

Title: Cost Recovery for Marine and Coastal Access Act 2009 Environmental Licensing Lead department or agency: Department for Environment, Food and Rural Affairs Other departments or agencies: Marine Management Organisation	Impact Assessment (IA)
	IA No: DEFRA 1141
	Date: 21/01/2011
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Secondary legislation
Contact for enquiries: Gary James 0207 270 8691	

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

A more risk based, streamlined and transparent marine licensing system is being developed as part of the implementation of the Marine and Coastal Access Act 2009. However, under the current system for charging, fees paid by individual applicants do not reflect the actual costs of administering the system. Some activities cross subsidise others, and recovered fees only represent around 2/3rds of the costs of the system - i.e. the remainder is covered by a government subsidy. The proposals are necessary to correct these subsidies and enable the MMO to deliver this system.

What are the policy objectives and the intended effects?

The policy objectives are to achieve a full cost recovery charging system for the MMO over a period of two years starting with 90% of cost recovered and then moving to 100%. This will correct the cross subsidy, providing customers with a transparent charging system that relates to the actual costs of their applications. It will also eliminate the government subsidy reducing the burden on the exchequer and taxpayers. It is also expected to drive efficiency in the licensing system in that applicants and public officials will have clearer information about the costs of administering the system.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Three broad options were considered:
 Baseline. The current charging regime would continue as present. There would be a standard uprating for inflation reflecting changes to the Consumer Price Index. Option (1): would increase fees in those areas where it is evident that assessment costs significantly exceed charges, but otherwise retain the existing structure. Option (2): Revised charging approach based on an hourly charge. Following consultation, our preferred approach is to modify Option (2) by introducing fixed banded charges for small and medium sized applications. This will provide certainty for applicants - who are likely to be smaller companies - for these projects. For larger applications we will apply an hourly rate basing charges on the actual time spent on that project. This means reduced charges for many smaller applications than is currently the case because at present there is some cross-subsidy of the larger applications.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 3/2012

What is the basis for this review? Sunset clause. **If applicable, set sunset clause date:** 3/2012

Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?

Yes

SELECT SIGNATORY Sign-off For final proposal stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible SELECT SIGNATORY: _____ Date: _____

Summary: Analysis and Evidence

Policy Option 1

Description:

Minimum Change

Price Base Year 2010	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	0.9	7.2

Description and scale of key monetised costs by 'main affected groups'

Under this option, there would be no change for most applicants, particularly those who apply for licences for small and medium-sized projects. There would be significantly higher fees for more complex projects especially those involving the disposal of contaminated sediments.

Other key non-monetised costs by 'main affected groups'

None

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	0.9	7.2

Description and scale of key monetised benefits by 'main affected groups'

The benefits are the costs that MMO previously faced which, under this proposal, would now be recovered from the more complex projects. In other words, the benefits are the cost saving to the MMO and by extension to the taxpayer.

Other key non-monetised benefits by 'main affected groups'

Applicants would benefit under this option from being familiar with the basis of charging and from the additional certainty that this option brings. All applicants would know when planning their project the application fees that would apply.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

The greatest uncertainty concerns the number of applications coming forward each year. The cost of administering licences are more certain given they are based on actual time recording data gathered by MMO and informed estimates by the relevant scientific organisations.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: N/A	Benefits: N/A	Net: N/A	No	N/A

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			England		
From what date will the policy be implemented?			06/04/2011		
Which organisation(s) will enforce the policy?			MMO		
What is the annual change in enforcement cost (£m)?			Reduction of £0.9m		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			No		
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A	
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			Costs: N/A	Benefits: N/A	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro 0	< 20 0	Small 33%	Medium 33%	Large 33%
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties¹ Statutory Equality Duties Impact Test guidance	No	17
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	17
Small firms Small Firms Impact Test guidance	No	17
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	17
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	17
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	17
Human rights Human Rights Impact Test guidance	No	17
Justice system Justice Impact Test guidance	No	17
Rural proofing Rural Proofing Impact Test guidance	No	17
Sustainable development Sustainable Development Impact Test guidance	No	17

¹ Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Summary: Analysis and Evidence

Policy Option 2

Description:

Hourly rate for large projects, banded charges for smaller projects

Price Base Year 2010	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -0.3	High: -0.3	Best Estimate: -0.3

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	1.0	8.3
High	N/A	1.5	12.4
Best Estimate	N/A	1.3	10.1

Description and scale of key monetised costs by 'main affected groups'

£12.1m of the total costs result from increasing fees charged by MMO for administering the licensing of marine activity and are born by industry. The remaining £0.3m are for the additional staff costs required to calculate the bespoke charge for each permit. There are no transitional or other costs. The main affected groups are ports and marinas and certain other bodies who carry out developmental type activity in the marine area. Note that we have not monetised a potential reduction in costs (see non-monetised benefits).

Other key non-monetised costs by 'main affected groups'

None. Although note that there is the potential for cost reductions discussed under non-monetised benefits

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	1.0	8
High	N/A	1.5	12.1
Best Estimate	N/A	1.2	9.8

Description and scale of key monetised benefits by 'main affected groups'

The benefits are the costs that MMO previously faced but are now recovered so represent a cost saving to the MMO. Note that there are additional non-monetised benefits.

