



Representing Drainage Water Level & Flood Risk Management Authorities

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Consultation:	Environment Agency Charge proposals from 2018		
By:	Environment Agency	Contact:	Ian Moodie, Technical Manager
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Date:	31 January 2018	Email:	ian.moodie@ada.org.uk

Consultation: Environment Agency Charge proposals from 2018 Response by ADA (Association of Drainage Authorities)

ADA is the membership organisation for drainage, water level and flood risk management authorities throughout the UK. Today ADA represents over 230 members nationally, including internal drainage boards, regional flood & coastal committees, local authorities and national agencies, as well our associate members who are contractors, consultants and suppliers to the industry.

Our purpose is to champion and campaign for the sustainable delivery of water level management, offering guidance, advice and support to our members across the UK, and informing the public about our members' essential work.

ADA's interest in the Environment Agency's proposed changes to the charging regimes is to ensure the regulations and charges facilitate the delivery of effective and efficient management of flood risk and water levels across England and enable close cooperation and partnership to establish between risk management authorities, their suppliers and the communities and stakeholders they serve.

ADA is concerned by:

- the proposed scale of the charge increases,
- the information and transparency provided around the proposed charges,
- the limited engagement that has been made with the flood risk management sector in developing these charging proposals,
- the very short timescales proposed for the introduction of the charges post consultation.
- the risk of creating disincentives for riparian owners and risk management authorities to work towards the better management of flood risk, water levels and the water environment.

Q1 Do you agree with the proposals to charge fixed charges where we have greater certainty over costs and time and materials in other instances?

Yes, ADA understands the need for suitable charging and agrees in principle to the approach used. However, ADA is disappointed in the lack of engagement in the preparation of this consultation with ADA and the wider flood risk management sector in England.

There is a strong imperative for the Environment Agency to ensure that these costs are fair, proportionate, competitive and transparent. Importantly, the Agency must also show that it is efficient in its regulatory processes and taking action to keep the costs of these services to a minimum. Considerably more evidence is needed beyond that tabled in the consultation document and the Environment Agency should reflect on how the costs associated with its regulatory processes are to be made more transparent.

[ADA – representing drainage, water level and flood risk management authorities](#)

Member of EUWMA- the European Union of Water Management Associations

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Q2 Please tell us if you have any comments about the proposed transitional arrangements outlined in section 2.8.

ADA is supportive of the Environment Agency making the right efforts to successfully transition existing permits into the new charging regime. However, ADA is concerned by the speed and timing of the proposed implementation of the changes. ADA is concerned that there is insufficient time for Environment Agency staff to be sufficiently briefed on the new charges and procedures and for regulated bodies and individuals to understand and budget for these new and increased charges in April 2018

ADA strongly recommends delaying to the introduction of the charge changes until at least April 2019 to allow more time for engagement with regulated sectors including other risk management authorities and riparian owners.

Q3 Please tell us if you have any comments about the common regulatory framework outlined in section 3.1.

It is important that wider socio-economic benefits from activities that are regulated under EPR are accounted for within the proposed charging regime to incentivise good practice and engagement. Similarly where regulatory activities provide a benefit and cost saving to the Environment Agency's wider functions this needs to be quantified and considered within the charging regime. It is unclear from the information provided whether the Common Regulatory Framework enables the Environment Agency to properly consider and account for these wider benefits.

Q4 to 8 OPRA

No comment.

Q9 Do you agree with the proposal to include only basic pre-application advice in all of our application charges?

Yes, but only if the additional pre-application advice is being charged at a fair and competitive rate and that the Agency shows that it is working efficiently to keep its costs of running this service to a minimum.

Q10 Do you agree with the proposal for a discretionary enhanced pre-application advice service?

Yes, ADA agrees in principle. Such discretionary services should be for elements of advice that could be sourced outside of the Environment Agency. The Environment Agency should take steps to ensure that its hourly rate for pre-application advice is fair, proportionate, competitive and transparent.

For elements of work where a risk management authority is working closely in agreed partnership with the Environment Agency this is one element where the Environment Agency should be able to make an in-kind partnership contribution and not levy a fee.

Q11 Waste recovery plans

No comment.



Q12 Do you agree with our proposal to retain a proportion of the fee to cover costs associated with processing poor applications?

No comment.

Q13 Do you agree with the proposals to recovering additional costs for determining public interest applications through time and materials?

No, ADA does not agree without a suitable limit/cap being placed on these charges proportionate to the scale and nature of the application. For elements of work where a risk management authority is working closely in agreed partnership with the Environment Agency this is one element where the Environment Agency should be able to make an in-kind partnership contribution and not levy a fee.

