Cyswllt Amgylchedd Cymru | Wales Environment Link

NRW Regulatory Fees and Charges

December 2023

1. Are you responding as an individual, a business or an organisation?

Organisation

2. To help us understand you point of view and sector impacts more fully, please indicate which business sectors apply to you:

Wales Environment is a network of environmental, countryside and heritage NGOs, working on Welsh environmental policy and advocacy.

3. Do you currently hold a licence, permit or consent issued by NRW?

Several WEL member organisations are landowners and managers and hold a range of NRW permits. Furthermore, a number of WEL member organisations hold species handling licences and other individual permits issued by NRW in respect of their conservation activities.

4. In understanding your answers, it would be useful for us to know where you live or work. Which geographic area applies to you?

WEL covers all of Wales.

5. To what extend do you agree or disagree that NRW's regulatory services should be paid for by those who use them and not by the taxpayer or other charge payers?

Agree

6. Do you think there are any better alternatives to how NRW proposes to fund its regulatory activities?

WEL agrees with the general principle that NRW's regulatory services should normally be paid for by those who use them, as this is an important contribution to the "polluter pays" principle. We find it anomalous that the cost of checking compliance with agricultural regulations is borne by the taxpayer, by way of Welsh Government grant to NRW.

We are disappointed that the consultation document states that fines resulting from NRW enforcement work are paid to HM Treasury. This would appear to put the environment of Wales at a disadvantage compared to the situation in England. Last year, the Chancellor announced that fines resulting from Ofwat and Environment Agency enforcement activity against water companies would be reinvested in schemes that benefit the natural environment. We believe a similar policy should be in place in Wales, with fines imposed because of environmental offences used to improve the environment in Wales, not paid to the Treasury.

Some activities requiring a licence/ permit are undertaken purely for environmental benefit, and at direct cost and no commercial benefit to individuals and organisations, including the charities we represent. Such work is usually in furtherance of NRW's own aims. In these circumstances, we believe it is appropriate for the taxpayer to bear some or all of NRW's costs, as this provides wider public benefit. In this respect, we believe the current waivers in respect of species licensing should remain (albeit with more transparent guidance), so their costs continue to be borne by the taxpayer.

7. Having considered our proposals and supporting information, to what extent do you agree or disagree with our charging proposals for COMAH?

Agree

8. Are there any other comments that you would like to provide in relation to our proposed COMAH charging proposals?

No

9. Having considered our proposals and supporting information, to what extent do you agree or disagree with our charging proposals for species licensing?

Agree

10. Are there any other comments that you would like to provide in relation to our proposed species licensing charging proposals?

We are aware that some conservation activities requiring species licenses by our members have not been included under the conservation waiver where projects also bring in a profit from some of the activity of the project, despite the main purpose of the project being conservation. We would like to see greater clarity and guidance around when the waiver for conservation, scientific research and education might not apply. The application process should be more transparent, and we believe the waiver should apply to any project whose main purpose is conservation.

11. Having considered our proposals and supporting information, to what extent do you agree or disagree with our proposed break-even and inflationary increases to regimes in deficit?

Agree

12. Are there any other comments that you would like to provide in relation to our proposed break-even and inflationary increases to regimes in deficit?

While we support the need for these increases to enable each regime to reach a break-even point, we are concerned that this is based on a presumption that the current level of regulatory activity is sufficient. From NRW's latest regulatory report (2022), it is evident that there are significant levels of non-compliance in a number of regimes, and that only a small proportion of permits are checked for compliance. For example, out of over 2000 water resource permits, only 113 were assessed, and 56% were non-compliant, for water discharges, 474 were assessed, and a shocking 75% were non-compliant.

These data suggest that NRW needs to increase its regulatory activity in these sectors. This is supported by evidence from NRW's CEO, Clare Pillman. In the recent Welsh Affairs Select Committee hearing (Q163), she stated that the reason that DCWW assets could not be monitored more closely was money. This would seem to be a clear indication that, for water discharge permits at least, a real terms increase is required to pay for additional staff and equipment to adequately monitor DCWW assets.

WEL is disappointed that there is no attempt in these charging proposals to increase, in real terms, charges to enable an effective level of regulatory activity to be undertaken in those regimes with the greatest incidences of non-compliance and environmental harm.

Overall, WEL believes NRW needs to provide further information to accompany consultations on charge proposals to enable an effective assessment of its proposals. In particular, it should set out the current levels of regulatory effort and the extent of non-compliance in each regime. This would enable an assessment to be made of the effectiveness of each regime in protecting the environment and human health, rather than just its financial health. We expand on this in two points below:

1. WEL is disappointed that the main criterion NRW appears to be using for setting regulatory charges is the need to achieve financial break-even. We believe the starting point for determining the resources needed for a regulatory regime should be "what level of regulatory effort is required to ensure a high degree of compliance and minimal risks to the environment and human health?".

   Only when this level of regulatory effort has been assessed can the financial break-even point be determined. Without information on the amount of regulatory effort and extent of non-compliance, it is difficult to say whether the proposed increases are sufficient, though as noted above, a statement by NRW's CEO would suggest that they are not.

2. WEL believes NRW should be more proactive in adopting a risk based regulatory regime, where regulatory effort is focused on the sites/permits which are at greatest risk of non-compliance. This should then be reflected in the charges for individual permits. Those associated with a poor compliance record should pay more, on a permit-by-permit basis, than those with a good record. For example, a sewage works with a poor record of compliance should pay more than a similar site with a good record, to enable NRW to undertake more monitoring and compliance checks. While this approach is taken in some sectors, in others, notably water discharges and abstraction, it is not.

Wales Environment Link (WEL) is a network of environmental, countryside and heritage Non-Governmental Organisations in Wales. WEL is a respected intermediary body connecting the government and the environmental NGO sector. Our vision is a thriving Welsh environment for future generations.

This paper represents the consensus view of a group of WEL members working in this specialist area. Members may also produce information individually in order to raise more detailed issues that are important to their particular organisation.

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