

Northern Ireland Environment Agency

Charging Policy 2010 to 2013 Summary of Consultation Responses

March 2010

Contents

1. Background
2. Synopsis of Responses
3. NIEA Response

1. BACKGROUND

- 1.1 NIEA seeks to safeguard the quality of the environment through effective regulation of activities that have the potential to impact on air, water and land. This involves issuing consents, licences, permits and authorisations and enforcing standards for compliance. The Agency is required to achieve full cost recovery for such regulatory functions through the application of fees and charges on companies it regulates.
- 1.2 Following a review of its own charges and that of sister agencies, NIEA published a draft Charging Policy for the period 2010-2013 to provide a framework for the setting and revision of fees and charges and to explain how NIEA is reviewing its activities and structures to ensure full cost recovery and deliver an efficient service to businesses. It also proposed a limited annual increase in fees and charges to reflect inflation.
- 1.3 The consultation paper on the draft NIEA Charging Policy 2010 – 2013 was issued to over 240 consultees on 7th December 2009. The 12 week consultation ended on 26th February 2010.

2. SYNOPSIS OF RESPONSES

- 2.1 Ten responses to the Charging Policy consultation were received, with half coming from local government. The consultation response letters can be found in Appendix 1. The respondents were:

Antrim Borough Council; Arc21 / Belfast City Council (joint response);
Ballymena Borough Council; Fermanagh District Council; Southern
Waste Management Partnership (SWaMP2008)

Department of Agriculture and Rural Development for Northern Ireland;
Department of Enterprise, Trade & Investment

Northern Ireland Water; Quarry Products Association Northern Ireland

Council for Nature Conservation and the Countryside (CNCC)

- 2.2 The overall response to the draft NIEA Charging Policy consultation paper was favourable, with respondents welcoming the 3 year policy and NIEA's efforts to clarify charging arrangements and provide some certainty until 2013. The majority of those who responded had no issue with the proposal to limit fees increases using some form of inflationary measure, and suggested other measures which could be considered.
- 2.3 The need for charging and cost recovery was understood by the respondents. However, many commented on the lack of detail provided.

The information currently available through the NIEA website and the consultation paper is not yet enough to give confidence to industry that charges match the regulatory effort. They welcomed the commitment to coordinate consultation exercises and provide details on a dedicated Fees and Charges page on the NIEA website.

- 2.4 Respondents also welcomed the steps the Agency was taking to review its structures, operations and charging arrangements to improve efficiency and effectiveness.
- 2.5 arc21 (comprising 11 councils) and Belfast City Council submitted a joint response to the consultation and asked the Department to note that they had made similar comments on the Fees & Charges associated with Waste Management Licensing Activities. They were disappointed to note there had been little progress made on some of the aspects in their response, such as level of detail provided and timing issues, and considered that some of the comments submitted to that consultation were equally pertinent to this one.
- 2.6 The joint response makes the point that there is a lack of sufficient detail in the document to allow any meaningful consideration and response. The commitment to single or parallel consultation papers for new schemes or those requiring substantial revisions is welcomed. However, it would be helpful for stakeholders to have a list of those schemes needing fuller investigation and be afforded the opportunity to comment accordingly. The timing of the consultation is unfortunate as the outcome does not fit with the Council budgetary cycles and the response would advocate different timings for future consultations. However, it is recognised that the proposed policy covers a three year period and so increases in the final two years will be known in advance.
- 2.7 The response makes reference to the Agency's comprehensive review of its structures and organisation but comments that there is no indication of any timetable and implementation.
- 2.8 arc21 welcomes NIEA's recognition of the merits of a more risk based approach to regulation, similar to that adopted by other agencies in the UK. However, they are disappointed at the anticipated timescale proposed for its introduction and would encourage NIEA to address this as a matter of some priority. Belfast City Council suggested that NIEA should consider a discounted fees and charges structure for those facilities which are low risk and which consistently perform well in terms of NIEA compliance and which have other external validations. The Council requested that as a minimum a regular programme of inspection is delivered by NIEA per annum.

- 2.9 arc21 and Belfast City Council are satisfied that the proposed GDP Deflator would be an appropriate economic index or economic measure to link any proposed change in the level of fee or charge.

Ballymena Borough Council

- 2.10 Ballymena Borough Council submitted a similar response to that from arc21 and Belfast City Council with regard to detail provided, the timetable for the Agency's structural review, schemes which require more interrogation, the council budgetary cycle and comments regarding a risk based approach.

Fermanagh District Council

- 2.11 Fermanagh District Council is dissatisfied with the charges presently levied and would need further costs analysis and a report summarising the work of the Agency in inspections and approvals before it can be satisfied of the need, extent and cost of regulation and be in a position to comment on a GDP Deflator / RPI increase.

