters to their state immediately before the pollution occurred. It also includes other additional costs such as specialist advice.

We recover our costs from the point that the NRW officer initially assesses the incident up to the point that the source is confirmed and the officer has returned to base / home.

We encourage early self-reporting of incidents by polluters as this helps to minimize the environmental impact and extent of any pollution through early provision of advice and containment measures as well as reducing investigation time. Early self-reporting may help reduce the likelihood of prosecution following a pollution incident by reducing the environmental impact and demonstrating a positive attitude towards minimizing the impact. We retain discretion to waive part or all pollution investigation costs for those who promptly and effectively self-report incidents to us.

Prior to any recovery of costs managers assess a number of factors to ensure the recoverable costs fairly reflect the necessary actions. For example, if 2 employees are out on routine work and divert to attend a pollution incident then we would normally recharge for one member of staff unless the nature of the incident warranted attendance by two.

² Section 161ZC of the Water Resources Act 1991 sets out the provisions which NRW is entitled to recover its expenses which have been reasonably incurred in carrying out works, operations or investigations under section 161 of that Act. These expenses are recoverable from the person responsible for causing water pollution or where it is likely that pollution may be caused, to prevent that pollution from occurring.

Annex 2 Summary of Comments Received

Our Fees and Charges consultation closed on 16 January 2018. The consultation was live on our website for over 12 weeks. Prior to consulting publicly NRW engaged with stakeholders through the Charge Payers Consultative Group.

Summary of Responders

The tables below give a summary of the responses received. Full text from the consultees is in the final table.

Organisation	Response Contact	Sector	Summary of response
Asked to remain Anonymous	Anon	Hydropower	Strongly opposed to the Hydropower upper tier.
Hafod Boeth Reservoir	Giles Keating	Reservoir	Welcomes the intention to keeping charges constant. Agrees Charges should reflect size and complexity of Hydropower schemes.
British Hydropower Association	Simon Hamlyn	Hydropower	Strongly opposed to the Hydropower upper tier.
CLA – Country Land and Business Association	Charles de Winton	Agriculture	Most members are in the lower tiers. Need transparency and auditability of time taken by NRW for the upper tier hourly charge.
Innogy Renewables UK Ltd	Louise Shaw	Renewable energy - Hydropower	Need consistency of application of guidance and NRW responses – customers must not carry cost of internal NRW disagreements. Agrees with principle of charging similar to client and consultant.
Stephen Rees	NRW	Financial	Concerns about NRW chasing outstanding income.
Dwr Cymru	Tony Harrington	Water and Wastewater	Welcomes commitment to keep general fees unchanged. Challenged the high and apparently inconsistent standard hourly rate of £125. Welcomed the function of Charge Payers Consultative Group.
Farmers Union Wales	Bernard Griffiths	Agriculture	Members accepted why NRW would cost recover for MCPD. Their members welcomed the lower tier remaining unchanged and accepted the need to cost recover for the upper tier but at a time when this renewable energy sector is struggling they had concerns this may not be helpful in promoting renewables. Strongly challenged the increase in PICR and see this as a barrier to early self-reporting.
National Farmers Union Cymru	Rachel Lewis-Davies	Agriculture	Stressed the important role Agriculture has in Wales contributing to Well-being goals and the risk of imposing unfair costs and

			<p>regulations putting farmers at a competitive disadvantage. Agreed with the principle of transparent charges and that these are kept as low as possible through efficiency whilst providing a high-quality service.</p> <p>Concerned about the lack of clarity around MCPD and how this may impact on farmers such as poultry units. Raised concern regarding inconsistency with EA charges. Unsure how the Hydropower upper tier will impact but insisted WG and NRW must do more to address barriers to enable renewables as this is a WG Natural Resources Policy priority.</p> <p>Challenged the PICR standard hourly rate increase. See this as a barrier to self-reporting, loss of money for farm investment, seek clarification on how these are proportionate and reassurance that this is not seen as an income generator.</p>
Horizon Nuclear Power Wylfa Ltd	Barrie Cran	Energy	<p>Recognised the need to cost recover from those NRW regulate. Accept that the EA carry out this regulation on behalf of NRW and set the charge but raised concern about the hourly rate being high compared to Office of Nuclear Regulation. Urged NRW to engage EA to ensure value for money for the sector operating in Wales.</p>
Amenity Pool Owner	Ifan Owen	Business Owner	<p>Thinks NRW are making charges on his amenity pool which does not provide water for public use.</p>

