

Summary of responses to the proposed changes for the Reservoirs (Scotland) Charging Scheme consultation with SEPA's views



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1 Introduction

This is a summary of the responses to SEPA's consultation on the proposed changes to the fees we charge for the work we undertake relating the Reservoirs (Scotland) Act 2011 and the Reservoirs (Scotland) Regulations 2016 and how we intend to review these charges in 2024. The consultation ran from 29 August 2023 until 21 November 2023.

2 Background

2.1 Why did SEPA consult?

SEPA are the regulator for compliance and enforcement of the Reservoirs (Scotland) Act 2011 and the Reservoirs (Scotland) Regulations 2016. To support this, we levy three levels of subsistence charges based on the risk designation assigned to each registered controlled reservoir. These are classed as either High, Medium, or Low risk.

We have also reviewed the registration fee that is applied at the point of registration, which is a flat fee for all reservoirs.

We initially consulted in 2017, where we carried forward the existing scheme and advised that we would review the reservoir charges in 2018. This review was initially delayed due to an assessment of our wider work and then COVID introduced a further delay.

2.2 How did we consult?

The main way to access and respond to the consultation is through the online consultation platform on the SEPA website. The platform integrates the consultation document with the questions allowing the stakeholder to respond to each question and provide their views.

We proactively wrote to stakeholders to advise the dates of the consultation and how they could access and respond to the consultation.

2.3 High level of summary of the responses to the consultation

Level of response: 29 (which is 13% of operators who have a reservoir responded to the consultation). For the main question which was whether the proposed increases were suitable there was a split in views (see table below).

Response	Number	By of those responding
Yes	8	28%
No	14	48%
Not Sure	7	24%
Total	29	100%

The following goes into more detail on specific points but a main one is that the expected reduction of work after the “bedding in” period did not materialise and that recently the level of regulatory and enforcement work has increased along with needing to use a wider group of specialists within SEPA.

3 Overview of comments and our proposals

The following goes through the consultation responses to the questions and outlines how SEPA will implement within the charging scheme. Questions 1 to 3 are to identify the responder and their interest in the charging scheme.

3.1 Question 4: Do you agree with the proposals which are outlined in this consultation?

3.1.1 Consultation response

Response	Number (%)	Comment summary	SEPA response comments
Yes	8 (28%)	<p>Proposed charges seem reasonable, even accounting for proposed increase fee would remain relatively low. A clear breakdown of costs should be provided.</p> <p>SEPA provide no service other than when we provide regular reports.</p>	<p>Whilst these responders agreed with the changes, they did not fully understand the role SEPA plays and therefore why the charge is the way it is. This came across under question 5 so more detail is provided there.</p>
No	14 (48%)	<p>The majority of the concerns were due to the increase which was thought to be too much particularly given the current cost pressures in general.</p> <p>There were particular concerns around the associated costs of the work (so not directly related to SEPA's charges).</p> <p>Others commented on the risk designation level applied to the reservoir and the work SEPA do for this.</p>	<p>When SEPA took on the Regulation of Reservoirs and consulted in 2016 with the charges set in the regulations. These charges did not fully recover the costs of the work, it was anticipated that though as the regulations were bedded in the work would reduce.</p> <p>The review in 2018 did not make significant changes as there was still thought to be more bedding in of the scheme. We have applied of RPI increases in recent years but not addressed the initial recovery shortfall until now.</p>

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Response	Number (%)	Comment summary	SEPA response comments
			<p>When the review of charges was made this time around it was found that work had not reduced. There is now a higher level of regulatory and enforcement effort that has increased in recent years. After re-evaluating the charges there has been a shortfall that is required to be rectified. In addition, we have looked wider at the support mechanisms and functions that support this work. Comments were made on the work SEPA do and what risk designation means, and they are detailed under question 5.</p>
Not Sure	7 (24%)	<p>The reason for substantial increase is not clear in the consultation.</p> <p>Lack of information on the level of costs/ how they have been calculated.</p> <p>Efficiency and how SEPA operate.</p>	<p>We do endeavour to make our consultations clear to understand and will take on board comments on this.</p> <p>We work hard to implement efficiency in all areas of work and improving our processes and systems where we can. This is easier to do in some areas of work than others and in some cases, we are constrained by the systems we have, and this has to be weighted against the cost of implementing new systems.</p>

3.2 Question 5: Do you have any other comments to make about this consultation?

The following goes through the main themes from the consultation response to question 5. These have been summarised. The role SEPA undertakes is key in ensuring safety. Detailed information can be found on our web site on all the work we do around reservoir safety ([link](#)).

