SUMMARY OF FEEDBACK – BREAKOUT SESSION ON CHARGE ALLOCATION EVENT – 04 DECEMBER 2013

1 Introduction

A stakeholder workshop was held on 04 December 2013 in order to progress work on the development of an integrated and risk-based charging scheme for regulated activities. Delegates from a range of business sectors and public bodies were invited to attend.

This report summarises the results of the charging scheme workshops.

2 Background

In October 2012, the Scottish Government and SEPA consulted on "Proposals for Future Funding Arrangements for the Scottish Environment Protection Agency". The key charging scheme proposals of this consultation included:

- Developing a charging scheme that is based on risk and operator performance; and
- Building on the polluter-pays-principle by bringing in a charge that relates to the impact on the environment from the use of environmental resources and provides a fairer basis for the charges.

An analysis of the consultation response was published in May 2013.

- 75% supported a risk based approach to charging based upon the proposed principles.
- 85% supported direct cost recovery from poor performers.
- 55% agreed with the use of the environmental resources principle being factored into charges to regulated business.

A workshop was held in June 2013 to discuss different models for incorporating into a risk-based approach to charging, the findings are summarised as:

- A mix of the models (sector based, site based, emissions based, or environment based) is required.
- Activities with consistent technology and relative low levels of impact / emissions lend themselves to a more sector weighted model.
- A site based model will be the main component for calculating the charge for the medium to large scale activities.
- Larger activities which have good quality emissions data should have an emissions based component for charges.

- An environmental harms based model is suitable for when harm can be assessed, as long as it does not become overly complex.

This workshop (December 2013) provided an update on progress with the development of SEPA's Regulatory Charging Scheme and allowed discussion on the further development of proposals. This paper summarises the workshops specifically looking at charge allocation based on the use of three risk assessments.

- Site Risks – management / regulatory effort required to protect the environment
- Emissions Risks – the risks associated with the passage to (or from) the environment.
- Environment Risks – sensitivity of the receiving environment.

3 Analysis and Discussion of December 2013 Workshop

The workshop output has been analysed and is included in the Appendix (section 5 below). Section 3.1 gives the principal observations / issues which need to be addressed (this is the previously issued high level summary), and section 3.2 summarises the feedback.

3.1 Principal Observations to be Addressed

1. The potential for overlaps between each element (e.g. impact on a receptor may be a part of each element)
2. An environmental receptor factor may address issues which have already been addressed by the licence / permitting process
3. Concern that too complex a model will result from the emissions and environmental sensitivity elements.
4. Larger emissions do not necessarily mean a higher level of work is associated with a site
5. The use of a scale called "complexity" in the site / sector element may be misleading
6. Concern that the model will just fit current activity rather than the potential future activity
7. How could self monitoring be taken care of?
8. The potential that a number of similar activities which only differ by scale would be subject to vastly different charges.

3.2 Review of Risk Assessments and their Applicability

All respondents were of the opinion that the site/activity factor was important, and should be included as part of the Charging Scheme. It was noted that this should relate to the regulated installation only, rather than the wider site boundary.

Concerns were raised in relation to how SEPA would deal with novel or unfamiliar techniques, deal with the complexity of the activities, and deal with larger companies that have integrated management systems across multiple sites.

No real preference was noted as to whether SEPA should use the actual emissions from the site or the permitted emissions from the site as a basis for charging. It was felt that the use of actual emissions was fairer, but the use of permitted emissions was simpler.

It was noted that the number and nature of the emissions (for example the environmental hazard of a specific pollutant) should be taken account of in determining the emissions factor.

The general preference from the respondents was for the emissions factor, to be based on a series of steps equating to a range of emissions, rather than having a continuous scale with charges directly in proportion to emissions.

Respondents felt that the 'relevance' of an environmental receptor was most important, but most felt that trying to include this would be too complex and would not be cost effective.

3.3 Workshop Conclusions

- SEPA should ensure that there is no overlap between the different risk assessment elements
- There should not be a 'penalty' purely for the use of unfamiliar / novel techniques.
- Any emissions based risk assessment should include the type and hazard of the particular pollutants, and not just the scale of the emissions.
- The charging for the emissions based risk assessment should be via a banded scale.
- The use of environmental sensitivities as a factor to determine the overall charge may be overly complex and not cost effective.