Other key non-monetised benefits by 'main affected groups'

The affected groups will benefit from a fair, open and transparent system for charging. Removing cross subsidies should yield efficiency benefits, signalling how much effort to put in to an application. MMO and CEFAS will have information to manage better the time they spend on each application, leading to cost savings. The change from the consultation proposals is intended to provide more certainty for businesses applying for small and medium-sized projects by specifying fixed fees for such projects.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

The greatest uncertainty concerns the number of applications coming forward each year. The cost of administering licences are more certain given they are based on actual time recording data gathered by MMO and informed estimates by the relevant scientific organisations. The Final IA is informed by stakeholder views and by further time recording data gathered by MMO. However, MMO's data is still for a relatively short period. We therefore present the cost impact in a range, and best estimate. The impacts have been modelled over a ten year period. to show the effects if the system should persist even though the new arrangements are subject to review after one year

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: N/A	Benefits: N/A	Net: N/A	No	N/A

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			England		
From what date will the policy be implemented?			06/04/2011		
Which organisation(s) will enforce the policy?			MMO		
What is the annual change in enforcement cost (£m)?			None		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			No		
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A	
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			Costs: N/A	Benefits: N/A	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro 20%	< 20 20%	Small 20%	Medium 20%	Large 20%
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

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Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	2010 consultation on streamlining the existing licensing systems (the 'licensing IA'): "Marine and Coastal Access Act 2009: Secondary Legislation for the Marine Licensing System" http://www.defra.gov.uk/corporate/consult/marine-licensing-system/index.htm
2	Interim consultation on changes to the fees regime for marine licensing, 2009, investment appraisal (provides detail of 2008 fees review).
3	DCLG (2006): Consultation Paper on Draft Marine Minerals Dredging Regulations and Procedural Guidance, Department for Communities and Local Government, available from www.communities.gov.uk
4	Marine and Coastal Access Act 2009: http://www.opsi.gov.uk/acts/acts2009/pdf/ukpga_20090023

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs										
Annual recurring cost	0.9	3	1.3	1.3	1.3	1.3	1.3	1.3	1.3	1.3
Total annual costs	0.9	3	1.3	1.3	1.3	1.3	1.3	1.3	1.3	1.3
Transition benefits										
Annual recurring benefits	0.9	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.2
Total annual benefits	0.9	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.2

* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office
Excel Worksheet

Evidence Base (for summary sheets)

Marine Licensing: proposed new licensing regime, impact assessment (IA)

Part A: Case for intervention and options

Problem under consideration

1. This Impact Assessment deals with the options for application fees for marine licences under Part 4 of the Marine and Coastal Access Act 2009. When the new licensing system comes into effect, it will replace the licensing system in Part 2 of the Food and Environment Protection Act 1985 and the navigational consents in Part 2 of the Coast Protection Act 1949. The charging regime that applies under the older licensing/consenting systems reflect the piecemeal development of these systems and are flawed as a result. They are complex, not transparent and contain inconsistencies – some consents are charged for, some not. They also contain substantial cross-subsidies and do not recover full costs.

Rationale for intervention

2. The rationale for licensing marine activity is addressed in the IA that accompanied the Defra consultation in July 2010. Briefly the economic case for regulation is that otherwise the cost of such activities would not reflect the effects that the activities have on the environment and human health nor the disruption to other legitimate uses of the sea.
3. Part of the cost of regulation is the cost of obtaining consent. In keeping with the Government's policy that those who carry out an activity should bear its full cost, Government aims to recover the full costs of licensing marine activities. This is not the case at the moment. At present, some applicants are subsidised by others, and most applicants are subsidised by the Government.
4. The Government has begun to move towards full cost recovery. The Marine and Fisheries Agency announced in October 2009 increased charges for FEPA licences to increase the percentage of costs recovered. Further action is needed under the new marine licensing system – which will replace FEPA in April 2011 - to ensure that the full costs of licensing are borne by the applicants in the future. This should mean lower costs for straightforward cases than now. Intervention also provides the opportunity to streamline the system, and build in transparency of the level of charging.

Policy objective

5. Our objectives for application fees under the proposed new licensing regime are to achieve:
 - (a) **Compliance with Government policy:**
 - Government policy requires that the costs of providing services, such as that provided by MMO in marine licensing activities, should be recovered in full, and;
 - avoidance of cross-subsidy, so that a service should not be provided to one sector or group of customers through funds raised from a different sector or group. The cost of provision of services should be borne by those who benefit from them, and in proportion to the service received.
 - (b) **Transparency.** The MMO's charging scheme is intended to be straightforward, clear and available for scrutiny by its customers.
 - (c) **Efficiency.** This includes finding the most efficient means of delivering marine licensing including adopting "fast-track" approaches for straightforward applications, looking to drive down operating costs; and looking, with Government, to adopt regulatory approaches that are economically efficient.
 - (d) **Certainty.** MMO wish to provide users of MMO's services - particularly small and medium sized enterprises – with a clear view of what their costs are likely to be.

(e) **A limit on new burdens.** We want to achieve full cost recovery whilst avoiding any rapid increase that customers would find it difficult to plan for. We also recognise the fact that we have to forecast the costs of the new system. We do not want to affect customers through sudden increases or to recover more than our costs. We have therefore planned a staged transition to full cost recovery over two years with:

- the level in the first year set at 90% of full cost recovery (from the current level which is estimated at 70% - see appendix 1) for cases subject to the new regime, and;
- fees to achieve full cost recovery being set in the second year on the basis of data gathered from operating the new system.

