

Abstraction Reform Advisory Group

Meeting note: Abstraction Reform Advisory Group 18th September 2013

1. Welcome and update

Henry Leveson-Gower (HLG) gave an update on the policy development for abstraction reform. He explained it was approaching the end of the initial research stage and the results from the impact assessment are almost complete. He also reported that other than the consultation document, other ongoing work included the Environment Agency's research on lessons on setting flows to protect the environment from the recent Water Framework Directive investigations and the modelling work for the remaining catchment case studies. HLG then asked for questions from the stakeholders.

Questions from stakeholders

A stakeholder asked if the consultation document could be pushed back till the remaining catchment modelling work is ready and can be included. HLG explained that unfortunately due to the amount of work necessary this would involve delaying the consultation document for some months so it was not feasible without a significant delay. Gabrielle Edwards (GE) also added that there was a sufficient evidence base for a consultation impact assessment without the further two case studies which are due to be modelled in the future.

A stakeholder queried whether the impact assessment included the transition and administrative costs. HLG answered that the administrative transition costs are not separately identified. However, the effects of the transition of licences does have an impact on the overall costs and benefits. The administrative costs are included for all abstractors.

A stakeholder asked how, if they cannot see which option is best for their members, they can decide which option is best? HLG responded that we will be explaining as part of the consultation what abstraction reform means for different types of abstractors.

It was queried what the term diffuse abstraction meant? HLG explained that it is a term he coined to characterise the potential effects of non-irrigated crop growing on water availability. This is related to work examining the interaction between land use/management and water availability.

2. Transition

Karen Saunders (KS) explained the objectives of the session on transition were:

- To understand what's meant by transition;
- To understand what the goals and constraints of transition could be; and
- To discuss ways of reducing unused licensed volumes and get feedback on. some of the potent impact of approaches that could be taken.

Jonathan Dennis (JD) then gave a presentation explaining:

- Transition in this context is referring specifically to the changing of licences at the point of implementation.
- What was flexible and up for discussion in the transition process and what the constraints were on transition including the water white paper commitments and the legal requirement for no deterioration.
- What three possible approaches could be taken forward for transition?

Feedback from stakeholders

A straw poll was conducted by KS and the majority of stakeholders agreed there is a problem with unused licensed volumes being left as we enter the new system.

Two further approaches for transition were suggested by stakeholders on top of the three suggested in JD's presentation. They were:

- The re-justification of need – everyone should have to re-justify why they need their licence.
- The use of a single peak year to determine transitioned volume.

The session then broke into group discussions with each group discussing one of the possible approaches identified for transition, the key points identified by the groups for future consideration for each approach were:

Average peak/single peak

In this group the key points identified for future consideration were:

- There is a possibility using an average/single peak doesn't fit with the water white paper principles.
- Whether or not drought years are taken into account.
- If using average/single peak could incentivise over abstraction in the run up to transition.
- If average/single peak is used then it doesn't encourage or drive innovation by businesses to use less water.

Justification of need

In this group the key points identified for future consideration were:

- It puts the onus onto abstractors to prove why they need the volume they are licensed for currently.
- To work it would need clear guidelines from the Environment Agency and would require significant time input from them
- Possibly we could use a reverse auction to facilitate process of justifying need.

Average/average plus X%

In this group the key points identified for future consideration were:

- It's a simple approach, but there is a potential to cheat by consistently over abstracting.
- Fairness of this approach depends on the period chosen for working the average out.
- How the X% decided could be contentious and would need to be justified to stakeholders.
- This method doesn't account for abstractors with highly variable use, what would happen in future drought years when abstractors are left short needs to be explained in guidance.

Further points for consideration on transition options raised by stakeholders

- Some of the approaches don't allow for growth, whatever approach is used it should allow for growth by abstractors.
- All the approaches need more work done, catchment case studies are needed to show how each approach would work.
- Abstraction licences should be looked at individually to ensure that each case is treated fairly rather than having a standard approach.
- There was some confusion amongst stakeholders as to how abstraction reform and specifically transition fitted with the current restoring sustainable abstraction programme. One key question and area of confusion was if you would be treated differently if you've been through the restoring sustainable abstraction programme? The difference between the two was explained; the restoring sustainable abstraction programme is being used to tackle unsustainable abstraction now whilst abstraction reform is the reform of the system to deal with future challenges.

Final questions for stakeholders on transition

Stakeholders were asked to what extent a different approach for transition should be used in different catchments? All but two people agreed different approaches could be used. The reason for disagreeing by the two stakeholders was that if the environment is

protected first in all catchments as is the assumption, then a one size fits all approach is fine.

Stakeholders were asked to write on post-its what advice they had to give to make sure we get the transition process right the following was feedback was received:

- Make sure the prospect of change doesn't lead to over abstraction now.
- Need to ensure that holders of 'licences if right' can see the benefits of reform or they will contest any change.
- Consider a legal challenge to the removal of 'rights' by abstractors with 'licences of right'.