Summary of Responses

<p>Question 1. What are your views on the proposed charges for medium combustion plant directive regulation?</p>	<p>NFU Cymru and FUW responded stating their members did not have sufficient knowledge provided by the consultation to understand the impact for farmers. NFU Cymru seek clarity how the directive will apply to specific farm scenarios such as grain drying, standby generators and heating poultry sheds. They challenged the proportionality of the regulations and exemptions should apply for all Agricultural situations.</p> <p>NFU Cymru raised differences in proposed charges between EA, SEPA and NRW despite the consultation stating that they are comparable. The NRW hourly rate was challenged.</p> <p>FUW could understand why NRW would need to recover costs and NFU Cymru acknowledge that should the Directive be regulated by NRW it is vital they have the resources to promote, communicate and implement the scheme.</p>
<p>Question 2. What are your views on the proposal to introduce a higher band for hydropower schemes over 250kW?</p>	<p>There was a mixed response with some welcoming of the equality brought through charges which reflect scale and complexity and a higher tier charged in a similar way to client and consultant. It is reiterated that this can only work if cost recovery does not include internal discussion or disagreement between legacy parts of NRW. There is a need for consistency in application of guidance and responses from NRW. Where charges are made on an hourly rate these must be transparent and auditable – NRW staff need to be able to demonstrate time spent on applications such as using time-sheets. There is a concern that the increased fees could further deter investment in an already challenging sector. FUW commented that the consultation document did not explain or evidence why the upper tier was more complex or sensitive and how that translated into extra cost.</p> <p>British Hydropower Association and Derwent Hydro both submitted the same wording strongly objecting to the upper tier and hourly charge. In their view the fees have only recently gone up for the upper tier so further rises are inappropriate. They see an added risk of protracted dialogue at the applicant's expense which is a disincentive and open to abuse by NRW using the hourly rate in an obstructive way. There is some sector dissatisfaction with the level of service, decision making and trust making fee increases inappropriate in their view and difficult to implement. The open-ended costs would make it hard to estimate scheme costs for applicants. The need to record time and invoice is seen as inefficient. It is suggested there are savings to be made through engagement with difficult issues.</p>

	<p>NFU Cymru urged NRW and WG to do more to address barriers to renewables at the farm scale as renewable energy is one of the top priorities for WG Natural Resources Policy.</p>
<p>Question 3. What are your views on the proposed level of the Standard Unit Charge (SUC) and funding investments?</p>	<p>No specific views expressed. Some responses relating to PICR standard hourly rate increase which are summarised under 'other matters above' as this was primarily included in the consultation for information.</p> <p>One response by email from Ifan Owen who owns an amenity pool. Unsure as to whether this is an opinion or his inclusion in a scheme should be reviewed.</p>

Full Responses

Note – responses are provided in the language as submitted by the responder.

Question 1. What are your views on the proposed charges for medium combustion plant directive regulation?

Responder	Full Response
Anon	No views on this matter.
Giles Keating	Email did not address this question.
BHA	The BHA has no views on this matter.
CLA	No comment as our members are not involved in this activity.
Innogy	No views
Dwr Cymru	No comment
FUW	Overall the responses indicated that members did not have sufficient knowledge and expertise in this area to express or comment in depth, but they could understand the reason why Natural Resources Wales would wish to cover their costs in respect of ensuring compliance with these proposals.
NFU Cymru	<p>We note the Medium Combustion Plant Directive (MCPD) was required to be transposed into UK Law by 19th December 2017 and seeks to improve air quality by introducing emission limits for key pollutants and by bringing within regulatory control all combustion plant in the 1-50MW input range. Emission limit values apply from 20 December 2018 for new plants and by 2024 and 2029 for existing plants depending on size, fuel type, age and operating hours.</p> <p>It is understood that Welsh Government intend to transpose the requirements of the MCPD through Environmental Permitting (England & Wales) Regulations 2016. We note that Welsh Government have yet to confirm their preferred approach with regard to the regulator. However, one of the options on medium combustion plant and specified generators was for NRW to be the sole regulator in Wales. We note, that in that eventuality, permits for new medium</p>

combustion plant and specified generators will be required from 20 December 2018 and a charging arrangement needs to be in place.

We note that UK regulators will provide detailed technical guidance and definitions to help operators to understand the extent and requirements of regulations. This information has not been provided during the consultation period and, as a result, the extent to which proposals impact on our members is difficult to assess. The lack of clarity within the consultation document with respect to the scope of the Directive has hindered our ability to engage and seek views from our members.