Consultation

6. Defra consulted in July 2010 on changes to the system for the licensing of marine activities, (reference 1 above). Defra consulted separately between 29th November 2010 and 7th January 2011 on proposals for the fees to be applied under the new marine licensing system. The consultation was targeted on the industry sectors most likely to be affected by the proposals. The Department also held a discussion with interested stakeholders on the proposals on 10th December 2010. There were 23 responses to the consultation largely from the renewable energy and ports sectors. The main points made by stakeholders were:-

- (a) Most stakeholders accepted the principle of full cost recovery;
- (b) Stakeholders expect to see increased licence fees reflected in high standards of service delivery;
- (c) There were different views among stakeholders about the options presented. There was support for fees based on hourly charging because the fee would accurately reflect the cost of processing applications. Other respondents thought that the certainty of the fee to be paid was more important especially for applicants for small and medium sized projects.
- (d) Respondents wished to see transparency in the charges that they face.

The changes that we have made in response to the consultation are explained below under Option 2.

Options considered

7. MMO have considered three broad options for charging fees for applications under licences under Part 4 of the Marine and Coastal Access Act:

- '**Baseline**'. Maintain the current system and charges;
- '**Minimum change**'. Increase charges further, but retain the structure of the current system;
- '**Hourly rate**'. Move to a new structure for charging.

Option: Baseline

8. The current charging system for applications for licences under Part 2 of the Food and Environment Protection Act is based on banded charging. There are differing charges depending upon the type and scale of the activity. The major categories of licence are for construction activities where charges are based on the cost of construction and disposal of dredged material where charges are based on the amount of material to be deposited. MMO has no power to charge for consents under Part 2 of the Coast Protection Act.

9. The baseline option is that charging would largely continue as present. There would be no change to the actual charges within bands except there would be a standard increase for inflation, which would reflect changes to the Consumer Price Index. The new marine licensing system covers some activities, e.g. removals from the seabed, that were not part of FEPA. Under the baseline proposal, MMO would adopt, where relevant, the charges that applied under other

legislation – for example a fee is payable for aggregate dredging applications under the Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (England and Northern Ireland) Regulations 2007. For other types of removals from the seabed which are not currently subject to licensing, MMO would need to make a judgement about which band was most appropriate.

Option (1): Minimum change

10. Defra and the MMO believe that, even if there is not a full scale review of fees and charges, there is a case for some changes to move towards full recovery of costs. This would not be a simple increase in all fees but would be based upon the 2008 review of fees. This review investigated cost recovery under the various rates and found a great discrepancy between cost and charge, especially for larger disposal projects.
11. Option (1) would be largely the same as the baseline option except that the rate for larger disposal projects would be increased to be more in line with costs, whilst broadly leaving rates for smaller scale activity and construction unchanged.

Option (2): Hourly rate for large projects, banded charges for smaller projects

12. Under this option, MMO's charges for the largest projects would be based on a fixed hourly rate. The fee charged would depend on the time that MMO spent dealing with the application. The hourly rate proposed for 2011/2012 is £80, which MMO calculate represents 90% of the total costs that they incur. MMO will consult Cefas¹ on such cases and Cefas charges will also be on the basis of a fixed hourly rate of £76.
13. The hourly charge, made on a case by case basis, is similar to the way rates are set by the Environment Agency and the Health and Safety Executive. The level of the hourly rate is the result of detailed modelling and is discussed below. Applicants will be asked to pay a deposit up front and further staged payments during the application process.
14. During the consultation on the fees proposals a number of respondents argued that it was particularly important for people carrying out small and medium size projects to have certainty about the fees they would face in order to have confidence to take forward their application. We had already recognised that certain types of small-scale applications might be characterised as having effects that remain within predictable limits defined in relation to the type of activity, scale, and its location. MMO proposed to apply a fee of £158 in 2011/12 (at 90% cost recovery) for the most straightforward cases (i.e. cases which do not require more than two hours of MMO staff time) and £450 for more complex ones.
15. The activities where MMO will apply a fee of £158 or £450 are:-

Simple Moorings* £158

Burial at sea

Scaffolding

Meteorological masts

Buoys

Boreholes £450

Jetties

Tracers *

Emergency work

Outfalls/ pipeline stabilisation

¹ The Centre for Environment, Fisheries and Aquaculture Science (Cefas) are a Defra Executive Agency and are consulted by MMO on all licences except the smallest ones.

Like for like works*

*Depending on the nature of these activities, they may be exempted from licensing. If not they will be subject to a reduced fee

16. In addition following the comments made during consultation, we will specify in legislation that MMO will apply fixed fees for medium sized projects. These fees will cover MMO and Cefas costs. The fees are set out in Table 1.

Table 1: Fixed fees for 2011/12 for medium sized projects

Type of project	2011/12 fee
Minor works, misc categories (£158
Minor works	£450
Construction (Minor-£1m)	£2,700
Construction (£1m-£5m)	£4,500,
Construction (£5m to £10m)	
Disposal - maintenance less than 20,000 tonnes	£7,200
Renewable energy generating less than 1MW	

Discussion of the options

Option: Baseline

17. This option has some advantages. It provides certainty for applicants. The charges are fixed and obvious up front. However, it also has a number of problems. It would not achieve full cost recovery. Furthermore, detailed analysis by MMO has found that fees did not accurately reflect the *relative* amount of effort spent in deciding the case, notwithstanding the overall collection rate. This means that there is a very significant degree of cross subsidy.
18. For an individual applicant, the MMO's costs in dealing with their case and the extent that they may be subsidising other applicants (or otherwise being subsidised themselves) are opaque.
19. Being able to relate charges to a particular case, and make this available to an individual applicant, should help improve efficiency. At present, fees are fixed and collected at application, and there is therefore no incentive to look for ways to minimise the cost of a particular case (or type of case). At the same time, there may be undue pressure to resolve a small case that has taken a disproportionate amount of time but has only provided a small fee. Charging actual costs should help ensure the appropriate amount of time is spent.