Consultation response	SEPA's response
<p>What does SEPA do for the money?</p>	<p>The work that SEPA undertakes under the Reservoirs (Scotland) Act 2011 which is funded by this charging scheme includes;</p> <ul style="list-style-type: none"> • Providing advice and guidance to reservoir managers to support them in complying with the legislation. This includes numerous guidance documents and advice notes that can be found on SEPA's website. • Ensuring that reservoirs that fall under the Reservoirs (Scotland) Act 2011 are registered and risk designated. • Ensuring that reservoir managers appoint the correct engineers when required, to undertake the statutory level of supervision and inspection. • Receive, review and process engineer documents to ensure the correct level of monitoring has been undertaken. • Where reservoir managers fail to comply with the legislation undertake proportionate and timely enforcement action to correct the situation and ensure reservoir safety. • Put in place processes and procedures to deal with any potential reservoir emergencies. <p>By undertaking the above points, it should ensure a greater level of reservoir safety and protect those communities and businesses that are situated downstream of a reservoir.</p>

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Consultation response	SEPA's response
<p>Reservoirs owned by charities, or do not generate income or are for the benefit of wildlife should receive no charges or reduced charges</p>	<p>The reservoirs' charging scheme is based on the amount of work that each reservoir is envisaged will require to ensure compliance with the legislation and not the purpose it is used for or who owns it. The same level of regulation applies to all types of reservoirs with the same risk designation and therefore the level of effort from SEPA must be cost recovered. The annual subsistence fee is linked to the risk designation that has been assigned to the reservoir with 'High' risk reservoirs requiring greater effort from SEPA than a reservoir with a 'Medium' risk designation or 'Low' risk designation.</p>
<p>Increase in charges is too high.</p>	<p>The work that we do under the Reservoirs (Scotland) Act 2011 has now been bedded in and we have now seen a change in some areas of work. There is now a higher level of regulatory and enforcement effort that has increased in recent years. After re-evaluating the charges there has been a shortfall that is required to be rectified. In addition, we have looked wider at the support mechanisms and functions that support this work and have identified an under recovery of effort which needs to be corrected.</p>
<p>I don't understand how my reservoirs risk designation was assigned/the reservoir risk designation was never explained to me.</p>	<p>Although not part of the charging scheme consultation the following may help with this issue.</p> <p>When a reservoir is registered with SEPA, SEPA has a statutory duty to assign a risk designation of either high, medium or low. These risk designations are based on the downstream consequences of a dam failure.</p> <p>SEPA will have notified the reservoir manager of the 'provisional' risk designation and provided them with a risk designation summary sheet which gives detail on the modelled downstream impacts. There was then a 2-month</p>

Consultation response	SEPA's response
	<p>'representation' period when the reservoir manager could have supplied site specific information is they did not agree with the 'provisional' risk designation. After the 2-month period SEPA would have then contacted the reservoir manager with the confirmed risk designation for the reservoir, taking account of any representations that may have been made. If the reservoir manager still disagreed with the risk designation, then they had a further 12-month period in which they could seek a 'review' of the risk designation. Guidance documents on how to make a representation or seek a review are available on SEPA's website along with further information and guidance documents on how the risk designation is assigned to a reservoir.</p>

4 Conclusion

We thank all stakeholder that have taken the time to respond to the consultation. We have reviewed and taken onboard these responses. There are a few key points we need to address:

- 1) What role SEPA does under the reservoir regulations. Whilst we have the information on our website, we need to be mindful of clearly communicating this with all operators. The reservoirs work is dominated by: SEPA co-ordinating activities from the office, bringing the right specialities together and ensuring the operators have complied with their duties.
- 2) Where we can implement further efficiencies, we do this.

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