4 Next Steps

The output of this workshop will further refine the development of the proposals for the new charging scheme. The next version of the scheme will be presented to stakeholders in a workshop around June

5 Appendix – Detailed Analysis from Dec 2013 Workshop

5.1 Background to workshop

The participants in the workshops were asked to consider the merits of the three different risk assessment factors, summarised as follows.

Site Risk Factors These will reflect SEPA's regulatory work at a site (e.g. inspection, compliance work, sample collection and data analysis). The proposals put forward by SEPA include: regulatory framework (UK and EC); how technical the process is to operate / maintain; variability of process / non standard equipment; scale of site; and number of activities.

Emission Risk Factors These will reflect SEPA's environmental monitoring activities and will influence SEPA's regulatory work e.g. specialist site monitoring, offsite monitoring). The proposals include: scale of emission / abstraction / throughput; and content of emission / throughput (this may be weighted in relation to toxicity).

Environmental Sensitivity Risk Factors These will reflect SEPA's environmental monitoring activities and will influence SEPA's regulatory activities. The proposals include the sensitivity of receptors (e.g. centres of population, nature conservation sites, etc). They will include consideration of: impact on the condition of the receptors; proximity of receptors and strength of link between source and receptors; and relevance of emission / abstraction to the receptors.

Workshop participants were split into three groups and were given presentations on each of the sets of risk factors. Following the presentations and discussions, they were asked to return questionnaires in relation to each of the sets of risk factors.

5.2 Number and type of responses

A total of 8 responses were received, from the 15 who attended (on the day and subsequently). They were from both regulated and non-regulated organisation.

5.3 Analysis of responses

Following the breakout sessions, questionnaires were circulated to participants and the answers were collated and reviewed.

Several questions were asked in relation to the different factors in order to judge the viability of each factor. All questions asked for comments, and several asked for the respondents to score the question.

5.3.1 Activity Factor

Q1 – Do you consider an "activity score" reflecting the amount of time required to regulate the site is 5 (highly important) to 0 (not important at all)?