Option (1): Minimum change

20. This option consists of revising fees but retaining the current banding structure. The option looks to address the key issue of cost-recovery in a way that is as fair as possible under the current system. This involves increasing charges for those cases where it is evident from the 2008 charging review that assessment costs were considerably higher than charges. This means broadly doubling the fees for larger scale maintenance dredging, and increasing those for some capital dredging projects by around 50%.
21. The effect of this change would be to increase cost recovery, as we calculate below. This is clearly a substantial improvement on the baseline option, however it is still significantly short of full economic cost recovery.
22. This option would retain both the advantages – in terms of certainty for applicants – and some of the disadvantages – such as continuing cross-subsidy and also not providing incentives to improve efficiency.

Option (2): Hourly rate for large projects, banded charges for smaller projects

23. The proposed new regime leads to improved performance against the policy objectives. The system is designed to produce full economic cost recovery and to eliminate all significant cross-subsidy.
24. There will also be a much greater transparency of cost. MMO will provide a clear written estimate of the MMO's likely charges for their application and will notify the client should this change. MMO will also provide external records enabling scrutiny of this process, and inform the applicant of the reason for any changes. The costs incurred by Cefas and charged to the client will be separately identified.
25. In terms of incentives, hard charging enables an close relation between the cost of assessment and the complexity or otherwise of a case. This means that any future initiative aimed at increasing efficiency can be fully informed by time and cost evidence, and the benefits of any changes will feed through immediately to the charges that applicants incur. Banded charging, as opposed to exact cost recovery, means that some residual element of cross-subsidy remains; for example whereby a licence at the expensive end of band 3 is still partly subsidised by one at the cheap end of band 3. This is balanced against the simplicity of a banded system.
26. Reflecting concerns from stakeholders, we have modified the original proposal to include fixed fees for small and medium size projects. This will provide certainty to applicants about the fee that they will pay for an application but also mean that some of the benefits of the hourly rate approach will not be gained by these applicants – e.g. in terms of efficiency improvements. MMO will review the experience of the system with stakeholders in the first year to determine where the balance of advantage for applicants lies.

Part B: Monetary and non-monetary costs and benefits

Introduction

Approach to the analysis

27. The main impact of these proposals is a cost transfer from the MMO to industry reflecting the move from partial to complete cost recovery. The size of this transfer has been estimated on the basis of assumptions about the numbers of applications and the nature of different types of application.

Numbers of cases

28. We use the same number of cases as the Impact Assessment conducted for the Defra consultation in July 2010 on the licensing system. That IA recognised that there is considerable uncertainty over any future prediction in the number of cases, and this is likely to be made even more uncertain by current economic conditions.
29. No new case numbers have been assumed for large scale (greater than 1 MW) renewables, since these cases are proposed and reviewed in series of rounds (currently round 3). Instead, a steady state revenue of £100,000 has been assumed for this year, from chargeable activity under existing cases.

Other key assumptions

30. MMO calculate that their overall costs of dealing with licence applications has increased significantly. This increase would apply whether or not MMO are dealing with FEPA applications or applications for marine licences under the Marine and Coastal Access Act.
31. The Marine and Fisheries Agency (MFA) forecast in October 2009 (Reference 2) that its total costs for 2009/2010 in dealing with FEPA applications would be £2.9m. However, since then the newly vested MMO have re-estimated that the costs of dealing with licence applications would, under option 2, be £3.46m in 2010/11 and £3.65m in 2011/12 – see table 1 for a breakdown of these figures. Under the baseline and options 1, the equivalent figures are £3.46m in 2010/11

and £3.62m in 2011/12. The difference in the estimates between the two years is to allow for one new junior finance officer in 2011/12 to deal with the processing of fees based on hourly rates.

32. The MMO estimates are higher than the earlier MFA estimates because:

- MMO will now face legal and IT costs where previously MFA had relied on using Defra resources
- MMO have taken into account the full salary costs (including allowances, ERNIC and superannuation)
- Increase in the number of licensing team members
- Input from MMO's new decision support team
- Increases in Cefas' costs including irrecoverable VAT, for which the MFA was not liable.

Further information on these costs is given below under the costs and benefits of the baseline option.

33. The price base for analysis is FY 2010-11, in common with the licensing IA (Reference 1). We assume that there is no change after 2011-12 in terms of the licensing functions for which MMO are responsible. Present value figures are discounted at the HM Treasury discount rate in real terms of 3.5% over ten years starting from 2011, when costs are first incurred. The Consumer Price Index (July 2010 – 3.1%) is used to uprate estimates figures to use a 2011 PV base year. The largest uncertainty relates to the annual number of applications that will be made. It is considered that the true annual number may be 20% more or less than the best estimate and the estimates of the cost transfer are presented in a range to reflect this.

