

Date: 3 April 2023

Dear Licensed Provider

Implementing a Market Health Check

The retail non-household market in Scotland has now been operating effectively for over fifteen years. Since market opening, customers have enjoyed greater choice and tailored services. Especially in the early years of the market, licensed providers developed enhanced services¹ to meet the expectations of their customers, for example by offering a more responsive customer service, new methods of payment, automatic meter readers and advice on how to improve water efficiency or reduce discharges. Some customers were prepared to pay for these value-adding services, foregoing price reductions that could otherwise have been available to them. Other customers benefitted from lower prices².

WICS wants to ensure that the market continues to deliver a similarly wide range of benefits to consumers. WICS is mindful that licensed providers have developed different value propositions. Ensuring that customers can access (and have confidence in) clear and transparent information about licensed providers' service commitments is, therefore, critical to support and retain customers' trust in the market. The introduction of a Market Health Check (MHC) is an important initiative that can help ensure that any licensed provider who wants to compete on levels of service can do so credibly and that customers who choose to pay more for an enhanced service can have the confidence to do so.

To support the implementation of the MHC, WICS is proposing to contribute towards a portion of the set-up costs by foregoing the 3% nominal increase of all licensed providers' annual levy as per the 2021-27 WICS' [Corporate Plan](#) for the next three years. This reduction in the levy would contribute c.£150k over three years.

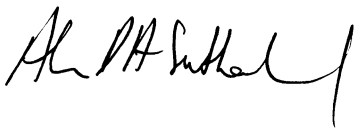
The Appendix to this letter sets out some key operating principles for the MHC and practical steps to facilitate the implementation of the MHC. WICS expects the MHC to be fully operational by January 2024.

¹ 'Retail competition in Scotland: an audit trail of the costs incurred, and the savings achieved', April 2011, Water Industry Commission for Scotland.

² At market opening WICS set out default tariffs at the level that Scottish Water would have charged non-household customers had the market not been open.

We look forward to discussing the content of the letter with market participants and other industry stakeholders.

Best regards



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Chief Executive

CC: Central Market Agency (CMA) Jeremy Atkinson, Consumer Scotland Gail Walker, Scottish Water
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Appendix

Section A) Foundations for an effective MHC

WICS would like to thank all market participants and the Senior Stakeholder Group for the input provided during the recent discussions around the potential scope for the MHC. It is important to reflect on some of the lessons learnt and set out some operating principles to ensure an effective implementation of the MHC:

1. Clear service expectations - There should be *ex-ante* clarity about how customers will be treated by their licensed provider and what service they can expect to receive. Service offerings should be clearly explained and where appropriate measurable³. Establishing a Code of Practice (CoP) for the Scottish non-household retail market would provide such clarity and offer a useful reference point for the MHC. The process, therefore, involves an *ex-post* assessment of licensed provider's service promises.
2. A transparent outcome - The MHC process should be straightforward and transparent. The outcome is to provide transparency about licensed providers' service offerings and assurance to customers that licensed providers who complete the MHC uphold their service commitments. Licensed providers who have successfully completed the process would receive a formal accreditation. WICS would publish on its website and Scotland on Tap the list of licensed providers who have successfully completed the MHC (and the names of the licensed providers who did not take part to the MHC appropriately warranted).
3. Opportunities for differentiation - There will also be a standard and an enhanced MHC. The MHC process could also provide licensed providers with an opportunity for an independent validation of service offerings that are demonstrably *above and beyond* the commitments set out in the CoP.
4. Clear governance - There should be clear and transparent governance arrangements around the MHC function. It is anticipated that a quadri-partite agreement between WICS, CMA, Consumer Scotland and Scottish Water would set out those arrangements, and initial discussions with this group are ongoing. The day-to-day operation of the MHC would operate at arm's length from WICS. Only material non-compliance issues that are not addressed within a reasonable timescale would be escalated to WICS, as the licensing administrator for the market.

³ There are examples from other sectors of rating systems in the accommodation sector [here](#) that set out what customers can reasonably expect in terms of service offerings or industry-led rating systems such as [The Legal 500](#) for top law firms.

5. Collaboration - In line with the principles of Ethical Business Practice (EBP), WICS expects committed market participants to work collaboratively on establishing the CoP. In line with the principles of Ethical Business Regulation (EBR), the arrangements for the MHC will be developed jointly by WICS, CMA, Consumer Scotland and Scottish Water in close collaboration with committed licensed providers.
6. Effectiveness - The process should seek to be as robust and cost-effective as possible. After the set-up phase, the MHC should be fully self-funded by participants. LPs who sign-up to the process will be able to use the MHC to monitor their performance and identify any improvements or corrective actions that may be required if issues are identified.
7. Ownership - The MHC process should be voluntary (except for new entrants). Therefore, it is important that there are clear commitments by licensed providers who decide to sign-up to the MHC process. This would involve licensed providers committing to incorporate the CoP into the Terms and Conditions that are being offered to their customers. It is worth reiterating that the MHC process is not a traditional market compliance audit, but rather a service that retailers can access periodically to validate their offerings and use to improve their business.

Section B) Next steps

In terms of next steps, there are three parallel streams of work that WICS believe should be completed by October 2023.

1. Governance arrangements

The first work stream could involve a quadri-partite agreement between WICS, Consumer Scotland, CMA and Scottish Water, which would establish the MHC function and set out:

- The scope of the MHC;
- The appointment and role of the Market Health Checker (MHCer);
- The role of a supervising Board to oversee the methodology for the MHC and monitor progress delivery;
- The resources required; and
- Any additional arrangement to facilitate the MHC set up.

The MHCer would lead the day-to-day activities of the MHC and would also carry out an assessment of any new entrant to the market.

WICS is committed to providing additional resources for the set-up phase. It is seconding David Innes to the CMA to lead the establishment of the MHC function. David will ensure that there is coordination between all workstreams and that each adheres to its timetable. His costs will continue to be met by

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WICS for the duration of the secondment. David has substantial experience of working in both a retail water business and in regulation and is, therefore, ideally placed to manage this process.

The governance arrangements could be established by October 2023.

2. Establishing a Code of Practice

The second work stream would involve setting up a Working Group (WG) with all committed licensed providers to help establish an appropriate CoP for the retail non-household market. Its establishment could be facilitated by the Senior Stakeholder Group (SSG). Consumer Scotland could chair the WG and the appointed MHCer could facilitate the drafting of the CoP.

WICS would expect an effective CoP to set out a service offering that is demonstrably different from the default service⁴ that is already available to customers. There may be an opportunity to test through customer research whether the areas of focus that will be covered as part of the CoP represent a relevant proposition to customers. It is important to remember that the CoP should ultimately benefit customers.

Once the CoP is finalised and approved, a Panel could then replace the WG to manage the day-to-day governance of the CoP. This Panel could form part of the Market Code and replicate similar governance features to those of the Technical Panel. The CMA could provide the administrative support required for the day-to-day governance of the CoP.

The WG could be established by May 2023 and finalise its work by October 2023.

3. Practical arrangements

The third work stream would involve the MHCer developing in collaboration with key stakeholders the practical arrangements required for the MHC. This would include:

- Areas of focus for a standard and an enhanced MHC, and the assessment for new entrants;
- Methodology (e.g. approach and information required);
- Accreditation rules (e.g. periodicity, follow-ups, validity, suspensions);
- Internal and external resources;
- Pricing and fee structure; and
- Timeline for implementation.

The practical arrangements should be developed alongside the other two workstreams and be consistent with the governance arrangements. These should be finalised by October 2023.

⁴ [Deemed Contract Scheme](#)
[Default Directions](#)