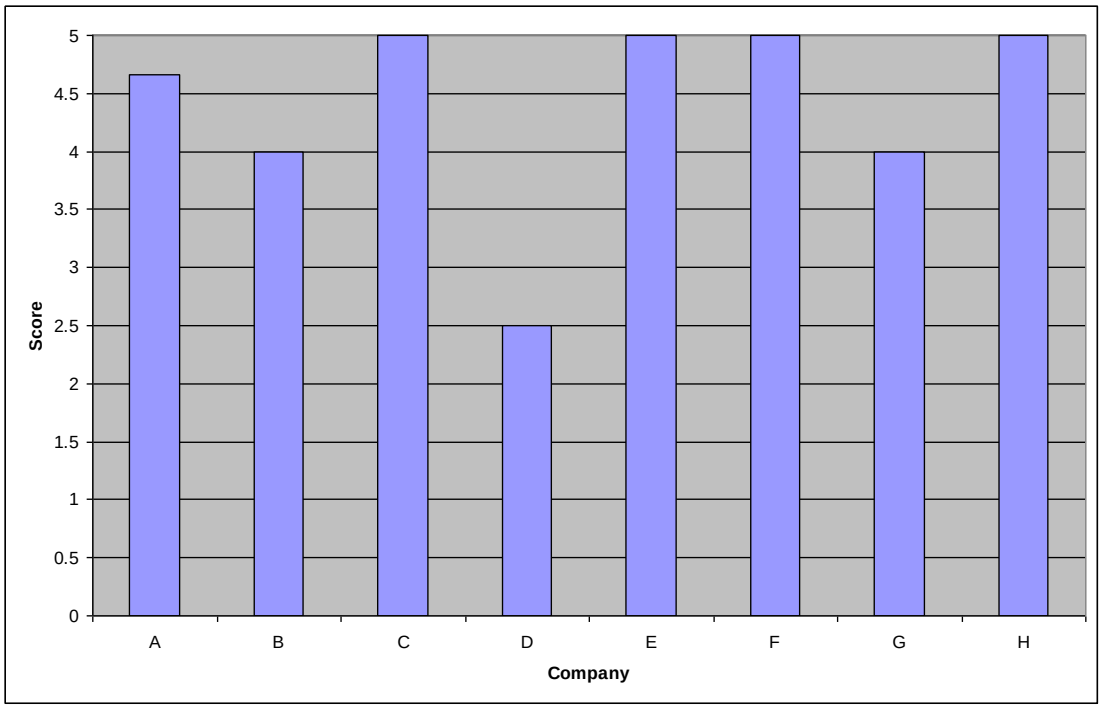

Fig 1. Importance of Activity Factors

Overall this aspect was supported. A concern was raised by one respondent that it would be unfair for an industry to incur additional charges if they are using technology which SEPA is unfamiliar with.

The overall response is that this is an important factor and should be included in the charging scheme.

Q2 – Do you consider a "site score" reflecting the combined regulatory effort for all activities (based on size, complexity and variety of activities) is 5 (highly important) to 0 (not important at all)?

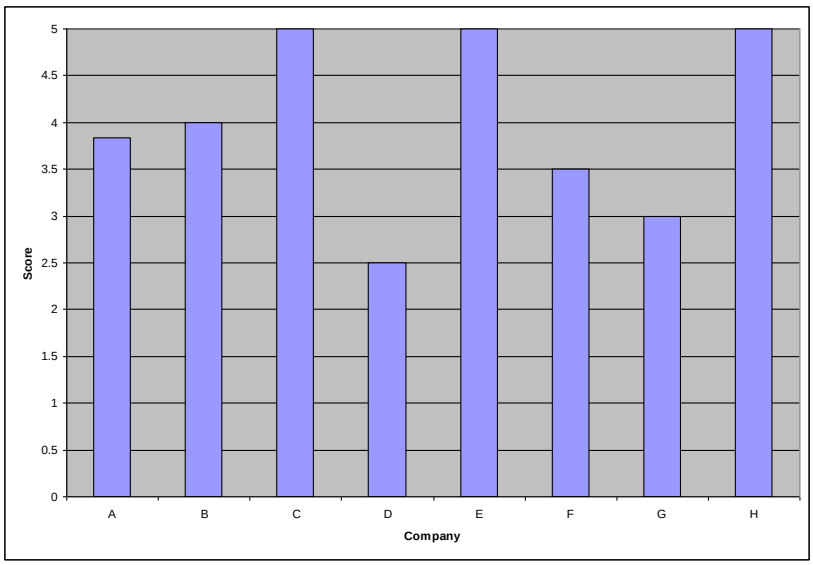

Fig 2. Importance of Site Factors

While the overall responses were again positive for this approach, there were several concerns flagged in the responses. Firstly, it was noted by two respondents that, while this is important, it is likely to be difficult to define.

One respondent felt that complexity should only be taken into account to the extent that it drives regulatory effort; the example given was a small hydro scheme with a large number of very small intakes may require less regulatory effort than a large scheme with only a few large intakes.

Another concern was that where multiple activities are managed by the same personnel, then there would be potential to reduce the regulatory effort because issues identified in one area should be rectified across all areas.

It was noted that the discussion revolved around the "regulated installation" rather than the "site boundary".

Q3 – How well does this proposal meet the overall charging principles (0=not at all, 5=fully)?
This question is asked in all three factor questionnaires, and will be discussed separately at the end.

Q4 – Are there any other factors which you consider will significantly influence the setting of activity scores?

There were fewer comments received in answer to this question, with only 2 main concerns. The first was the emergence of new technology/industries (the example given being fracking) and how that is factored in. The second issue was in relation to large companies with multiple sites but with one overall management structure. This could reduce the overall regulatory effort, however the suggestion was made by the respondent that this could be included in the CAS (compliance assessment scheme) score.

Q5 – Are there any other factors which you consider should adjust the site score?

Several respondents indicated that some form of 'compliance record' should be included to adjust the score. This is one of the factors that SEPA will use after the determination of the allocation rules to determine the final charge for the site.

Several respondents suggested some sort of factor that relates to the mitigation undertaken and the management of an individual site. This could be linked into the compliance (as suggested by one respondent) or could be a stand-alone factor.