34. The new licensing system as set out in the licensing IA proposes changes which would streamline licensing and provide for a different approach in several areas, including pre-application and application procedures; information provision; appeals; and exemptions. The main effect of the proposals in the licensing IA is to provide significant benefits to industry in terms of procedure and time savings, resulting in a net monetary saving over future years. There may also be some effect on MMO costs, but we have not included any assumptions about any efficiencies or costs savings that the new system may bring. This is because we recognise the net effect of the changes on MMO running costs is expected to be small. There are further costs to MMO business in terms of one off costs, but these are excludable from cost recovery by HM Treasury convention. There are also effects from bringing certain activities into scope, and these are discussed separately below.

Table 2: MMO Marine Licensing forecast costs: full economic cost recoverable under option c

Cost category	2010-11	2011-12
	£ current prices	£ constant prices
Salaries and allowances	833,000	855,000
ERNIC	71,000	73,000
Superannuation	157,000	161,000
MMO other specialist staff overhead	102,000	102,000
Accommodation overhead	104,000	107,000
General overhead	392,000	397,000
IT	33,000	132,000
Cefas case-related costs	1,770,000	1,825,000
Total	3,462,000	3,652,000

Costs and benefits of the baseline option

Costs of current activity to Government

35. The baseline option represents a continuation of business as usual and presents the analysis against which other options are compared.
36. We estimate the total costs of providing marine licenses and other consents based on current costs. In carrying out this activity, MMO draws on scientific analysis and advice on a case by case basis from the Centre for Environment, Fisheries and Aquaculture Science (Cefas).
37. MMO costs include the full economic cost of licensing-related activity following HM Treasury guidelines. Broadly, this encompasses:
- Dedicated staff cost and direct overhead. Other staff input and support staff;
 - All time spent supporting consents, including monitoring and research.
 - Non case related time for dedicated posts, such as training and professional development as well as leave, management and administration etc;
 - Indirect overhead – accommodation; IT; HR; shared services; audit.
 - Irrecoverable VAT, depreciation, capital charges;
 - Costs associated with facilitating the service (advertising, website, administrative overhead).
 - Costs associated with facilitating the service – advertising; website; equipment; telecommunications; postage.
38. Key areas which are chargeable but which have not been accounted for previously are indirect staff costs for dedicated staff and their managers (as already noted above), and also the cost of input from other specialist staff within the MMO, in particular specialist scientific and legal expertise.
39. Cefas have identified the key areas that are case related, and the key costs charged to MMO in accordance with the standing agreement between the two organisations. The Cefas costs include areas which are chargeable under HM Treasury guidelines, but which are not charged at present. This includes contributions to policymaking where this directly relates to licensed activity, IT provision, general overhead, and monitoring. Monitoring includes familiarisation and information collection relating to a sample of cases, but excludes any action that supports enforcement activity against an individual case.

Costs of current activity to business

40. The cost of work done by applicants in making their application – before charging applies - has been estimated in the IA compiled for the licensing proposals. These costs of compliance do not change under any of the options in this IA.

Cost recovery under the baseline option

41. We show the current level of cost-recovery as estimated using our base assumptions and measured against the full-economic cost figure for FY 10-11 in **Appendix 1**. As noted in the assumptions, the number of cases comes directly from the licensing IA, to which we apply current fees. Where there are additional items that are subject to fees, we include estimates of steady state yearly totals based on the 2008 fees review.
42. The total amount of predicted income in 2010/11 received by MMO under the assumptions in this IA is £2,438,000 (rounded to the nearest 000's). This figure contains many uncertainties. As a proportion of the full economic cost for the current year from Table 1 this is 70% to the nearest percentage point. This is noticeably higher than the 2008 fees review prediction of 54% of full economic cost (66% of direct staff costs), and the reason for this is the higher number of total cases given current indications. However, it is reasonable to suppose the actual number each year could be either above or below the current estimate. The range around the estimates of the cost transfer reflects this uncertainty.

Costs and benefits of option 1: 'minimum change'

43. Appendix 1a shows the projected cost recovery position of the minimum change option, which results in a recovery position of 96% under the IA assumptions for this financial year. This figure is subject to the same uncertainties as the baseline option – it is possible that if there are more applications than expected, MMO could recover more costs than they incurred. We do not take the analysis of this option any further, except to note that the cost recovery position could, of course, be enhanced simply by increasing the fees in each band. However, this would not address the other drawbacks of the current system we have noted in the discussion of the options.

Costs and benefits of option 2: 'hourly rate'

