Environment Agency

Charge Proposals for April 2018

National Customer Contact Centre

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Bradmarsh Business Park

Templeborough

ROTHERHAM S60 1BY.

 January 2018

Dear Sir/Madam,

**CONSULTATION ON CHARGE PROPOSALS FROM APRIL 2018**

I write on behalf of the Wild Trout Trust in response to the Environment Agency’s consultation on charge proposals from April 2018, under the Environmental Permitting Regulations 2016 and specifically on aspects of flood risk activities.

The Wild Trout Trust (WTT) is a conservation charity that works practically to improve habitat for wildlife and people, with the native brown trout as our flagship species. The Trust employs eight full-time Conservation Officers who lead groups of local community volunteers in hands-on river habitat improvement engagement events, who offer advice to those groups and who manage significant river restoration projects. Annually, WTT runs 80 engagement events, from one to ten days in length, involving directly 3500 people and improving over 300km of river. In addition, the Trust carries out 200 site visits per year, advising on habitat improvement work that local groups can complete for themselves and/or under the supervision of WTT officers; in over 80% of cases, that advice is implemented, to improve the natural environment. WTT is regarded as a key partner of the Environment Agency, currently co-delivering 35 projects, through agreements established with the national office and every one of the area teams. The aims and objectives of WTT align closely with many of those of the Agency (outlined in its 2016-2020 Objectives, its culture expression and its mission statement), Defra (in its Strategy to 2020, Creating a Great Place for Living) and indeed HM Government, in its 25 Year Environment Plan: all share a commitment to creating stronger partnerships and empowering local people to be involved with, and better manage, the environment.

We believe that the consultation process is deeply flawed. The Agency reports that it has liaised with trade associations for over a year, yet the public consultation, including release to EA’s own environmental partners, allows for a response time of 39 working days (30 November 2017 to a closing date of 26 January 2018, through the Christmas holiday period and extended *post hoc* by EA by 14 days) and from then, implementation in a further 44 days, 1 April 2018. This is little time for EA to digest and act on any feedback and may suggest that 18/19 plans and budgets assume implementation of the proposals and thus effectively negate any meaningful external input from the consultation.

The charge proposals completely fail to recognise EA partners who are vital to improving our natural environment, particularly in the face of ever-reducing resources within the Agency to carry out such work. The proposals ignore the essential principles underpinning successful partnership, reducing such a relationship to one of a regulator and customer, completely at odds with the corporate commitments of Government and its agencies towards empowering communities and promoting a “shared society’ with 3rd Sector delivery. There is too an inconsistency in the proposed charges and EA’s published corporate objective to “…*reduce the regulatory burden to save businesses money”* (see page 13, [www.gov.uk/Environment\_Agency\_our\_ambition\_to\_2020.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/523006/Environment_Agency_our_ambition_to_2020.pdf)). Furthermore, the consenting/permitting process hitherto has enabled the EA to engage with progressive landowners and local community groups and (along with conservation NGOs) offer guidance and support in ecologically appropriate and low flood risk techniques; the basis of any engagement (if any takes place at all) will be very different under the terms of these proposals. There is already a volume of detrimental, unconsented work that takes place by land managers attempting to improve their own drainage, often at the expense of catchment flood risk management and more sensitive infrastructure downstream. Increasing the permitting charges will only drive more of this underground, actually reducing the EA’s ability to regulate these high-risk activities.