SWaMP2008

- 2.12 In principle, SWaMP2008 has no significant objections to the implementation of the proposed NIEA Charging Policy. Proposed changes to the charges are in keeping with the 'polluter pays principle' and allows for effective regulation to be carried out at least cost to the tax payer. However, they requested more clarity and certainty on certain aspects, such as a clearer explanation of how the charge for a particular facility is arrived at, and more detailed information on costs associated with the Agency's relevant activities.
- 2.13 SWaMP2008 agree with the proposal to limit fee increases in line with measures of economic inflation. However, they request that the Agency revise its preferred option for measuring economic inflation from the GDP deflator to the RPI04 index which is set at -0.5% for 2009/2010.
- 2.14 As with the other council based responses, the timing of the consultation and implementation proposed for 1st April 2010 does not allow Councils to take accurate account of any subsequent rise in their budgetary cycles.

DETI

- 2.15 DETI asked the Agency to note that the Renewable Energy Directive (2009/28/EC) requires that appropriate steps are taken to ensure that administration charges paid by consumers, planners, architects etc are transparent and cost related.

Quarry Products Association Northern Ireland

2.16 Quarry Products Association (QPANI) submitted a detailed response, covering policy proposals and the wider application of better regulation:

- QPANI have no issue with NIEA's intention to limit fee increases in line with the GDP deflator for a 3 year period from April 2010 to March 2013, although they would prefer the timetable for review to be 5 years. However, they maintain that this must be done in parallel to the introduction of schemes where fees and charges can be reduced for companies who consistently achieve compliance.
- Current information on the NIEA website and in fees and charges consultation paper is not enough to give confidence to industry that current level of fees meet the required standards and have gone through the appropriate scrutiny.
- Given the limited information on the breakdown of costs, QPANI indicated they were unable to comment in detail. For openness and transparency, there is a need to clearly explain how charges are set, which should include Government guidance, general principles and the consultation/approval process. This should be communicated through NIEA website, and every time there is a review of fees and charges.
- QPANI strongly support a risk based approach to regulation as targeting resources based on risk is the most effective and efficient way to protect the environment. They would also recommend streamlining regulation by creating a permit to operate that will incorporate different forms of existing permits.
- QPANI suggest a move towards self regulation for those companies which have a long history of compliance and implementing good practice, which would have costs and benefits for both NIEA & the operator. Additionally, fees should be reduced on the basis of full compliance, with the incentive for compliance and improving performance being a widening of the costs between the compliant and the non compliant.
- QPANI advocate that there is a need for better compliance assistance. However, this should be free as industry already pays significant fees. QPANI also encouraged NIEA to include a more flexible mix of chargeable regulatory activities beyond the normal 'license and inspection' roles.

- Online facility for applications and payments would be welcomed and NIEA should focus on how the completion, handling and processing of applications can be made as efficient as possible.

2.17 Other suggestions from QPANI included specific awareness training for public sector officers to better inform them about the companies and sectors they regulate; the need for new and innovative approaches to environmental regulation and management needed; and that NIEA should host best practice page on web site covering environmental issues and environmental and pollution prevention training and awareness. They are of the opinion that NIEA must adopt similar financial strategies to those in private sector.

NI Water

2.18 NI Water accepts the objectives of the consultation although more emphasis should be placed on the delivery of an efficient and cost effective service to business and considers that a charging scheme to co-ordinate charging arrangements is appropriate. If such an inflationary measure is to be applied, then the GDP deflator would seem the most appropriate measure on which to base price rises.

2.19 The proposals for better regulation and for risk based charging, as outlined in the consultation paper, are welcomed. NI Water operates a similar regulatory approach when dealing with consenting trade effluent discharges. They also requested a sympathetic approach be adopted by NEA where non compliance has to be addressed by significant investment.

2.20 NI Water is self monitoring in terms of sampling and analysis for Water Order consents and UWWT Regs and has its own charging scheme which reflects this self regulation activity. However, NI Water comments that the scheme should also accurately reflect the reduced regulatory activities and costs.

2.21 The response again referred to the lack of detail presented in the consultation paper, indicating that more detail on the activities that the fees fund is necessary, and questioned if the customer gets value for money. A robust approach should be implemented when developing a charging scheme as it is important in terms of resourcing.

2.22 NI Water is concerned that the increase in their charges will ultimately be funded by the taxpayer. They suggested a combination of Options B and C proposed in the RIA which would involve a freeze on future fee increases for the duration of the charging period 2010-2013, apart from an inflationary increase of 0.5% below the GDP deflator. This would provide the opportunity to have the Better Regulation Programme implemented and the

review of structures and organisation completed, thus ensuring both are reflected in future charges. The 0.5% below the GDP deflator would act as an incentive to progress these initiatives and implement efficiencies.