Method of estimation

44. In preparing for a new charging system MMO have collected data on the time needed for individual cases. Time recording was used in two ways, firstly to assess MMO and Cefas effort on individual cases and to compare this to the current fee for that case, and secondly to estimate overall utilisation rates² for various dedicated staff. Although we will recover costs for all time of dedicated staff, we required utilisation rates in order to estimate the hourly fee rate commensurate with full cost recovery.
45. MMO has been collecting time recording data in broad categories almost since vesting, with a more detailed process being implemented during the summer. Thus the MMO had some three months of usable data, which could be used to help calculate the *relative* amount of time spent on cases of different scale, type and band to calculate the overall utilisation rate.
46. We are fairly confident that the data has given a good estimate of the effort. The data has provided a large enough number of person-days to give a good estimate of utilisation rates for the key case-workers involved. The data collected does not appear to be affected by leave. A key assumption applied to the data is that we allow a maximum of 200 available days to spend on casework (80% of full working time), rather than the more standard 215. This is to allow for professional development of technical staff and also some input into enforcement.
47. Given limited information, we have made approximations in some areas. Mineral extraction (aggregates) are different cases by their nature to others, and overall staff time as a proportion of total time is based on staff numbers. Since there was not sufficient data to estimate utilisation for higher grades, these are steady state estimates made by the officers involved.
48. The other key elements of estimating the revised charging regime are non-dedicated staff costs, overheads and Cefas costs. We took information on overheads directly from the MMO budget and apportioned these based on headcount. The exception is for staff input into individual cases from MMO's decision support team and MMO legal staff (not including enforcement). Where fixed fees do not apply, we propose to hard charge this time to individual cases, and we used estimates of the requirement from MMO specialist staff. As noted, where fixed rates do not apply, Cefas charges will be accounted for separately and charged on a case by case basis. Cefas are now collecting time recording information to inform this but we do not yet have enough data to inform our estimates. We therefore used information supplied by Cefas as part of the 2008 fees review and the current agreement between MMO and Cefas on Cefas' provision of scientific advice.
49. The hourly rate is calculated on the basis of the total costs required to be recovered divided by the number of hours of staff time used. Given that the hourly rate will not be used under this option for those small-scale applications that would be subject to a fixed rate, these applications need to be separated out for the calculation of the hourly rate.
50. The analysis above showed that there would be 26,540 hours of productive time available for licensing from 32 members of staff in the MMO of which 40.5% would be used on fixed rate applications, leaving 59.5% (or 15,791) for applications based on an hourly rate. Table 2 shows the assumptions used to determine how much income might be raised from fixed rate applications. This shows that £417k would be raised towards MMO costs. Deducting that from the

² Utilisation rates are the percentage of the licensing team's time which is spent on processing applications

MMO related costs for 2011/12 in table 1 (i.e. £3,652,000 - £1,825,000 = £1,827,000), gives £1,410,000. On this basis the hourly rate would be £89 using 100% cost recovery (£1,410,000 / 15791).

Table 3: MMO income from recovering costs where fixed rate fees at 100% cost recovery³

Category	Number	Fee	Income	Cefas costs	MMO residual
Minor works, misc categories (assume 80% low risk)	89	£175	£15,540		£15,540
Minor works (assume 20% more detailed assessment)	22	£500	£11,100		£11,100
Construction (Minor-£1m)	95	£3,000	£283,940		
Construction (£1m-£5m)	21	£5,000	£107,267	£188,182	£203,024
Construction (£5m to £10m)	10			£30,340	£50,567
Disposal - maintenance less than 20,000 tonnes	44	£8,000	£446,306	£219,375	£131,625
Renewables less than 1GW	2			£9,000	£5,400
Total			£864,153	£446,897	£417,256

Total costs to industry

51. Current cost recovery under the baseline option (Appendix 1) is estimated to be £2.44m (in 10/11 prices) – although it could be higher or lower depending on numbers of cases. Since total MMO costs are estimated at £3.65m per annum, full cost recovery would mean increased cost to industry of £1.21m per annum. A level of applications 20% lower would reduce this to £0.97m or 20% higher would increase it to £1.46m per annum.

Cost to industry in 2011/12

52. MMO wishes to phase implementation of the scheme to avoid any rapid increase in costs to business. The intention is to aim for 90% cost recovery in 2011/2012 which means reducing the hourly rate from £89 to £80.

53. **Appendix 2** details the effect of the new proposals on all major types of licence currently issued by MMO. It can be seen that there is only a very modest increase for smaller construction projects (bands 3, 4 and 5 in the current system i.e. projects with construction cost of less than £10 million). Most construction cases are likely to be small and medium sized.

54. MMO estimate that only about 35 of 270 cases based on data for 2010/11 are larger size or complex cases requiring above average Cefas and MMO input. We have assumed that this is representative for the future. There are more substantial *average* increases for such cases reflecting the actual cost of assessment as found in the 2008 fees review. However, under a hard charging regime, there will be considerable variation in individual charges, and the averages shown will be skewed towards higher costing individual projects. Every project would be charged an amount appropriate to its scale.

55. Since the existing regime was not well matched against costs, we know that projects in some existing bands will face larger increases under the new regime than others. The projects where we are aware that the current fee was substantially less than costs relate to those involving large scale disposal of dredged sediment, especially if that sediment contains contamination. Costs are significantly higher than average because of the level of complexity and degree of scientific assessment and sampling that is typically required.

³ Although the numbers of cases are presented as whole integers, the total income in is calculated on the basis of estimates that include decimal places so multiplying the numbers of cases by the fee level will not exactly equal the total income.

Additional costs of the revised charging regime (recovered from industry)

56. Collecting actual case information and charging it to an individual client will impose an additional administrative burden on the MMO. MMO is currently introducing a new information management system and this will take place under any option for the fees regime (and has been included in the costs of all options). Our preliminary view is that the system and associated support contract provides enough capability to recover actual hourly fees, which we propose to collect quarterly in arrears. However, we have allowed an extra junior administrative post at a full economic cost of £35,000 including overhead in order to administer the collection side of the system. These costs will be recovered from industry under full cost recovery.