For example, we seek clarity from NRW as to whether the new Directive will apply to pig and poultry units with boilers for heating livestock buildings; cereal growers using boilers for grain drying; horticulture members using boilers for glasshouse heating; larger dairy units heating large volumes of water; or indeed agricultural businesses who use generators due to their rural location.

It is our view that all agricultural generators should be exempt from the Directive regardless of size or hours used due to the requirements being disproportionate to their impact. We would highlight that most on-farm generators are infrequently used and are often required for emergency situations only. Others are used more regularly, however, there is a need to recognise that farm businesses are in the main, SMEs and the regime and costs associated at arguably disproportionate to the environmental impact.

That said, should Welsh Government opt to bring this Directive into EPR managed by NRW, then it is vital that the regulator have sufficient resources and staff with adequate expertise to promote, communicate and implement the scheme. The lack of detailed information provided within the consultation document being a case in point.

In terms of the costs proposed we note that proposed NRW permitting costs as said to be comparable to those proposed by the Environment Agency and the Scottish Environmental Protection Agency. A rudimentary comparison of information on the Environment Agency proposals does not suggest this to be the case and it does not appear to be possible to easily draw a direct comparison. Further the hourly rate figure charged by NRW does appear considerably higher than elsewhere and we would be grateful if you could confirm if this is indeed the case. We remind NRW that cost efficiencies and savings were identified as one of the principle reasons for establishing NRW and we would encourage NRW to consider how services can be improved/made more efficient to reduce costs to those you regulate.

Horizon	Did not comment.
Ifan Owen	Email did not address this question.

Question 2. What are your views on the proposal to introduce a higher band for hydropower schemes over 250kW?

Responder	Response
Giles Keating	I do not have any generator facility although I have considered small scale hydropower and solar. I believe it is appropriate that smaller installations should pay charges that reflect the lower cost of approval, and that larger ones should pay appropriately, and the proposed higher tier with variable costs for extra hours seems an appropriate way to do this, and helps in allowing the charges for smaller installations to be kept constant.
Anon	<p>We are strongly opposed to this proposal for the following reasons:</p> <ol style="list-style-type: none"> 1. It is only very recently that the fee was increased from £135 to £1500, this incredible increase was unjustified at the time. It is totally inappropriate to even consider further increases for the foreseeable future. 2. Any fee increase should be a last resort after efficiency savings and even then, should only be considered when the standard of service has increased to a level where applicants feel they are receiving a service worth paying for. 3. An uncapped fee level is problematic in itself because it makes it very difficult for an applicant to estimate his risk in making an application. It would also rely on a high level of trust between applicant and NRW in determining the final fee, which may not be there. 4. Determining the fee in each case would be an extra item of work, so the proposal is inherently inefficient. 5. There is no need for this measure in practice. Our understanding is that NRW have only received 2 applications for new hydro schemes in 2017, and none in this size bracket so at best this initiative is ill-timed. It also seems to be a wasteful exercise in itself. Needlessly introducing a further disincentive to small hydro development

	<p>in Wales is seriously at odds with the founding purposes of NRW.</p> <p>6. The new measure is stated to be expected to be applied to complex cases, probably involving sensitive sites. This is a strong reason for <u>rejecting</u> the proposal because it is just such sites that applicants find NRW to deal with slowly, inefficiently and even obstructively. If an applicant in this scenario was expected to pick up NRW's costs for such actions as well as his own that would seem very unfair and costly to a penal extent. There would be a clear incentive for resistant NRW officers to enter into a war of attrition, endlessly dragging out the determination period until the applicant's costs become so high as to produce a withdrawal. This effect of uncapped cost recovery would inevitably alter the regulator-applicant dynamic and critically damage the chances of constructive discourse in complex cases. It is therefore opposed to good, fair regulation and must be dropped. NRW would do better to engage proactively with difficult issues, examine relevant evidence and come expeditiously to defensible conclusions. This would reduce costs relative to current practices.</p>
<p>British Hydropower Association</p>	<p>The BHA is very strongly opposed to this proposal for a number of reasons which include the following:</p> <p>1. It is only very recently that the abstraction fee was increased from £135 to £1500. This was a totally disproportionate and unjustifiable increase. It is therefore totally inappropriate for Natural Resources Wales to even consider further increases, especially when the Welsh Government led Hydropower Task and Finish Group, of which NRW is a contributing member, is actively looking at ways to help and support the sector in the future.</p> <p>2. In the current circumstances and in light of the work of the Welsh Government Hydropower Task and Finish Group, any fee increase that is being considered must be a last resort after demonstrable efficiency savings have been made and even then, must only be considered when the standards of service from NRW have increased to a level where applicants consistently experience a service for which they believe it is worth paying such an increased amount.</p> <p>3. An uncapped fee level is very problematic and not a scenario that the BHA would support. It makes it very difficult for an applicant to estimate the financial risk in</p> <p>Page 2 of 2</p>