Other Respondents

- 2.23 Antrim Borough Council thanked the Department for the opportunity to participate in the consultation exercise and indicated that the proposals had been noted at a Meeting of the Council's Public Services Committee in January.
- 2.24 CNCC also thanked the Department for the opportunity to respond. However, it considered the consultation document to be outside of the Council's scope and so had no comment to make.
- 2.25 DARD submitted a 'nil return'.

3. NIEA Response

- 3.1 NIEA has considered the responses carefully and notes that the respondents are in agreement with the principles of the 3 year Charging Policy and the proposals to apply an inflationary economic measure to fees and charges for each year of the policy. The Agency has considered the other inflationary measures proposed. However, the GDP deflator is the most stable, comprehensive inflationary measure. It is widely used by the UK Government, including the Treasury and the Agency intends to use the GDP deflator forecast for 2010/11. However, it will monitor the performance of the other measures suggested during the life of the policy.
- 3.2 While the Agency understand the need for greater efficiency, the RIA shows that to freeze or reduce fees would create a serious risk of under recovery of the NIEA's regulatory costs. This would be at odds with government policy on achieving full cost recovery which gives effect to the 'polluter pays' principle and allows for effective regulation to be carried out, at least cost to the taxpayer. Shortfalls in fees and charges directly affect the Agency's ability to deliver its regulatory responsibilities, and provide adequate compliance assistance and service to regulated businesses. The result would be uneven competition and a significant increased risk of pollution. Without fees that reflect actual costs the Agency would become unable to support its duties to protect human health and the environment, and face both infraction proceedings and community challenge.
- 3.3 In consideration of the above responses and with regard to the Charging Policy, NIEA plans to make the following changes to the proposals set out in the consultation paper. It is proposed to use the GDP deflator published

by HM Treasury in January, for the third quarter of the financial year, as the basis for limiting annual increases for those existing schemes and not that published in the Pre-Budget Report in November of the preceding year. The January figure is the most recent projected figure for the following financial year, and is 2.25% for 2010/11.

- 3.4 While NIEA appreciates the need for more transparent calculations of fees and charges, the purpose of the Charging Policy is to set out the framework by which a common approach for setting fees and charges can be established and for consolidating the consultation process with stakeholders. The consultation paper was developed to outline the general processes and principles involved and to introduce the application of an economic inflationary measure to fees & charges. The detail will be presented in individual charging arrangements.
- 3.5 Currently the setting of fees and charges is based on the regulatory effort associated with the processing and monitoring of environmental authorisations, using average staff salaries, plus costs of accommodation and support services but NIEA accepts that these cost elements need to be clearer.
- 3.6 NIEA recognises that more clarity is required on the makeup of charges and that they need to be presented in a more user friendly way. NIEA has set up a dedicated Fees & Charges page on the NIEA website (http://www.ni-environment.gov.uk/business_and_industry-2/charges.htm) through which it will publish all its fees and charges for the forthcoming year and all consultations. Additional information will be provided, which will include for example the methodology used to set charges, relevant Government guidance, the general principles surrounding fees and charges and the consultation and approval process. The Agency will also endeavour to provide greater clarity on NIEA bills/invoices to operators.
- 3.7 In 2010/2011 the schemes listed below will undergo fuller investigation and interrogation of their function and applicability. Consultation papers will be issued if substantial revisions are deemed necessary:
 - Fees and Charges in respect of Costs associated with the regulation of Discharges made by NIW – Scheme No 1
 - Discharge of Effluent into Waterways and Underground Strata (Fees & Charges) Scheme (Northern Ireland) 2005
 - Waste Management Charging (Northern Ireland) Scheme 2009/10
 - Hazardous Waste Regulations (Northern Ireland) 2005

- 3.8 Full consultation with stakeholders will be carried out simultaneously, through a coordinated consultation process and these will detail the chargeable costs that may be associated with each type of authorisation. The level of cost recovery is assessed annually by NIEA through the compilation of a Memorandum Trading Accounts (MTA) which show income and expenditure for the year ended. Charging schemes and associated MTAs are also subject to periodic review by Internal Audit and annual review by the Northern Ireland Audit Office.
- 3.9 NIEA will continue to progress a number of areas related to fees & charging and service efficiency. These include risk based charging and a review of structures and processes, which should be completed this year.
- 3.10 There is general agreement on the need for risk based regulation and charging and the development of streamlined permitting systems. This is valuable feedback on the work already underway to have an online application and payment facility available in 2010 and the testing and roll-out of the NIEA Risk Assessment Model which will provide the basis for risk-based charging. The timetable for this process will reviewed and shared with stakeholders via the NIEA Fees and Charges webpage.

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Our aim is to protect, conserve and promote the natural environment and built heritage for the benefit of present and future generations.



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