Financial benefits to industry of the proposals

57. We have already examined the potential benefits to industry stemming from Government policy objectives, these chiefly being in terms of transparency, fairness and future efficiency. The key further financial benefits to industry are in terms of flexibility, early engagement, and savings in both cost and time for the fast track system.

Fast track procedure

58. We expect significant savings in time and cost to fast-tracked projects. We estimate these savings from the information in the annexes below. From Appendix 1, some 110 cases could be fast-tracked every year. Of these, around 90 are small construction projects. We assume 72 of these, (80%) would pay £175 instead of the current fee of £715 or £1,025, of which this latter fee applied to the majority of cases (around 53). This would imply cost savings to industry of £55,000 per year. Although this seems small in comparison to the scale of costs being recovered overall, it should be noted that these are very small cases, and the savings could represent a noticeable part of the total project cost.

59. The smallest minor works will show a slight increase from the current £127 to £175. This is a cost rather than a cost saving, but only of around £1,000 per year in total.

60. We expect small and medium size enterprises (SMEs), charities and voluntary organisations to gain in more than proportionally terms from the proposed fast track procedure. Many small marinas are SMEs, and these will tend to undertake smaller scale construction or dredging operations, or operations involving navigation aids.

Summary of costs and benefits of option 2

61. Total costs to industry are estimated at between £1.0 million and £1.5 million per year in current prices, and we expect these costs would continue under this option on an annual basis in real terms. Our current best estimate is mid way in this range, or £1.2 million per year. Costs are first incurred in FY 2011-12.

62. Although we have calculated costs as falling in full under the financial year in which the application is made, in practice there will be a number of legacy cases carried forward into FY 11-12, and these could last for some time. This means that there is a significant 'lag' effect in the new regime that means it would only be possible to move part-way between the current level of recovery and 90% in the first year.

63. As an example of this, if each complex case lasts exactly six months, then we would expect to progress halfway between the current 70% recovery figure and 90%, to around 75%. We would require further case related information to investigate this effect.

One-in, one-out

64. Ministers decided in the Reducing Regulation Committee meeting on 14 December 2010 that cost recovery should be outside the scope of the one-in, one-out rule unless the change in cost

results from a change in regulatory activity. The change in costs results entirely from moving to full cost recovery. It should be noted that the Statutory Instrument on streamlining the marine licensing system does make some relatively minor changes to the coverage of marine licensing – including bringing navigational dredging within licensing, but overall the streamlining is expected to reduce the number of licences. Therefore the changes in this IA are considered outside one-in, one-out.

Cost by organisation size

65. The licensing application process does not require applicants to report on the size of business to keep reporting to a minimum. Indicative proportions are nevertheless reported in the summary pages based on the MMO's judgement. Given that option 1 only increases costs for the larger more complex projects, it is considered that organisations with fewer than 20 employees do not generally apply for licences for them – otherwise applications will be spread across the larger sizes of organisation. Given that option 2 also includes much smaller projects, the increase in costs will be spread across all sizes of organisation.

Specific impact tests

66. Since these proposals concern fees and charges, we are not expecting a direct impact on either the number or nature of actual cases brought forward. We envisage no impact, therefore, on **carbon emissions; competition or justice system**, and also no **unintended consequences**; Similarly, we expect only a very limited but positive effect in terms of the **environment**, this arising only in the very small number of cases where the actual charge of the cost of assessment in itself affects whether and how a small case proceeds (it is highly unlikely this would affect a large case but for small cases these changes could help to better reflect the costs of environmental damage). We expect no other **economic impact**, and no impact as far as **health or equality**.

67. We believe the proposals will more than proportionately benefit **SMEs**, as we have noted in the text. This is through a reduced administrative burden for those cases we can fast-track. In line with the 'licensing IA', we do not have information on the size of businesses applying for licenses and so we are unable to complete this part of the analysis. Option (2) avoids high costs for small projects, which might reasonably be expected to be undertaken by small firms. In addition, we have, in response to concerns from stakeholders, introduced fixed fees for small and medium sized projects which respondents felt were likely to be valued by SMEs because of the additional certainty about licensing costs that such fixed fees would bring.

68. Finally, we believe, the increased fairness and transparency of the new proposals would promote better governance under the licensing regime.

69. In terms of devolved **countries**, the proposals largely apply in the waters off England. The devolved administrations are also licensing authorities except in territorial waters in Scotland.

Description of implementation plan

70. The MMO is responsible for the implementation of the proposed new regime. They are doing these activities during the current financial year (2010/11) to be prepared for when the proposals take effect in April 2011. As with other functions, the MMO will carry out monitoring and review of the efficacy of its processes and outcomes. Specific targets are to be agreed between Defra and the MMO before the new licensing system starts. The fees legislation will only apply for a year. Defra will lead on the review of how MMO have applied the fees for 2012/13. This review will be done in consultation with stakeholders.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p>Basis of the review: [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)];</p> <p>The Fees order only applies for 2011/12. A new Fees order will be introduced for future years. The review of the 2011/12 order will provide the basis for decisions on future years.</p>
<p>Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p> <p>The objective will be evidence-based review – using empirical data from time recording - of whether the approach to setting fees for the new system ensures that the objectives set out in this Impact Assessment are met– i.e. compliance with Government policy, transparency, efficiency, certainty and a limit on new burdens</p>
<p>Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p> <p>The review will involve assessment of the actual cost recovery achieved in 2011/12 against the predicted recovery and consultation with stakeholders on to what extent they consider the approach has delivered transparency, efficiency, certainty and a limit on new burdens</p>
<p>Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <p>The baseline for the review will be the anticipated cost recovery under Option 2 of this IA which is the Government’s preferred option.</p>
<p>Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>The policy will have be considered successful if it achieves the objectives in the Impact Assessment. If not, the Department will consider alternative approaches or amendments in future Fees order for 2012/13 and beyond.</p>
<p>Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review]</p> <p>The Marine Management Organisation are recording time spent by their licensing team and by Cefas on individual applications and the charges that applied. Together with information on MMO and Cefas costs, these will provide the data for review.</p>
<p>Reasons for not planning a review: [If there is no plan to do a PIR please provide reasons here]</p>