Q14 Do you agree with the fixed charge approach for application amendments during determination?

No comment.

Q15 Do you agree with our proposal to recover costs of determining permits for novel activities through time and materials charging?

No, ADA does not agree without a suitable limit/cap being placed on these charges proportionate to the scale and nature of the application. For elements of work where a risk management authority is working closely in agreed partnership with the Environment Agency this is one element where the Environment Agency should be able to make an in-kind partnership contribution and not levy a fee.

ADA wants to ensure that the water level management activities of its members continue to use the best and latest technological approaches, especially where these provide efficiencies and better environmental outcomes. ADA is concerned that charging in this manner for novel activities could reduce the ambition of risk management authorities, including the Environment Agency itself to seek better outcomes through innovation and targeted research.

Q16 Do you agree with our proposals to charge for further information requests not covered within the baseline charge?

No comment.

Q17 Do you agree with our proposal to use the new application fee as the basis for variation and surrender charges?

No comment.

Q18 Do you agree with our approach for discounting batch transfers to a single operator at the same time?

No comment.

Q19 Do you agree with the approach we have used to cover our costs associated with determining permits at multi-activity sites?



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No, risk management authorities and riparian owners who apply for flood risk management permits will often also possess a permit for activities contained within another regime of EPR such as for spreading waste to land. As such ADA considers that more effort is needed to better understand the efficiencies that can be offered by offering a 'suite' of related licences and exemptions for routine watercourse maintenance operations.

Q20 Please tell us if you have any comments about the approach to annual subsistence charging outlined in sections 4.5 and 4.6.

Insufficient information has been provided within the consultation documents to comment as to whether the subsistence charging proposed is fair, proportionate, competitive and transparent.

Q21 Do you agree with our approach to charging for non-planned compliance work at permitted sites?

No comment.

Q22 Do you agree with the additional charge to cover extra regulation work in the first year of operation on an activity?

See comments in Q23 below.

Q23 Do you agree that this first year charge should apply across all regimes and sectors under EPR or should it apply to some sectors only? (If so which sector/s?)

No, ADA believes that it would be better to engage directly with sectors, through appropriate membership bodies, including ADA who could assist with communicating common issues to members and thus help reduce costs. Thus first year charges should only be applied once steps have already been taken to reduce common issues.

Q24 Do you agree with our approach to charging for pre operational and pre-construction?

Yes, ADA considers that subsistence charges for the period during which neither construction nor operation has commenced, especially in relation to flood risk management permits.

Q25 Please tell us if you have any comments regarding our proposed arrangements to recover regulatory costs at multi-activity sites?

Risk management authorities and riparian owners who apply for flood risk management permits will often also possess a permit for activities contained within another regime of EPR such as for spreading waste to land. ADA considers that the Environment Agency must seek greater efficiencies in this area to avoid duplicate inspections.

Combining permit inspections could reduce the costs of compliance activities to the Environment Agency and those being regulated, and thus enable a reduction in charges.

Q27 Do you agree with our proposals for flood and coastal risk management permitting charges?

No, ADA does not agree with the proposals in their current form. See comments below in answer to Q28.



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Q28 Please tell us if you have any comments in relation to our flood and coastal risk management proposals. In particular, do our proposals cover all activities you may undertake as an operator?

ADA is concerned by the proposed substantial increase in charges for flood and coastal risk management permitting activities. We are concerned that the charges at the scale proposed will act as a barrier to:

- a. riparian owners undertaking appropriate watercourse management, and
- b. risk management authorities working in partnership with the Environment Agency, e.g. through Public Sector Cooperation Agreements (PSCAs).

These would be very unsatisfactory outcomes given that these partnerships are often established to ensure that the optimum risk management authority or stakeholder undertakes flood risk management works in a particular area.

ADA believes that charges should take account of the scale, cost, extent, delivery and ownership of the regulated activities, and perhaps be banded in proportion to these factors. Some of these regulated activities provide desirable outcomes to flood risk management and the water environment that will provide wider socio-economic and environmental benefits and cost savings to the Environment Agency's functions. It appears that such benefits have not been considered in developing the proposed charges.

ADA is concerned that it has not been appropriately engaged or briefed by the Environment Agency on the scale and nature of the charges proposed and the impact on the flood risk management sector, nor have other risk management authorities to the best of our knowledge. The speed at which these charges are being introduced is expected to place unplanned financial burdens on a range of public bodies in 2018.