One respondent did note that changes to the way sites are regulated following the Better Regulation Bill could affect how sites are charged (for example a site may have 3 licences under the current regimes, but this could be reduced to 1 in the future).

One respondent did raise the concern that a single organisation who was representative of a sector may have a disproportionate burden of charging.

5.3.1 Emissions Factor

Q1 – Do you prefer emission charges to be based on a) actual emissions, b) permitted emissions c) no preference

Two of the seven respondents felt that this should be based on actual emissions and three felt it should be based on the permitted emissions. Of the two citing no preference, one felt they were not in a position to answer, and the other could see merit in both methods. An eighth respondent did not mark this with an answer, but from the comments submitted would probably be in the 'no preference' camp.

One of the respondents preferring the actual emissions merely stated that this was preferred 'if using existing mechanisms' (which refers to existing reporting requirements). The other respondent felt that the permitted emissions only give a maximum and do not take account of peaks and troughs; the maximum permitted emissions may only be reached for a very short period (eg at start-up only), and general operations are well below the limit.

Two of the respondents preferring to be charged according to the permitted emissions felt that this would be a less complex method. Two of the respondents also implied that an Operator may wish to reduce the charge that is paid by reducing their emissions and thus the permitted limits in the licence.

It was noted by one respondent that it was unclear how some regulated activities would be managed under this approach (the examples were given of river engineering or water abstraction). It was felt that using the scale of the activity would have already been taken into account in the previous 'Activity Factor'.

Q2 – Do you prefer the emissions charge to be calculated using a) continuous scale, b) banded scale, or c) no preference

Only one company preferred a continuous scale. This was because the banded scale would cause sudden changes in costs, and would reduce the incentive to make small changes in activities (which may be important when the environmental capacity of the receiving environment has nearly been reached).

The three respondents who did not express a precedent felt that both schemes had pros and cons. The continuous banding is a fairer scheme, but would be far more complex to administer. It also requires accurate measurement of emissions using tight uncertainty limits.

There were four respondents who preferred that the emissions be set using a banded scale. There were several comments about the selection of the bands by respondents, and it is noted by SEPA that a transition phase could be used at the step so that there is not a sudden increase in costs for a minimal increase in emissions (i.e. no 'cliff edge' effects).

Q3 – How well does this proposal meet the overall charging principles (0=not at all, 5=fully)?
This question is asked in all three factor questionnaires, and will be discussed separately at the end.

Q4 – Any other comments on emission factors?

Several respondents felt that they could not give a full response without actual data showing how it would affect them.

Two respondents felt that a direct link to the amount of the emissions was not the best way forward. They have different reasons for this: one felt that the number of different pollutants and their environmental hazard would have a greater influence on regulatory costs; and the other felt that the receiving environment (eg a small discharge to a small watercourse versus a large discharge to coastal waters) should be taken into account. A third respondent raised both these issues together in their comments (mentioning 'difficulty/cost' of monitoring due to both the media concerned and the substances being analysed for).

One respondent felt that this was a more practical option rather than the 'environmental sensitivity factor', but did wonder if it would push companies to change behaviours and reduce emissions.

5.3.2 Environmental Sensitivity Factor

Q1 – How important are each of these three principles (H=high, M=medium, L=low) a) relevance, b) proximity, or c) condition/impact?

Company	A	B	C	D	E	F
a) relevance	H		H	M	H	M
b) proximity	M		H	M	L	M
c) condition / impact	H		H	L	M	H

Fig 3. Relative Importance of Sensitivity Factors

If the preferences are scored with 0, 2 or 3 for the low, medium and high responses respectively, then the different principles can be ranked with a maximum score of 15. It is seen from the graph below that the respondents felt that the Relevance of the activity to the receptor was the most important. This was expanded by one respondent who gave the example that a thermal discharge into a watercourse that was 'good' for temperature but 'moderate' for hazardous substances should not receive more regulatory input in order to improve the status.

Respondent F put condition/impact as High "because the consequence of any pollution event on a receptor is the main issue". Depending on the definition of 'relevance', it could be thought that this comment could relate to that.