	<p>www.naturalresourceswales.gov.uk making an application. It would also rely on a very high level of trust between the applicant and NRW in determining the final fee, which in the current climate may not currently exist.</p> <p>4. Determining the fee in each case would create extra work and potential inefficiencies and therefore the proposal is inherently inefficient.</p> <p>5. There is no need to introduce a higher band for hydropower schemes over 250kW in practice. Our understanding is that NRW have only received 2 applications for new hydro schemes in 2017 and none in this higher band, so at best this initiative is ill-timed. It also seems to be a wasteful exercise in itself. Needlessly introducing a further disincentive to small hydro development in Wales is seriously at odds with the founding purposes of NRW and the work of the Welsh Government led Hydropower Task and Finish Group.</p> <p>6. The new measure is expected to be applied to complex cases, possibly involving sensitive sites. This is a strong reason for the BHA rejecting the proposal because it is just such sites as these that applicants find dealing with NRW to be slow, inefficient and even obstructive. If an applicant in this scenario was expected to pay NRW's costs as well as their own, it would be very unreasonable and costly to a penal extent.</p> <p>There would then be a clear incentive for any resistant NRW personnel to enter into a dialogue of attrition, endlessly dragging out a determination period until the applicant's costs become so high that they result in a withdrawal. The effect of uncapped cost recovery would inevitably alter the regulator-applicant dynamic and critically damage the chances of constructive discourse in complex cases.</p> <p>Uncapped cost recovery is the antithesis to good, fair regulation and must not be introduced. NRW would do better to engage proactively with difficult issues, examine relevant evidence and come expeditiously to defensible conclusions.</p>
<p>CLA</p>	<p>We note that in general the majority of charges relating to hydropower schemes will not change which is to be welcomed. Our members are generally in the lower capacity schemes where there will be no change. For installations above 250kW, the charges will be on an hourly basis. With this change NRW must be fully transparent in how they charge this additional fee. If there is a dispute, NRW must be able to produce associated time-sheets to support their additional hourly based charges.</p>

Innogy Renewables UK Ltd	The charges proposed to be hourly for the larger more complex hydro power schemes would work if there was consistency in application of guidance and responses from NRW. The hourly payment makes the transaction between the developer and NRW similar to client and consultant. If the EA Wales branch of NRW are in direct conflict with the CCW branch it would be unethical to charge the developer for the hours spent “discussing” the situation internally within NRW.
Dwr Cymru	The principle of charging on a case by case basis for large complex schemes is reasonable. The “standard hourly rate of £125” appears high in comparison to the ‘time and materials charge’ of £100 proposed by the Environment Agency in their current charges consultation.
FUW	<p>As the consultation document concedes the number of applications for new hydropower schemes has declined in line with the reduction of support through Feed in Tariffs. Figures from the Office of Gas and Electricity Markets (OFGEM) reveal that the tariff for all renewable hydropower capacities has fallen from 16.3 p/kWh in April 2010 to 6.2p/kWh in October 2017, which has affected the number of applications for both small and larger schemes.</p> <p>Notwithstanding the above, the FUW support maintaining application fees for schemes under 250kW at current levels as this is the range that will impact most on members considering investment into renewable hydro schemes. Nevertheless, some members commented that at a time of depressed market support (FITS) and investment returns, an increase in the proposed application fee for schemes above 250kW was not helpful and will not promote and develop clean energy from renewable sources. Others accepted the proposal to increase to a higher band for the Hydropower scheme over 250kW.</p> <p>Members also noted that the consultation document was lacking in evidence of why the upper tier was necessarily more complex and are somehow located at more sensitive locations, and how much of this necessarily translated into additional costs derived from accessing specialist technical advice.</p>
NFU Cymru	<p>We note proposals to retain the current fee structure for schemes up to 250kW in 2018-2019 and introduce a higher tier for large hydropower schemes over 250kw to ensure full cost recovery.</p> <p>The extent to which this is likely to impact on our members is not clear, however, in reality we know that the number of applications coming forward has reduced significantly in the context of changes to the Feed-In-Tariffs. There are a number of other factors that serve</p>

	<p>to limit the deployment of hydropower technologies including planning, permitting, business rates, access to grid and so on.</p> <p>We refer to the Welsh Government’s Natural Resources Policy which establishes increasing renewable energy and resource efficiency as one of three national priorities for the management of natural resources in Wales. In this context it is our view Welsh Government and NRW must do far more to address existing barriers to the deployment of renewables at farm scale and proactively work to develop an ‘enabling framework’ to allow for widespread deployment on farms across Wales.</p>
Horizon	Did not comment.
Ifan Owen	Email did not address this question.

