

6. Charging for discretionary services

We have looked at a number of areas where we need or want to explore options to introduce new charges to help make sure that:

- we can provide Definition of Waste services
- we are recovering the appropriate level of income for chargeable activities or services we provide to customers
- there is a consistent approach to charging
- we understand where our time and money is going
- there is buy-in and support to our approach across industry, customers and government

Activities where we propose to charge for discretionary services

- EPR permitting: discretionary pre-application advice service (all regimes) - new charge (see section 4.3.1)
- Definition of waste services - new charge
- Planning advice - increased charge
- Marine Licensing - new charge

6.1. Definition of Waste services

The Definition of Waste (DoW) services support business by helping them to determine whether their material is:

- never a waste
- a waste
- a by-product, or
- no longer a waste (end of waste)

If a material is not waste, waste regulatory controls do not apply and the material can be put on the market as a product. This can lead to significant financial and other business benefits.

There is no legal requirement for customers to seek a DoW opinion from the Environment Agency. Businesses can choose to make their own assessment by using freely available definition of waste guidance and tools but many customers want the surety of our opinion on whether their material is a waste or not.

Providing formal DoW opinions is a discretionary service and previously we have not charged for it. It has been funded from Grant in Aid and costs over £400,000 per year to run (depending on the level of requests we receive and assess). With increasing resource and funding constraints, we could not maintain the resources to provide the services and have had to suspend them at present.

We usually have around 80 requests for DoW opinions per year. The materials vary from individual wastes from single sites to whole waste streams covered by DoW frameworks such as waste Quality Protocols.

We need to secure sustainable funding to recover the cost of providing the DoW services by introducing a fee. The charge will enable us to provide the discretionary DoW services and in many cases reduce the timescales for providing the opinion.

Without charging, we will not be able to provide DoW services.

Details of the proposed charge

If a customer would like our DoW opinion on their material, they will need to enter into a charging agreement with us at a set hourly rate of £125. The total fee will be calculated on the actual amount of hours spent assessing each submission.

Customers will pay an interim fee of £750 on submission of a request for our DoW opinion, equivalent to 6 hours work. This is the minimum time required to complete an initial review of the information submitted and estimate the resources needed, plus activities such as administration and tracking.

The customer will then be provided with an estimate of cost of the further work required to complete the full technical and legal assessment and provide a formal opinion, calculated as the estimated number of hours required times the hourly rate. Customers can agree to continue with the assessment on that basis, or withdraw at that point without incurring further costs.

When a charging agreement between us and the customer is in place, including the expected number of hours, we will continue with the assessment and invoice the customer for the hours spent. This will either be done in one go or with a series of regular invoices if the work continues for a period of time.

We will charge for the service regardless of the outcome of the assessment.

Consultation questions

61. Have you used our Definition of Waste panel service?

Yes

No

If Yes, was our opinion that your material was:

A waste (including where we were not able to make a decision due to insufficient information)

Not a waste (including by-product or end of waste)

62. Do you use the waste quality protocols or other end of waste framework?

Yes

No

If Yes, which?

63. Do you support our proposal to recover the cost of providing Definition of Waste services outlined in section 6.1?

Yes

No

Not applicable

If not, please explain why.

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64. Please tell us if you have any further comments on Definition of Waste Charging proposals.

6.2 Planning advice

We have a statutory planning role, both advising on local plans and in responding to consultations on individual planning applications.

Increasingly, our customers tell us that our advice is most valuable at the early stages of proposals, advising both strategically and at pre-application, to avoid unnecessary cost and delays later in the process. In order to maintain this service into the future, we need to recover our costs for doing so.

Our standard service, consists of two stages:

1. the preliminary opinion: a free service for all developments, irrespective of scale and complexity, funded through our grant-in-aid from Defra rather than charges income - this outlines the issues, relevant to our role and function that will need to be considered as part of the development proposal, and identifies the necessary information required to enable us to provide a substantive response to the subsequent planning application
2. a voluntary bespoke charging agreement where we can provide more detailed technical advice about the proposal: our charged advice is provided through a formal agreement made up of an offer letter, a programme of advice and standard terms and conditions - we charge an hourly rate to cover our costs in providing that advice, since each individual agreement will vary in the amount of time and resource required to provide our technical advice

Proposal

We propose to increase the hourly rate from £84 to £100 to ensure that we continue to recover our full costs.

Since we first started using the £84 hourly rate, we now have a better understanding of the division of work within the grades of staff and our various business functions that contribute to this work. We have reviewed our activities and cost base for the people involved in delivering this work, and calculated that we should instead be charging £100 per hour to recover our full costs.

We propose to continue to develop and market this service, offering detailed bespoke spatial planning advice at all key phases of development. This includes (but not exclusively) strategic advice to developers, Local Enterprise Partnerships, Local Nature Partnerships, Enterprise Zones and to those involved in the discretionary phases of the Local Plan process.

In all cases, our service will be voluntary; we will not impose a charged service on any developer.

Consultation questions

65. Do you agree with our proposed increase to the hourly rate charged for our bespoke spatial planning advice service?

- Yes
- No
- Not applicable

If not, please explain why.

66. Do you have any concerns that the proposal to increase the charge for our discretionary planning advice service might compromise our ability to carry out our statutory planning advice duties?

- Yes
- No
- Not applicable

If not, please explain why.

6.3 Marine licencing advice

We propose to recover the costs of our marine licencing advice in the same way we already recover our costs for other planning advice.

Marine licencing advice

We give advice about some activities that require a marine licence. For example, construction, dredging and disposal activities in our estuaries and along our coasts.

We offer advice about things such as:

- flood and coastal risk management
- pollution prevention
- impacts on water bodies, including water quality
- impacts on biodiversity and fisheries

Our advice can be given before or after a marine licence application is submitted. It can also be given after a marine licence has been granted.

This is the same as our planning advice. We advise about the same topics, at the same time and in the same way. We are required by government to recover the costs of this service just like we already do for planning advice.

Proposal

Our Charging for Planning Advice offers a free preliminary opinion and then offers the option of discretionary technical advice with a charge. We propose to take the same approach for marine licencing advice, charging the same hourly rate of £100 for the service.

Preliminary opinion

This would outline issues for the project to consider and is a free service for all developments irrespective of scale and complexity. It would also identify the information we would need to see when consulted by the Marine Management Organisation about the marine licence application.

Discretionary service for more detailed advice

This detailed technical advice could include meetings and reviews of technical documentation and is a voluntary service - where we can provide more detailed technical advice about the proposal. This charged advice is provided through a formal agreement made up of an offer letter, a programme of advice and standard terms and conditions.

This two stage approach would allow us to recover our costs in a proportionate way. Many smaller projects and lower risk activities would get all the advice they need in the preliminary opinion. Larger, more complicated projects would be able to pay for more detailed technical advice.

All our advice would remain discretionary. There would be no obligation for people to seek our advice before submitting a marine licence application.

We propose to introduce a new hourly charge of £100 based on our charge modelling. This charge will recover our costs of providing advice to developers looking to take forward developments in the marine area. The charge is designed to ensure that we fully recover our costs.

We are also working with other Defra bodies to review other aspects of our marine advice and additional proposals may be brought forward in future.

Consultation questions

67. In line with our planning advice service, do you agree with our proposal to introduce a discretionary hourly rate service for our marine licensing advice service?

- Yes
- No
- Not applicable

If not, please explain why.