Appendix 1: Cost recovery in 2010/2011 based on IA assumptions

Construction	No. Cases	Fee	Total income
Band 1	45	£715	£32,175
Band 2	66	£1,025	£67,650
Band 3	117	£2,275	£266,175
Band 4	12	£4,525	£54,300
Band 5	14	£7,191	£100,674
Band 6	2	£12,010	£24,020
Band 7	7	£12,010	£84,070
Maintenance dredging - disposal¹			
Band 1	34	£3,650	£124,556
Band 2	20	£7,225	£140,888
Band 3	8	£9,950	£80,844
Band 4	8	£15,950	£129,594
Band 5	7	£22,050	£143,325
Band 6	15	£34,750	£508,219
Capital dredging - disposal			
Band 1	5	£4,500	£22,500
Band 2	6	£9,100	£54,600
Band 3	2	£12,800	£25,600
Band 4	2	£19,850	£39,700
Band 5	1	£28,850	£28,850
Band 6	0	£43,500	
2008 fees review			
Approx income from:			
Construction variations and environmental supplement			£220,000
Renewable energy projects			£100,000
Aggregates			£140,000
All other items			£50,000
TOTAL			£2,437,739
Current estimated cost recovery			70%

¹ Although the numbers of cases are presented as whole integers, the total income in is calculated on the basis of estimates that include decimal places so multiplying the numbers of cases by the fee level will not exactly equal the total income.

Appendix 1a Projected cost recovery under Option 1

Construction	No. Cases	Current Fee	Option 1 Fee	Total income (Option 1)
Band 1	45	£715	£715	£32,175
Band 2	66	£1,025	£1,025	£67,650
Band 3	117	£2,275	£2,275	£266,175
Band 4	12	£4,525	£4,525	£54,300
Band 5	14	£7,191	£7,191	£100,674
Band 6	2	£12,010	£12,010	£24,020
Band 7	7	£12,010	£12,010	£84,070
Maintenance dredging - disposal²				
Band 1	34	£3,650	£4,500	£153,563
Band 2	20	£7,225	£9,100	£177,450
Band 3	8	£9,950	£19,200	£156,000
Band 4	8	£15,950	£29,780	£241,963
Band 5	7	£22,050	£43,280	£281,320
Band 6	15	£34,750	£65,250	£954,281
Capital dredging - disposal				
Band 1	5	£4,500	£6,750	£33,750
Band 2	6	£9,100	£12,800	£76,800
Band 3	2	£12,800	£12,800	£25,600
Band 4	2	£19,850	£19,850	£39,700
Band 5	1	£28,850	£28,850	£28,850
Band 6	0	£43,500	£43,500	
2008 fees review				
Approx income from:				
Construction variations and environmental supplement				£220,000
Renewables				£100,000
Aggregates				£140,000
All other items				£50,000
TOTAL				£3,308,340
Current estimated cost recovery				96%

² See previous footnote.

Appendix 2: Comparison of construction and disposal licence fees under the proposed regime for 2011/12 and the existing charging regime for 2010/11

Licence category	Fee 2010/11	Fees 2011-12
Construction applications		
	£	£
Band 1 £5,500 to £9,999	715	158/450
Band 2 £10,000 to £49,999	1,025	158/450
Band 3 £50,000 to £1.99 million	2,275	2,700
Band 4 £2 million to £4.99 million	4,525	4,500
Band 5 £5 million to £19.99 million	7,850	7,200
Band 6 £20 million to £49.99 million	15,850	29,600*
Band 7 Over £50 million	38,650	
Disposal Licences		
Maintenance disposal		
Band 1 0 to 9,999 tonnes	3,650	7,200
Band 2 10,000 to 49,999 tonnes	7,225	7,200+
Band 3 50,000 to 99,999 tonnes	9,950	
Band 4 100,000 to 499,999 tonnes	15,950	29,600*
Band 5 500,000 to 999,999 tonnes	22,050	
Band 6 Over 1,000,000 tonnes	34,750	
Capital disposal		
Band 1 0 to 9,999 tonnes	4,500	
Band 2 10,000 to 49,999 tonnes	9,100	
Band 3 50,000 to 99,999 tonnes	12,800	29,600*
Band 4 100,000 to 499,999 tonnes	19,850	
Band 5 500,000 to 999,999 tonnes	28,850	
Band 6 Over 1,000,000 tonnes	43,500	

* £29,600 represents the estimated average cost for those projects where the fees will be based on the number of hours spent by MMO and Cefas on the project.

+ A fixed fee of £7,200 will be charged for maintenance dredging disposals up to 20,000 tonnes, the fee for applications to dispose of amounts above 20,000 tonnes will be based on hourly charging.