Question 3. What are your views on the proposed level of the Standard Unit Charge (SUC) and funding investments?

Responder	Full Response
Giles Keating	Email response did not address this point.
Anon	No particular views on this matter.
BHA	No particular views on this matter.
CLA	No comment as our members are not involved in this activity.
Innogy Renewables UK Ltd	No views.
Dwr Cymru	With regard to assumptions on abstraction licence charges, you are correct in your assessment that Dŵr Cymru will need to invest significant sums in order to maintain the safety of the Dams for which there are section 20 operating agreements. This investment will not be only for the next few years but will potentially continue during the AMP7 (2020 to 2025) period and beyond driven by new dam safety legislation as outlined in our draft Water Resources Management Plan (2019). We are currently detailing the

	programme of works needed in the future. This will be key information for our discussions around how dam safety costs might be spread to provide greater future certainty to abstraction charge payers. We look forward to meeting to share this information with you, and to discuss the options available.'
Horizon	Did not comment.
Ifan Owen	My concern is that you make charges on our business for an amenity pool that does not provide water for any individuals use. This is a pool, that records confirm was in situ before 1500's. I find it difficult to accept that you charge our business when you have no direct involvement, the charges appear to be made because the pool exists with you taking no responsibility for its maintenance. Unsure if this relates to SUC or reservoir fees.

Responses to other matters raised by the consultation.

Giles Keating - Thank you for your request for input. I pay for reservoir inspections at the site at Hafod Boeth, Tan y Bwlch. I note the intention to keep charges constant. I believe this is fair and equitable, given that the charges are already a significant cost which potentially reduce the funds available for investment in other aspect of land management, notably provision of public access and amenities, and in woodland development and management.

Stephen Rees - Your consultation report states that general taxation accounts for approximately 20% of NRW funding. I was just enquiring as to why it doesn't specify within the consultation what systems and procedures NRW have in place to recover monies not paid by customers?

Dwr Cymru – We are pleased to see a commitment from Natural Resources Wales to keep general fees and charges for 2018-19 unchanged; but we have some reservations about the increase in the “standard hourly rate” from £84 per hour to £125 per hour. This point is discussed in our answers below.

We are also grateful to NRW for the opportunity we have had through the Charge Payers Consultative Group to discuss and understand the proposed charging scheme. The group provides a valuable forum for engagement with a wide variety of stakeholders and NRW is to be congratulated for its open approach in sharing ideas at an early stage. We would like to see this group continue in the future.

We note that NRW is planning to increase its pollution incident cost recovery charge to £125 per hour. By contrast the Environment Agency proposes to maintain its charge for responding to pollution incidents at £84 per hour. Natural Resources Wales sets its charges in line with Managing Welsh Public Money; Environment Agency sets its charges in line with HM Treasury's Managing Public Money. Both consultation documents quote Section 161ZC of the Water Resources Act 1991 as

the authority for levying these charges, thus they should be based on equivalent effort. The 'time and materials' charge set by the Scottish Environment Protection Agency for similar activity is currently £89 per hour and sets a useful benchmark for England and Wales. Examination of the 2016/17 annual accounts for NRW and EA show that the average staff costs are almost the same both organisations; the number of employees divided by staff costs was £44.5k in EA and £44.2k in NRW. We do not think there should be a difference of £41 per hour between NRW and EA for the same activity and would urge NRW to share their calculations for this hourly rate with EA and SEPA to ensure that there is no unintentional cross-subsidy to other activities within this hourly rate.

Farmer Union of Wales (FUW) - 5.3 (PICR) Members' expressed considerable concern as to the proposed increased hourly charges from £84 per hour to £125 per hour. Despite the hourly rate having remained at £84 per hour for several years, this proposed increase is very large and difficult to justify at 48.8% following a period when inflation has been relatively low, but investment returns and business profitability in the sector have been volatile. In addition, the future is uncertain as the UK and the agricultural sector in particular await crucial decisions on Brexit negotiations.