A priority for the Environment Agency must now be in finding a suitable regulatory mechanism to facilitate partnership working on main river/flood defences by risk management authorities. Options could include whether there should be specific exemptions or 'authority licences' for partnership working between risk management authorities? And/or 'Catchment licences' for partnership working between riparian owners within a defined area, watercourse, or project?

ADA considers that before the proposed charging scheme is implemented the following steps should be undertaken by the Environment Agency:

- Detailed engagement with ADA and other risk management authorities on these proposals to understand their impact on the delivery of flood risk management in England.
- A full impact assessment of the proposed charges on the delivery of flood risk management operations by other risk management authorities and riparian owners.
- Explore ways of ensuring that new charges take better account of the scale, cost, extent, delivery, ownership and wider socio-economic benefits of regulated flood and coastal risk management works.
- Provide much greater clarity on when an operation is judged to fall within a given charging category. This may require the creation and/or expansion of exemptions and standard rules permits to include a greater range of activities?



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- Provide more detailed information, than is provided within the charges tables, about how the costs have been derived for the different flood risk management activities in order to substantially increase the Environment Agency's transparency and justification for substantial charges to the flood risk management sector and riparian owners.
- A review of the scope and extent of exemptions and standard rules permits for flood risk management activities. Whilst exemptions and standard rules are more reasonable and commonplace for works by riparian owners, these are not accessible for more extensive works which may be undertaken by another risk management authority across a defined area.
- Review the restriction on exemptions and standard rules permits applying to flood risk activities occurring within a specified linear distance of an environmental designated site or feature, such as: special protection area (SPA), special area for conservation (SAC), Ramsar site, site of special scientific interest (SSSI), or local nature reserve (LNR). This restriction can prevent the application of an exemption or standard rules permit to an otherwise compliant activity, which may even be being undertaken to enhance the local environment. Such restriction can elevate the cost of regulation substantially on a flood management activity without necessarily enhancing the level of environmental protection afforded. The Environment Agency should work with Natural England to find more practical and relevant metrics for assessing the environmental risk to such sites from regulated flood risk management activities.
- Clarify how subsistence charges will apply to flood and coastal risk management activities in practice. Works should not accrue a subsistence charge associated with compliance checks until work on the ground has commenced and clear controls and guidance is needed for the application of compliance checks for flood risk management activities.
- Provide clear evidence that steps are being taken to reduce the cost of the Environment Agency undertaking its regulatory role, including compliance checks and that such savings are reflected in proposed charges for the defined period.
- Delay the implementation until at least April 2019 to give other risk management authorities and riparian owners time to properly engage with and budget for any proposed changes.

Separately, there remains a need for Defra to address charges for ordinary watercourse and land drainage consents which are issued by local authorities and internal drainage boards under the Land Drainage Act 1991. These have remained at £50 since the Act was enacted. ADA is aware of work that suggests that this figure should rise to recover a more accurate reflection of the cost of such regulated activities. The Environment Agency should explore this further with Defra given their strategic overview role for flood risk management from all causes of flooding.

Q29 to 30 Radioactive substances and waste

No comment.

Q31 to 35 Water quality and groundwater

No comment.

Q36 to Q47 Other regulated sectors



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No comment.

Q48 Do you agree with our proposals for the waste: land spreading (mobile plant) sector permit charges?

No comment.

Q49 Do you agree with the proposal for the waste: waste transfer and treatment sector permit charges?

No, ADA is concerned by the proposed substantial increase in charges for waste permits associated with flood and coastal risk management activities, principally *SR2010No18 - Storage and treatment of dredgings for recovery*. ADA considers that more work should be undertaken by the Environment Agency to better understand the impact of this increase in charge on the management of watercourses in England for environmental, flood risk and wider water level management benefits. It is important that the Environment Agency engages with other risk management authorities before making these changes to charges to avoid unintended consequences.

Q50 Do you agree with the proposal for the waste: landfill and deposit for recovery sector permit charges to reduce the Thames regional charging area Standard Unit Charge?

No, ADA is concerned by the proposed substantial increase in charges for waste permits that may be associated with flood and coastal risk management activities, principally lagoons and dredging sites. ADA considers that more work should be undertaken by the Environment Agency to better understand the impact of this increase in charge on the management of watercourses and flood defence assets in England for environmental, flood risk and wider water level management benefits. It is important that the Environment Agency engages with other risk management authorities before making these changes to charges to avoid unintended consequences.

Q51 Electrical

No comment.