It is iniquitous to charge environmentally beneficial proposals that are supporting the EA in its statutory duty (and most likely to be of low risk) in the same way as those of (potential) detriment to the environment. For example, a low risk, non-exempt habitat improvement project by a local community group, introducing woody material into a stream will, as proposed, attract a permit charge in excess of £1000, excluding the group’s costs for preparation of the application. The benefits from such work are manifold, including not only improved habitat but also flood attenuation, health and wellbeing, climate change mitigation and aesthetics (see EA’s *Working with Natural Processes – Evidence Directory*, October 2017). Under the current proposals, a very similar figure covers four years of annual charges that allows the *daily* disposal to land of 5 tonnes of waste sheep dip, or the permit cost *and* four years of annual charges for the *daily* discharge of five tonnes of sewage effluent from domestic households or organisations operating for charitable purposes. Taking the latter charge as an example, for a similar sewage discharge from a non-charitable organisation, the permit is twenty times the cost. Hence, there appears to have been some attempt at scaling for this particular case, yet no such subsidy has been applied to the proposed charges for those many charitable organisations, such as WTT, who are working for environmental gain, as opposed to those working to gain from the environment. Amongst the many peculiar details of the proposed charges, it is extraordinary to read that the Agency proposes to charge £764 for a permit to “notch an existing structure” to improve fish passage, when it is known that physical modification of rivers (e.g. fragmentation by weirs) is the single most important factor in WFD failures for fish and the focus of many of EA area teams and their partners has been on improving fish passage past structures (e.g. Severn estuary SAC shad project, DNAire project).

In *many* cases, the cost of permitting will exceed the cost of delivery of projects which may be small-scale but which collectively add significantly to improving and getting people involved with our environment. WTT runs many practical days with groups of volunteers which cost, with two supervising staff members, £500 per day but which effect too much work in each day to qualify under EPR exemption. In these cases, the cost of a bespoke permit with the proposed charges could be three or even four times more than the cost of actually doing the work. The draft charging scheme (section 5) does allow for abatement of “significantly disproportionate” charges, but there are no details to allow for further comment here.

Environmental charities and their partner community groups will be severely affected by these proposals, ultimately impacting delivery of the Agency’s statutory obligations and its corporate commitments. From our extensive network of contacts in local community groups, there is unanimity of view: the current permitting system is complex, bureaucratic, inaccessible and beyond the capacity of most; the current charges (already increased just 12 months ago by nearly 500% on their predecessor) are extremely restrictive and these proposed charges are simply prohibitive. If introduced as presented, the charges will stop any permitted work and may encourage unpermitted and thus uncontrolled work by local communities (and land managers with intentions likely at odds with habitat preservation and catchment-wide flood risk management). For some groups, WTT’s Conservation Officers have completed the permitting process *pro bono*, requiring at least a day for familiarisation and preparation of the application to ‘duly made’. If such expertise has to be bought in at commercial rates (not WTT charitable equivalents), an additional £500-£1000 is added to the amount the group must fund. To quote one angling club river manager in Norfolk, “…*this is an extremely complicated process…the cost of obtaining consent will be equal to if not more than the cost of the works. This is quite simply unrealistic and may well mean that we will no longer be able to afford to carry out any river works and improvements”.* It is noteworthy that each year, WTT completes a number of projects on ordinary watercourses, regulated by local authorities, and in most cases, permit fees have been waived because the work is rightly deemed to be environmentally beneficial.

In Scotland, there is no application or subsistence charge for “…*any activity or associated activities deemed by SEPA to constitute an Environmental Service*” ([https://www.sepa.org.uk/media/143534/water\_environment\_charging\_scheme\_2015.pdf)](https://www.sepa.org.uk/media/143534/water_environment_charging_scheme_2015.pdf%29). The Agency charge proposals as presented will inevitably impact value for money in habitat restoration projects; funds which should be used for work in and by the river will instead be directed to permitting. As an example, a recent project in Hampshire, with £20,000 of funding from EA, the landowner and WTT used six techniques (“activities” as described under EPR) to improve 1.2km of river habitat in a low flood-risk area. The proposed charges if applied in this case would be approximately £2500 (applying the stated reductions and with no subsistence charge), consuming 12.5% of the entire project fund and delivering 150 metres *less* work for the environment on this one project alone.

WTT accepts that the Agency is expected to move towards a full-cost recovery model for its flood risk permitting work and that there will be some, more complex environmentally advantageous projects (e.g. large-scale barrier removal or river restoration) that necessitate detailed investigations and permissions. We offer here a proposal for cost reduction for the very many smaller scale and less complex habitat improvement projects that does not jeopardise the relationship built up over more than a decade between area teams and their various local partners, yet which still delivers on the environmental improvement that those partnerships have produced and can continue to do so into the future.