3. Market regulation and development

HLG introduced the topic explaining that due to stakeholder concerns about possible distortions in a reformed market for abstraction, NERA had been commissioned to review case studies of other market reform experiences. HLG then ran through the key findings of the report as laid out in the paper. The stakeholders were then asked to offer anything they felt was missing, anything that needed further investigation and anything that they were very concerned about.

Feedback from stakeholders

Stakeholders were asked if they could identify anything missing from the table in the presentation on market regulation and development:

- Using the milk quotas example as a case study.
- Unintended consequences such as the Californian farmers case where it became more profitable to sell their water share than to farm.
- Specific examples of problems in catchments would be useful.

HLG explained to all that the catchment modelling work should give some more detail on trading patterns. It was questioned whether the Environment Agency is competent to run the market. HLG answered that the Environment Agency would not be running the market, it would be registering and approving the trades.

A stakeholder enquired if we examined whether regulations covering financial instruments would apply to these markets? HLG replied that Treasury lawyers advised that Water Shares or permits would be unlikely to count as financial instruments.

The stakeholders then identified issues and ideas worth pursuing further in relation to market regulation and development:

- There needs to be clarity on the market requirements for trading. We should look at the EU Emissions Trading experience, particularly their 'Golden Rules'.

- Need to be clear about what type of market we are looking at starting as far in advance as possible.
- The Government should restrict the ability of non-users to buy licences to further protect the environment as the environment should already be protected.
- Non-users – their status is unclear; could they operate in the market? For example could supermarkets buy shares and then only give them to their producers?
- Most members of the paper industry are not interested in trading. Do we want traders entering the market to simply make money from trading?
- New entrants reserve – is there a potential for forward trading? Some stakeholders disliked the thought of having their full allocation on their licence taken away in order to give out or hold some in reserve for new entrants.
- It seems unfair to grandfather the shares in and then make new entrants pay for access.

4. Links between abstraction reform and other policy areas

HLG gave a presentation on the links and interactions between abstraction reform and other policy areas.

Stakeholders then broke into groups to consider the following:

- Any opportunities or challenges missing in the presentation.
- The three most important challenges or opportunities.
- One opportunity or challenge in more detail.

Feedback from Stakeholders

The opportunities and challenges missing from the current list shown to stakeholders were:

- Trading rules (Challenge).
- Conflict with other policies. For example the HSE telling paper companies not to recycle water whilst the EA are telling them they should. (Challenge).
- Avoid the need for sectors to use consultants to implement changes (Challenge).
- Benefits to resilience and climate adaptation (Opportunity).
- Protected area and biodiversity link (Opportunity).

The most important links between abstraction reform and other policy areas selected by the majority of groups were:

- Drought - most groups selected this as most important link of the list.
- Land use planning.
- Economic regulation.
- Water Resource Management Plans.

The solutions to some of the opportunities and challenges suggested by the stakeholders were:

- Drought - for this challenge AR should allocate shares for drought and confiscate them from non-users. Drought should be accounted for from the start and not be separate to abstraction rules.
- Better Regulation - there is a need to offer clear guidance on regulation to avoid need for consultants. This will make it easy for SMS businesses to understand. Defra are requested to avoid overcomplicated regulation.
- Catchment management - this needs to be easier for people to engage with. Defra should look at how AR fits into wider catchment reform.
- One stakeholder suggested that there is a need for different rules for different abstraction types (rivers vs. chalk etc).

5. AOB

Next meeting in January – moved from December so that it is not just before the consultation comes out.

6. Attendees

Stakeholders

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| Martin Silcock – Anglian Water | Luke DeVial - Wessex Water |
| Simon Wood – EDF | Andy Limbrick- Energy UK |
| Jackie Coates - Chemicals Industry Association | Susanne Baker - EEF |
| David Bellamy - Food and Drink Federation | Debbie Stringer - Confederation of Paper Industries |
| Nicola Owen - Mineral Products Association | Paul Hammett – National Farmers Union |
| Phil Burston – Blueprint for Water (RSPB) | John Adlam - Horticultural Trade Association |
| David Pollard – Chemical Industry Association | Chris Brett – British Hydropower Association |
| Adam Comerford - Canal & River Trust | |

Government

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| Gabrielle Edwards (Chair) – Defra | Henry Leveson-Gower – Defra |
| Theo Hawkins – Defra | Lisa Oakes – Defra |
| Rachel Wright - Ofwat | Jonathan Dennis – Environment Agency |
| Christine Tacon – Defra (External Regulatory Scrutiny) | Nicola Poole – Environment Agency |
| Karen Saunders – Environment Agency | |

Apologies

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| Anna Wetherall – Natural England | Sarah Mukherjee – Water UK |
| Phil Chatfield – Welsh Government | David Bassett – British Trout Association |
| Ian Brown – Welsh Water | Lucy Lee – Blueprint for Water (WWF) |
| Andrew Gurney – Farmers’ Union of Wales | Nicola Stirling – Defra |
| Nick Haigh – Defra | Derek Holliday - Country Land and Business Association |
| Anthony Wilkes – Natural Resources Wales | Maniv Pathak - Defra |
| Trevor Bishop – Environment Agency | |