Q52 Do you agree with the proposal to reduce the Thames regional charging area Standard Unit Charge?

No comment.

Q53 Do you agree with the proposal to remove the River Alre (northern and southern reaches) from the list of supported sources in the Abstraction charging scheme?

No comment.

Q54-67

No comment

Q68 Please tell us if you have any comments on our plans to review abstraction charges.



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ADA recognises that the existing abstraction charges scheme is established on the principle of 'cost recovery' by the Environment Agency in performing its regulatory duties. This should not change; charges should not become an income generating opportunity for government.

Any future system for abstraction charges should be effective, efficient, fair, administratively feasible and equitable across those different sectors that are regulated. As a guiding principle the system should avoid regulating the management and transfer of water within a catchment where the end use of water is already appropriately regulated by the Environment Agency. This is especially so where water level management is undertaken in accordance with the powers of a risk management authority and in close coordination with the Environment Agency.

ADA has continued to raise significant concerns about the efficacy, process and charging proposed for water transfer licencing under new water abstraction regulations. These regulations, which came into force from 1 January 2018, have removed exemptions for a number of activities. Amongst these changes is a requirement for transfers of water from main rivers into internal drainage districts to be licenced by the Environment Agency. This will add an expense and bureaucratic burden that will inhibit effective close working between risk management authorities on water resources and environmental management.

IDBs are currently investigating this new regulatory burden with the Environment Agency, including the importance of existing and future water transfers into IDB systems to:

- mitigate environmental damage such as anoxic conditions during dry spells,
- support Environment Agency flood risk management operations,
- avoid damage to designated environmental sites, and
- facilitate fish and eel passage at flood risk management control structures.

ADA remains concerned that the new regulations in this area will significantly inhibit the ability of internal drainage boards to work closely in partnership with the Environment Agency to assist with the Agency's water resource management functions, such as the current working relationships that help mitigate the impact of drought conditions within lowland catchments, especially in the Fens.

ADA hopes that a consensus on a pragmatic, light-touch administrative solution can be reached over the next few months which may alter the circumstances where IDBs need to apply for and pay for licences. This needs to be fully incorporated as these charges are brought within the EPR system.

Q69 to 73 Navigation

No comment.

Q74 Please give us any further comments on our proposals which have not been covered elsewhere in the questions, i.e. If none of the questions throughout the consultation have enabled you to raise further specific issues with these proposals please set them out here with any accompanying evidence.

ADA's members have found the consultation difficult to understand and navigate. This has prevented a number of ADA members from submitting their own responses.



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It is important that the Environment Agency takes step to improve the design of its consultation process in this area. It may be more transparent to break up such a large and broad ranging set of charges into a series of more manageable consultations.

Q75 We would be interested in any analysis you have that suggests our proposals will influence the market conditions in your sector and whether there will be an impact on future investment decisions and on new entrants to the sector?

No comment.

Q76 Do you have any analysis that suggests the charge increases will impact on SMEs in your sector? If so, which companies are most likely to be affected and what do you think will be the consequences?

Whilst not SMEs as such ADA represents internal drainage boards (IDBs) in England, which are local public bodies that manage water levels in some areas of England where there is a special need for drainage. IDBs are designated as risk management authorities under the flood and water management act 2010 and operate under powers within the Land Drainage Act 1991.

It should be noted that all IDBs in England in terms of turnover and headcount IDBs are financially comparative with small companies, using the definition used by the European Union for a small business (turnover <€10,000,000 and staff headcount of <50) and can be considered to be smaller public authorities. Thus the charges will present a specific financial burden to this part of the flood risk management sector who need to forward plan major increases in costs, including regulatory charges for their functions, in order to appropriately set their drainage rates and special levy for the forthcoming year ahead.

ADA has provided a summary of the IDB total income for 2016-17 below (data taken from Defra IDB1 return 2017).

Total income	No. of IDBs
£0 - £24,999	19
£25,000 - £49,999	10
£50,000 - £99,999	17
£100,000 - £249,999	18
£250,000 - £499,999	8
£500,000 - £999,999	19
£1,000,000 - £1,999,999	13
£2,000,000 - £2,999,999	8
£3,000,000 - £3,999,999	2

Q77

I am responding on behalf of ADA, which is a membership body for flood risk and water level management authorities in England.



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Q78 If you are responding on behalf of an organisation are you a Small or Medium-sized Enterprise (SME)?

Yes.

Q79 Email address

My email address is ian.moodie@ada.org.uk

Q80 Can we publish your response?

Yes.