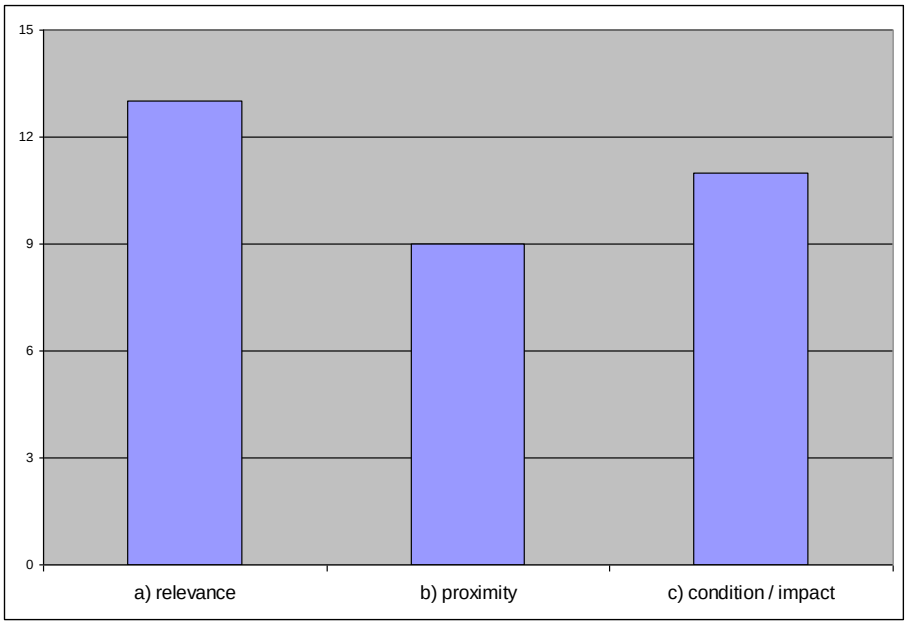

Fig 4. Scoring of Importance of Sensitivity Factors

Q2 – Which 5 of the following sensitive receptors are most important?
There was a limited number of response made therefore very few conclusions can be drawn.

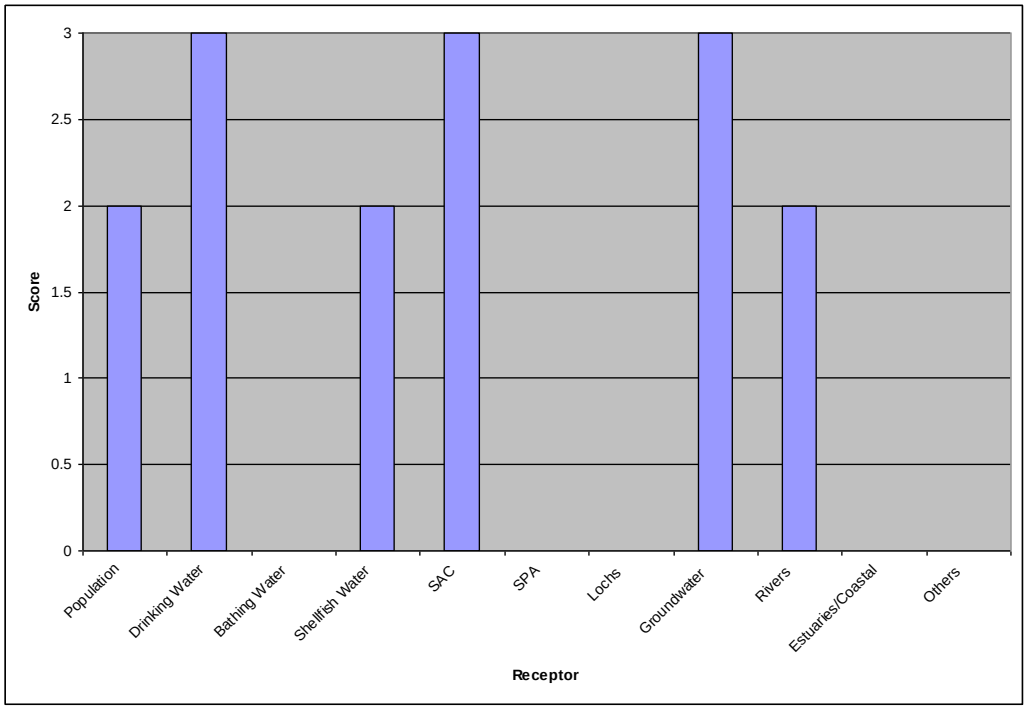

Fig 5. Importance of Receptors

One respondent noted that sensitivity will vary across the country, and another felt that the designated areas are important in direct relation to the hierarchy of designations.

