



## **QPANI Response to Consultation on NIEA Charging Policy**

### **Answer sheet**

#### **Purpose (Section 1)**

#### **Question 1 – What general comments do you have on the purpose of the consultation paper?**

QPANI recognise that NIEA is required to achieve full cost recovery for regulatory functions through the application of fees and charges on companies it regulates. However we believe the most effective and efficient way to protect the environment is to target resources based on risk.

The Consultation paper provides an excellent opportunity for organisations, like ourselves, to give comment and feedback from the members we represent and who are regulated by NIEA.

The review should also consider training and professional development programmes that need to be developed to create the skill base for officials required within NIEA. For example, more training on the skills necessary for auditing operator compliance rather than prescriptive inspections may be required, with a greater focus on identifying root causes of poor environmental performance rather than treating the symptoms.

Good environmental policy requires the use of a range of tools, from traditional command and control regulation to economic instruments, risk-based approaches, negotiated or voluntary agreements, trading schemes, and education and advice. NIEA should come forward with new and innovative approaches to environmental regulation and management.

#### **Question 2 - In particular, do you consider there to be other aims and objectives incorporated in the review?**

It is clear that NIEA wish to better inform those who it regulates about how the charging fees are calculated and what costs they cover. QPANI would also wish to see the consultation paper focus on how we can make the completion, handling and processing of applications as efficient as possible and provide a more integrated system for issuing and monitoring permits. QPANI would like to see an online facility for applications and payments.

The Association would also wish to see consideration given to developing, in partnership with industry, specific awareness training for public sector officers to make them better informed about the companies and sector they regulate.

NIEA should also develop a process for companies who have a long history of compliance and implementing best practice to be able to move to a self regulating basis. This would result in cost benefits for both the NIEA and the operator while safeguards would still be in place to ensure protection of the environment.

### **Question 3 - Can you identify them and illustrate your reasons with examples from other organisations?**

SEPA in Scotland now have a well communicated, online system for handling applications and charging in place. They have clear easily understood guidance setting out the various charging regimes and how they are calculated.

In England and Wales the Environment Agency has developed the Unified Charging Scheme ( UCF ). The UCF provides a long-term strategic solution to charging, based on a number of common principles. It is intended to provide a common approach leading to simplified and harmonised charges that will, in time, replace many different schemes.

The UCF has at its core a number of key principles that in our view NIEA should adopt as core. It should:

- reflect our Modern Regulation Programme
- be capable of being applied to most, if not all of our regulatory regimes
- be as simple to administer as possible and therefore support the Better Regulation programme
- provide full cost recovery
- be cost reflective (so charges reflect the level of costs as closely as is practical)
- recognise and reward good environmental performance and discourage and penalise poor performance
- be proportionate to the environmental risk being regulated

The proposed UCF is being developed based on the above principles. In particular it is being developed by matching the Modern Regulation framework of three types of permits and the three regulatory tiers for compliance assessment, against three charging tiers. The three charging tiers are then linked to the relative risks identified through the three tiered Opra system to provide a risk-based element to the charges.

### **Introduction (Section 1)**

**Question 4 – If you consider that the concepts behind the proposals for fees and charges are not sufficiently explained which aspects would you recommend for further development in order to improve understanding?**

In today's challenging economic environment public sector bodies should be adopting similar financial strategies to those in the private sector. It is simply not acceptable to take the position that because costs have gone up for a department or agency they can simply pass on the costs to their customer.

QPANI are aware that NIEA have to follow guidance and adhere to legislation on what they should charge for. It is very important, for the purposes of openness and transparency, that NIEA explains the building blocks they use in setting charges, including Government guidance, general principles and the consultation and approval process. We would recommend that this is communicated through the NIEA website and every time there is a review of fees and charging.

We would welcome NIEAs commitment to continually look at ways of reducing costs and investigating possible outsourcing of services to the private sector.

QPANI believe that the information currently available through the NIEA website and in this review is not enough to give confidence to industry that current level of fees meet the required standards and have gone through the appropriate scrutiny.

We are pleased to note that it is proposed that future separate consultations will detail those chargeable costs that may be associated with each type of authorisation.

## **NIEA Charging Powers (Section 2)**

### **Question 5 – Is the explanation of NIEA's powers for charging for its regulatory function sufficiently detailed?**

Yes.

## **Recovering Costs (Section 3)**

### **Question 6 - Do you have any comments on the variety of regulatory activities that are chargeable?**

There are a number of activities that are covered by environmental audits as part of managing a 3<sup>rd</sup> Party accredited management system. QPANI are of the view that where companies have a third party carry out monitoring as part of a quality or environmental management system then NIEA should accept this as bonafide thereby reducing costs.

