

10 July 2024

Dear Licensed Provider

## **Establishing the retail non-household Code of Practice**

### **Background**

The retail non-household market in Scotland has now been operating effectively for over sixteen years. Since market opening, customers have enjoyed greater choice and tailored services. WICS wants to ensure that the market continues to deliver a similarly wide range of benefits to customers.

In May 2021, WICS published a [decision](#) to introduce a market wide process (the Market Health Check or **MHC**) that would provide customers with greater transparency about licensed providers' service and contractual offerings and an independent assurance to validate licensed providers' commitments.

In April 2023, WICS published a [letter](#) setting out a critical path for the implementation of this process including the development of a Code of Practice (**Code**) that would help explain (and where appropriate measure) the service/contractual commitments that customers can expect to receive from their licensed providers. The Code would therefore provide a "baseline" that would be used in the assurance process as part of the MHC process.

In line with our previous letter, some of the key foundational principles underpinning the Code and the MHC process include:

- **Ownership** – The Code and, ultimately, the MHC process should be a voluntary process. In line with the principles of Ethical Business Practice, WICS continues to encourage all licensed providers to work collaboratively and take full ownership for the development, implementation and adoption of the Code and the MHC.
- **Transparency** – The outcome is to provide both 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 at completion.

In line with the principles of Ethical Business Regulation, the intent of the MHC is to help establish an independent and robust assurance process that provides licensed providers with an opportunity to monitor their performance against the Code and learn and improve if shortfalls or issues are identified through the process. WICS does not anticipate getting involved in the assurance process

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but rather review the governance around it to satisfy itself that it is demonstrably robust and credible. The approach taken is therefore not to undertake a traditional compliance focused regulatory audit process. For this to be successful, however, it requires ownership, strong leadership and proper resource commitment by licensed providers.

To support the implementation, WICS committed to publish on its website and Scotland on Tap the list of licensed providers who have signed up to the Code and successfully completed the MHC (and the names of the licensed providers who did not take part in the MHC appropriately warranted). WICS plans to consult on undertaking regular and more traditional audits of those licensed providers who do not opt in the Code and the MHC process. This audit would focus on licensed providers' compliance with their licence and existing market codes (avoiding any duplication with the Central Market Agency's audit).

Scottish Water also plans to take into account in its financial resilience assessment whether a licensed provider has opted in and completed the MHC.

### **Progress to date**

WICS has been pleased to note progress on the drafting of the Code by industry participants and the support provided by the Senior Stakeholder Group through the different drafting stages.

WICS believes that it is now important to provide clarity and certainty on the implementation of the Code, especially in light of the current proposed voluntary nature.

WICS is therefore expecting a final version of the Code to be finalised by **Friday 4 October** alongside a proposed implementation date by no later than February 2025. WICS also expects written commitments from all Licensed Providers who wish to opt into the CoP by that same date. The commitments should outline licensed providers' intention to sign up to the Code, embed the Code within their contractual commitments and take part in the MHC assurance process.

WICS invites the Senior Stakeholder Group to provide support through this final development phase of the Code. We recognise that there will be further opportunities to refine the Code during the shadow implementation period as a result of customer research. However, at this stage it is important to ensure that there are clear commitments to this process.

### **Next steps**

WICS will continue to honour its commitment on freezing nominal increases in the levy fees for the remainder of the regulatory period (amounting to c.£150k) relative to its Corporate Plan for the 2021-27 period. We will also continue to provide support to the Senior Stakeholder Group on the drafting of the Code until the end of September 2024.

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If WICS receives sufficient written commitments from licensed providers to a shared version of the Code, it plans to run a public consultation to finalise the drafting of the Code and consult on the governance process for the MHC.

Whilst WICS hopes that licensed providers can continue working collaboratively towards a shared version of the Code, we remain committed to ensuring that there is greater clarity and assurance to customers on the service offerings that they can expect to receive. To this end, if WICS receives no (or very few) commitments from licensed providers, or in the event that market participants are unable to agree a shared version of the Code by the date set out above, we plan to review our approach and propose an alternative course of action on the implementation of the Code and assurance process through a public consultation process in October 2024.

Please contact us if you have any further questions on the approach outlined in this letter.

Yours sincerely,



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