1. EA should recognise and acknowledge, in the subsequent implementation of any EPR charging scheme, the vital role of its partner organisations in freshwater habitat improvement, not only the NGOs such as the rivers and wildlife trusts, WTT and the Angling Trust, but also the many local community groups, landowners and indeed businesses that are working with area teams to improve our natural environment. The Agency may consider developing further a trusted, expert network of delivery bodies and their partners, to exempt this network from permitting fees and the attendant bureaucracy and costs of administration. A review of the work of such bodies over (say) the last five years may well reveal any *actual* flood risk from their work; if issues become apparent, the Agency can invoke its regulatory function.
2. Concomitant with 1 above, the Agency must review the current EPR exclusions and exemptions, to create activities that are environmentally meaningful and which can be delivered by its many partners, including local community groups, without a permit and the associated costs and bureaucracy for both parties. WTT has previously suggested and offered to contribute to such a review. Central to this must be an acceptance by EA that many habitat improvement techniques commonly applied in rivers are essentially low flood risk in many or possibly even most settings; if issues arise, the regulatory function of the Agency can be implemented. The current exemptions’ conditions demonstrate that EA can indeed take a more pragmatic approach to some work (with quite possibly genuine flood risk), allowing the dredging of up to 1.5km of “previously straightened” main river without a permit. The same approach should be applied to work that will be of benefit to our natural environment. It is encouraging that the Agency cites its goal to work towards a more risk-based approach in permitting; unnecessary risk-aversion must be avoided. A comparable situation may be evident in how EA in some areas now deals with fallen trees in rivers. In previous years, Operations Delivery teams would respond quickly to calls from a landowner to remove a fallen tree from a river. Now, it is widely understood that it is the landowner’s responsibility to remove such a tree and maintain conveyance in the channel. In reality, many fallen trees do not pose a risk but actually confer real flood attenuation and environmental benefits. If the EA does perceive that a tree is a genuine risk, they can insist that the landowner deals with it, at his/her expense. Much the same response could be applied when partners create in-channel habitat: if the EA has concerns, they can instruct the landowner and/or project partner to remove or modify the installed structures. This simple change to policy would greatly reduce the number of applications requiring costly determination and leave the EA to undertake thorough investigations into applications with real risk.

As part of any review of exclusions and exemptions, EA with Natural England should review work in or near designated sites. The current regulations make it impossible for any river restoration or habitat improvement work to be undertaken under exemption on SSSI or SAC watercourses. This places an unfair disadvantage on the very watercourses that are the most sensitive to environmental degradation and arguably require the most assistance to maintain both WFD 'Good' status and 'Favourable Condition' targets.

1. Much of the Agency’s work with partners involves the preparation of partnership or management agreements for river habitat improvements, usually with FBG teams and/or Catchment Coordinators. This agreement provides a tool by which area teams can, in combination with 1 & 2 above (and possibly 4 below), assess and mitigate for risk from the project outset and remove the need for costly permitting processes. If this option is pursued, it is important that the Agency does not simply transfer its permitting bureaucracy into the agreement process and that a mechanism remains to work with local community groups without excessive and unnecessary administrative burden. WTT’s extensive experience indicates that short, on-site meetings with relevant EA staff clarify the objectives of any proposed project, increasing the quality and efficiency of delivery; such meetings are usually required anyway, as part of the project management process. **The projects undertaken through partnership agreements invariably contribute towards EA’s own statutory and corporate obligations and thus there should be no charge for the Agency staff’s contribution to these site meetings.**
2. EA may consider a simple system of quality assurance of projects delivered by its partners. In reality, this happens informally already, since area teams are well aware of partners that deliver effectively and with value for money. Any site visits thought to be required can be viewed as an opportunity to engage with partners and stakeholders and thus there need be no additional cost implications for such a system.

Yours faithfully,

Shaun Leonard

Director, Wild Trout Trust