### **Question 7 - Do you consider that the charges relate well to the service provided and if not would you prefer to alter the service or fee level?**

Given the limited information on the breakdown of costs relating to each specific cost available within this consultation we are unable to comment. It would be very useful to get a breakdown of the specific costs that go to make each charging fee.

**Question 8 – Have we clearly explained why we have to charge and what we can charge for?**

You have clearly explained the reasons why you have to recover costs by charging for services. As highlighted above those being charged would welcome the opportunity to examine and comment on the specific breakdown of costs that go to justify a fee or charge.

**Question 9 – Can you highlight any additional services which you believe the Agency has the skills and knowledge to provide that you would benefit from and be prepared to pay for?**

Better compliance assistance for those who need it would be welcomed by the industry. This can take the form of both free and chargeable services such as guidance documents, web based information and specific on site guidance.

However it is our view that industry already pays significant fees and such compliance assistance should be free, similar to that available from HSENI safety compliance.

**Charging Framework (Section 4)**

**Question 10 – Do you feel there is a better way to co-ordinate charging arrangements for NIEA other than through a charging framework?**

QPANI have no real problem with NIEAs intention to limit fee increases in line with the GDP deflator on an annual basis for a 3 year period from April 2010 to March 2013. However this must be done in parallel to the introduction of schemes where fees and charges can be reduced for companies who consistently achieve compliance.

**Question 11 - Can you detail an alternative mechanism and offer an illustration of where and how it has been successfully applied?**

No

**Question 12 – Can you recommend a more appropriate, stable inflationary measure to restrict price increases other than the proposed use of the GDP deflator?**

No

## **Delivering Better Regulation (Section 5)**

### **Question 13 – What are your views on the proposed use of risk based charging?**

Implementation of the Better Regulation programme is a real opportunity to develop a very useful partnership between the regulatory bodies and the business community. In the main, people are responsible and want to act in a way that does not damage the Environment, they simply want to do the right thing. We have gone on record before stating that industry wishes to see a regulatory process that is risk based, fair, that is efficient, is well communicated and rewards organisations who actively identify and manage their risks to the Environment. We also want to see strong enforcement and penalties that create a level playing field and protects legitimate businesses. The industry strongly welcomes the move to have a more pro active and advisory approach to regulation. If we reach the stage of court and prosecution then everyone loses, including the Environment. We strongly support the wish adopt a risk based approach to regulation and to streamline regulation by creating a permit to operate that will incorporate different forms of existing permits such as IPC, Water Discharge consent etc.

### **Question 14 - What level of high performance discount would you consider to be an incentive for compliance?**

As stated above we would wish to see NIEA use more of an incentive based approach to compliance. QPANI would wish to see companies who have third party accredited environmental management systems, and can show consistent compliance, having fees and charges reduced based on their length of full compliance. For example if a company has one full year compliance then their fees reduce by 50%, 2 year full compliance there would be no inspections and NIEA would accept self regulation and evidence from the auditor of their 3<sup>rd</sup> party accredited management system.

### **Question 15 - Do you consider it to be reasonable for lower performance to result in higher fees to reflect the increased level of auditing required to monitor compliance?**

Yes. As stated above an incentive for compliance and improving performance would be a widening of the costs between compliant and non-compliant companies.

### **Question 16 – What other measures would you suggest that NIEA use to assist businesses with their regulatory compliance?**

NIEA already have well recognised compliance assistance through the likes of Netregs and the pollution prevention team at Water Management Unit. Working with Trade Associations and business organisations to promote best

practice, circulate information to companies and staging of workshops is a cost effective way to assist industry.

One suggestion would be for NIEA to host a best practice page on its website. This page would be similar to other similar sites such as the goodquarry.com and safequarry.com websites used in the UK quarry industry. The site could be used to highlight best practice on environmental issues, environmental and pollution prevention training and awareness.

NIEA should also consider adopting effective compliance assistance schemes from other UK and European jurisdictions.

### **NIEA Charging Policy Development 2010-13 (Section 6)**

#### **Question 17 – Do you consider the three year timeframe proposed for the periodic review of the Charging Policy to be appropriate?**

We would prefer the timeframe for review to be five years but understand the three year budgetary framework within NIEA have to work.

#### **Question 18 – Would the provision of a web based tool be helpful for indicating and calculating costs and charges?**

Yes