The consultation document refers to the operations and investigations that Natural Resources Wales (NRW) undertakes following a pollution incident and also mentions additional costs such as specialist advice which might be incurred. However, the consultation does not offer any information on what the specialist advice might be, nor of its percentage share of the overall costs. In the interest of transparency referred to in the Welsh Government's, *Managing Welsh Public Money*, January 2016 document, the Farmers' Union of Wales (FUW) would welcome further information on the extent and frequency of requiring specialist advice, and whether NRW have considered that providing the advice from in house staff could be more cost effective.

The FUW have invested considerable time and resource during 2017 engaging with other stakeholders in the Wales Land Management Forum's sub group on source and diffuse pollution from agricultural sources. One of the regular discussion points is the importance of farmers' early reporting of pollution incidents to minimise environmental impact and NRW investigation time. In view of the proposed increase in the standard rates above, there is a danger that the increased costs might dissuade farmers from early reporting of incidents.

Members also felt that farmers would be more likely self-report promptly and effectively if Natural Resources Wales retained the discretion to waive some or all pollution investigation costs and possibly reduce the likelihood of subsequent prosecution. Some thought that if this relationship was more transparent and better defined, better environmental outcomes would be achieved. At present, it is unclear from the consultation how NRW's discretionary decision making process works alongside the proposed increase in hourly charges, as the document offers insufficient transparency.

One county reported that in one particular incident a farmer's slurry store had leaked. The incident was reported by the farmer, but despite early reporting and efforts made

to mitigate the circumstances, he still received a hefty bill from Natural Resources Wales.

Members felt that the vast majority of farmers would strive to prevent pollution and if any pollution did occur from their land, it would be accidental and they would do everything in their power to rectify the situation. To then be held responsible and receive a potentially large bill from NRW would be unfair especially as there does not appear to be an upper limit on the amount that NRW could charge the farmer. If these changes have to be imposed, there should be a cap on the amount of fees recoverable and a detailed breakdown of the costs otherwise there is no incentive for the NRW officer to complete their investigations promptly.

NFU Cymru - We note NRW proposed to increase their pollution incident cost recovery charge to £125 per hour in line with the standard hourly charge. Recoverable costs include works, operations or investigations to identify the responsible person, source, nature and effect of pollution. It also includes recovering costs incurred by NRW where they are required to remove or dispose of polluting matter, remedy or mitigate pollution or restore waters to their state immediately before the pollution occurred. It also includes other additional costs such as specialist advice.

Consultees are not invited to respond to NRW proposals on Pollution Incident Response Cost Recovery, however, NFU Cymru would make the following comments:

- We are concerned that excessive costs potentially impact on levels of self-reporting of incidents. This can limit opportunities to minimise/mitigate environmental impacts through effective early intervention.
- Increased costs associated with cost recovery inevitably mean less resource available to invest in solving the problem.
- Rates of around £125 per hour to cover the costs are significant and appear to be uncompetitive. The increase in hourly rate equates to a 49% increase in charges.
- The onus is on Natural Resources Wales to demonstrate that these costs are fair, proportionate and competitive. NRW must also show that it is efficient in its processes and doing everything it can to keep these costs to a minimum.
- This has not been achieved through the information provided in the consultation and there is a danger that charges brought through Pollution Incident Response Cost Recovery will be perceived as an income stream for NRW. In order to avoid this and to maintain levels of trust and integrity the points raised above must be addressed

Horizon – You refer to the recently initiated Environment Agency public consultation on their fees and charges for 2018/19 which includes a revised hourly rate for nuclear regulation work. This is of interest to us for, as you state, where the Agency carries out nuclear regulation work in Wales on your behalf, the rate at which this work is charged will be in line with the hourly rate stated in their finalised (post consultation) fees and charges document.

Of particular note is the Agency's proposal to increase their nuclear specialist hourly rate from £213 to £240. Whilst we note they are reviewing their salaries for these specialists to ensure they are comparable with other employers, this charge out rate

exceeds that, for example, of the Office of Nuclear Regulation (ONR) for nuclear specialists by some margin. ONR also recover costs from industry and typically their daily charge out rate is ~£1000.

We recognise that you have no control over the charging regime that the Agency have in place. However as their charges are passed through to industry, when you engage them to undertake activities on your behalf, it is important that we all get value for money and you maintain a high level of scrutiny in setting and monitoring their work.