One respondent commented that ”this is a very problematic area. Simple measures, such as receiving waterbody type (i.e. groundwater vs. coastal) are already used in some charging schemes and may have a useful role to play in the scheme being developed. We would not support the use of any classification or condition results in

a charging scheme. These should be scientifically neutral and purely technical assessments of current environmental conditions but can already often be contentious as they drive the need for licence reviews and potentially significant investment and/or business impacts. As soon as you start increasing an operator's charges based on these, even if only marginally, then you are creating the potential for far greater conflict and argument especially given the uncertainties typically associated with classification. This would be an unwelcome and unnecessary distraction and source of conflict for all concerned."

Q3 – Should the relative scale of emissions / abstractions contributing to the impact be accounted for (yes or no)?
Out of 6 returned questionnaires, there were 4 respondents with 2 voting Yes and 2 voting No.

The only comment was from a company who thought that it may not be worth the effort for each site, and that it was more important to know the condition of the receptor, or the available capacity of the receptor (however defined).

Q4 – How well does this proposal meet the overall charging principles (0=not at all, 5=fully)?
This question is asked in all three factor questionnaires, and will be discussed separately at the end.

Q5 – Any other comments on the use of environmental factors?

Five respondents made further comments, and all were negative ones. These varied from general comments noting that the scheme seems complex and questioning its cost effectiveness to more specific concerns.

Two respondents felt that the environmental sensitivity factor could be taken account of in the two previous factors, and thus there may be a duplication of these factors.

It was also noted that it may be difficult to correlate an impact with the source of an emission, particularly where there are multiple potential sources that may impact on a receptor.

One company made a general comment that they were concerned that a large, complex site would be charged at the top of the three factors, but there was not a method of acknowledging if the site was well managed or operated.

5.3.3 Proposed Risk Factor and Overall Charging Principles

Question - How well does this proposal meet the overall charging principles (0=not at all, 5=fully)?
This question was common to all risk factors, so a comparison can be made directly when looking at the responses.

Generally the non-regulated sector felt that the proposals met the overall principles to a lesser extent for all three Factors. Because the numbers of respondents who scored these proposals varied for each Factor, the average figures have been taken to determine the relative importance of each Factor.

Overall, the Site Factors are the most accountable and the most stable, however they are the least risk based/environmentally focussed. The Environmental Quality Factors are the most risk based/environmentally focussed, but they are the most complex. The Emissions Factors were scored as being the most even-handed across all the charging principles.

