

Standard terms and conditions

Charging for planning advice

December 2013

These are the standard terms and conditions that apply to any charged planning advice we give.

Interpretation

The following terms have the following meanings:

"advice" means the provision by Us of chargeable advice to You related to Your planning application prior to it being formally submitted to the relevant authority and/or after such submission and/or after the grant of Your planning application, such advice may include but not be limited to: flood and coastal risk management; surface water management; pollution prevention; impacts on water bodies in a River Basin Management Plan; impacts on wetland biodiversity and fisheries; waste management; and climate change adaptation

"contract duration" means the period specified in the programme

"Party" "Parties" means You and Us

"planning application" means an application for planning permission or development consent order

"programme" means the schedule of work to provide the advice that You want Us to provide for You

"We" "Us" "Our" means the Environment Agency (and includes our officers, employees, contractors and agents)

"working day" means the hours between 9.30am and 5pm on any day other than a Saturday, Sunday or public holiday in England

"You" "Your" means the applicant named or proposed to be named in the planning application or grant of your planning application, as applicable (and includes your employees, contractors and agents)

Work we will do

1.1 We will provide You with Our advice as set out in the programme and as permitted under these terms & conditions.

1.2 We may consult other regulators and government bodies or other relevant authorities where we consider they are relevant.

Programme

2.1 We will agree with You a programme that sets out the advice You want from Us and when You want it. We will use reasonable endeavours to give You Our advice as set out in the programme (or in the absence of a specified programme within a reasonable time) but We don't guarantee to meet these timescales.

2.2 You and We may at any time agree changes to the programme. Such changes will be agreed in writing.

Work you will do

- 3.1 You will request Our advice in accordance with the programme.
- 3.2 You will make available to Us such information (including maps, reports, plans and drawings as relevant) and provide such support as We may reasonably require in relation to Your requests for Our advice.
- 3.3 You will discuss with Us when You have any change in or additional requests for Our advice however we are under no obligation in relation to such changes unless and until they have been agreed in writing as set out in Condition 2.2.

Commencement and term

- 4.1 We will start to give You advice from the commencement date that We will agree with You and We will stop giving You advice on the last day of the contract duration. We will agree these dates with You and set these dates out in the programme.
- 4.2 The Parties may agree in writing to extend the contract duration.

Costs of our advice

- 5.1 You will pay Us all of the reasonable costs and expenses We incur in giving You Our advice.
- 5.2 We will charge You £84 for each hour of staff time (other than any legal staff time which will be charged at £125) required in giving You Our advice from the commencement date. In addition We will charge You for any other reasonable costs We incur (including the costs of advice from external consultants if we consider such advice necessary) and provide You with evidence of them.
- 5.3 Before We start work We will give You a costs estimate in writing. This will include a breakdown showing what work the costs are for, and approximately when the costs will occur. We will tell You if the costs estimate may change when We receive more information from You and from others, and when We agree with You in writing any changes to the programme under Condition 2.2.
- 5.4 You will tell us if You disagree with the costs estimate given under Condition 5.3 and why as soon as possible after You receive it, and not later than 2 weeks after You receive it.
- 5.5 You may terminate this agreement on the basis that the costs estimate is not acceptable at any time before We start work.
- 5.6 We will send You invoices quarterly. Charges invoiced will be exclusive of VAT or any other relevant taxes. Invoices are payable within 30 days of the date of issue.

Acknowledgement

- 6.1 You acknowledge and agree that when We give You Our advice it places Us under no obligation to You:
- i. to make any favourable recommendation to a local planning authority or the Planning Inspectorate in relation to Your planning application; or
 - ii. to grant any related consents or permits which We are responsible for determining.
- 6.2 We will use reasonable skill, care and diligence when We provide You with advice, which will be based on the information available to us at the time and the laws policy and guidance in place at the time.

You must ensure that the advice and information We give You meets Your needs and You are responsible for the consequences of any use to which You put it.

Confidential information

7.1 Subject to Condition 1.2, we will only disclose confidential information You send us to any third party where it must be disclosed by operation of law, statute or regulation or the order of any competent authority. You should note that We are subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 and We may be required to disclose certain information upon request.

7.2 Condition 7.1 will not apply where We have obtained information separately without confidentiality obligations or where it becomes publicly available otherwise than by a breach of obligation or confidentiality.

7.3 Condition 7.2 doesn't prevent Us providing a copy of any advice provided under this Agreement in relation to a formal application for the planning application or discharge of conditions.

Termination

8.1 Either Party may terminate this agreement between us by:

- i. at any time by giving the other Party not less than 14 calendar days' notice in writing of its intention to terminate on that date. We will not unreasonably terminate this agreement.
- ii. by giving the other Party notice in writing with immediate effect if the other Party (the Defaulting Party) commits a material breach of this agreement and if:
 - the Defaulting Party has not remedied, or commenced and is diligently proceeding to remedy, the breach to the reasonable satisfaction of the other Party within 14 calendar days after service of a notice in writing specifying the breach and requesting it to be remedied; or
 - the breach is not capable of remedy; or
 - the breach is a fundamental breach of this agreement; or
 - the other Party becomes insolvent, is declared bankrupt, has a receiver appointed, enters into an arrangement with its creditors, or an order is made or a resolution passed for its winding up except where it is for the purpose of restructuring and the resulting institution agrees to be bound by this agreement.

8.2 If at the time that an agreement is terminated We have any outstanding costs which would otherwise have been payable by You under Conditions 5.1 to 5.2, or in relation to contracts or arrangements with third parties which cannot be immediately terminated You shall pay any such costs.

8.3 All provisions which would be required to survive the Agreement in order to have their intended effect will be deemed to survive termination.

Disclaimer

9.1 Neither Party excludes or limits liability to the other for death or personal injury caused by its negligence or for any breach of any obligations which it is not permissible to exclude by law.

9.2 Subject to Condition 9.1 We shall not be held liable in contract, negligence or otherwise for the consequences of You following or relying upon comments or views given to You by Us or any act, omission, event or circumstance or series of acts events or circumstances relating to this Agreement or with respect to the matters contemplated herein.

General

10.1 Any variation of these terms and conditions will only be valid if it is in writing and signed by both Parties.

10.2 Our obligations to You under these terms and conditions may be suspended because of any event which is beyond Our reasonable control and which means We can't carry out the work.

10.3 The use of these terms and conditions is subject to the law of England and Wales.

10.4 This agreement consists of (in order of precedence in case of conflict between them): Our offer letter to You, any variation in accordance with condition 2.2, 4.2 and 10.1, these terms and conditions, any estimate We provide, the programme and your acceptance of these terms and conditions. This is the whole agreement and excludes any representations whether oral or in writing.

Dispute resolution

11.1 Any dispute between the Parties arising out of this agreement will be referred first to Your project manager and Our senior manager for resolution before any formal action or proceedings are taken by either Party.