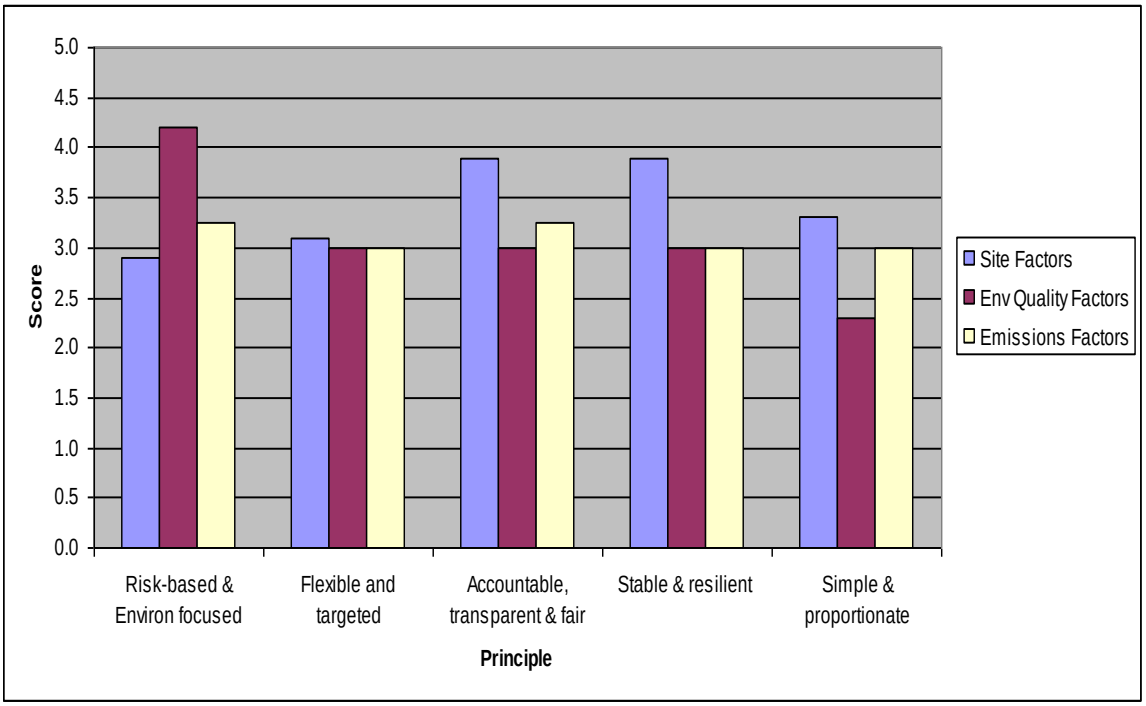

Fig 6. Risk Factors compared to Charging Principles

When looking at the totals for each Factor, it is seen that the sum of the averages for the Site Factor is 17.2, and for the other Factors it is 15.5.

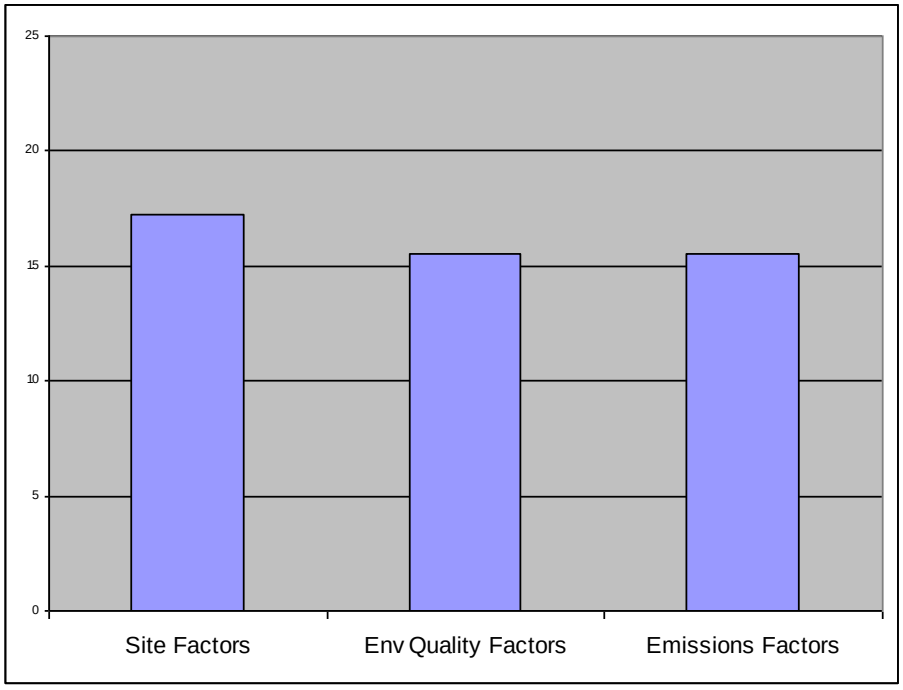

Fig 7. Comparison of Charging Principles

5.4 Summary

All respondents were of the opinion that the site/activity factor was important, and should be included as part of the Charging Scheme. It was noted that this should relate to the regulated installation only, rather than the wider site boundary.

Concerns were raised in relation to how SEPA would deal with novel or unfamiliar techniques, deal with the complexity of the activities, and deal with larger companies that have integrated management systems across multiple sites.

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