



# TERMS OF REFERENCE FOR THE MARKET HEALTH CHECK

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# 1. Context

## 1.1. Background

Since market opening in April 2008, customers have enjoyed greater choice and tailored services. Licensed providers developed enhanced services to meet the expectations of their customers, for example by offering a more responsive customer service, new methods of payment, automatic meter reading technology and advice on how to improve water efficiency or reduce discharges.

WICS wants to ensure that the market continues to deliver a similar wide range of benefits to customers and that customers can make informed choices on the service offerings from licensed providers. WICS is also 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 critical to support and retain customers' trust and confidence in the market.

## 1.2. Implementation

In November 2024, WICS published a [formal consultation](#) that focused on the implementation of the Code of Practice (**CoP**), including the associated assurance process, the Market Health Check (**MHC**). As part of the implementation of the CoP, WICS also consulted on a draft Standard Licence Condition (**SLC**) B6 (Duty to comply with the Code of Practice), pursuant to Paragraph 2(6) of Schedule 2 to the Water Services etc. (Scotland) Act 2005 (the **2005 Act**).

In February 2025, WICS published a [decision document](#) that confirmed the application of SLC B6 and finalised the implementation of the CoP and the MHC process.



## 2. Framework

### 2.1. Scope

The CoP sets out a clear commitment to customers that licensed providers will undertake regular independent validation of the service standards that are set out in the CoP. To this end, the MHC involves undertaking an independent and robust verification of licensed providers' behaviours against the commitments and standards contained in the CoP. This also includes a limited assessment of their compliance with the SLCs that all general licensed providers are required to comply with.

### 2.2. Objectives

The introduction of the 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. This will ultimately help build and retain confidence that the market continues to work effectively.

The MHC aims to deliver the following objectives:

Objectives	Description
Customer confidence	Build greater transparency and confidence on what service standards customers can expect to receive and that licensed providers are upholding those service standards as set out in the CoP.
Improvement	Provide licensed providers with opportunities for improvement where major issues are identified and corrective actions are required.
Enhanced services	Support licensed providers in demonstrating an enhanced level of service above and beyond the minimum default service.
Service differentiation	Allow for greater service differentiation as licensed providers would be able to market any additional offerings above and beyond what is set out in the CoP.

## 2.3. Operating principles

The MHC will be delivered in line with the following operating principles:

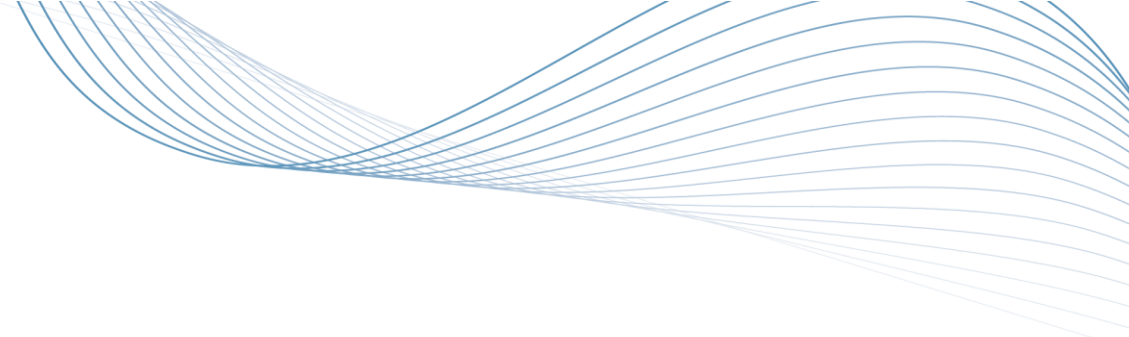
Principles	Consideration
Customer confidence	MHC provides an additional assurance that licensed providers are upholding their commitments. If there are shortfalls, WICS can investigate the matter and ensure corrective actions are taken.
Transparency	MHC process is evidence based, replicable and standardised.
Proportionality	MHC scope and funding takes account of the size of licensed providers, focusing on the high-risk and high-impact areas of the CoP and SLCs.
Cost effectiveness	MHC is designed and undertaken in a cost-effective manner.
Learning	MHC allows licensed providers to monitor their performance against their commitments and gives them the opportunity to correct major issues and improve their operations before formal enforcement action is taken.
Collaboration	MHC process and governance is developed in collaboration with market participants and key stakeholders through public consultation.

## 2.4. Implications for licensed providers

The MHC team will publicise both on WICS' website and on the Scotland on Tap website whether each licensed provider has completed the MHC process. All licensed providers who sign up to the CoP and successfully complete the MHC can use this as a promotion tool as part of their wider marketing strategy.

Licensed providers that do not sign up to the new voluntary SLC B6 or fail thereafter to complete the MHC process (i.e. in cases where a licensed provider has withdrawn from the MHC or the MHC team has decided to suspend its MHC consideration of the relevant licensed provider), will be subject to a comprehensive WICS audit to verify compliance with their SLCs. Identified issues will be passed on to the WICS compliance team and treated in line with WICS' [Policy for Licence Contraventions](#) and [Policy for Monitoring, Enforcement and Penalties](#).

Recognising that the MHC already provides opportunities for learning and improvement, in cases where licensed providers fail to pass the MHC due to unresolved major issues, those major issues would be passed on to the WICS compliance team and treated in line with WICS' Policy for Licence Contraventions and Policy for Monitoring, Enforcement and Penalties.



Consistent with the published [Financial Resilience Statement](#), Scottish Water will take account as part of its financial assessment whether a licensed provider has passed the MHC and consequently, the level of wholesale prepayments may be affected by this. The MHC team will provide regular and timely updates to Scottish Water regarding the participation and completion of the MHC process of licensed providers.

## 3. Governance

### 3.1. Operational arrangements

WICS has the general function under Section 1(2) of the Water Industry (Scotland) Act 2002 (the **2002 Act**) of promoting the interests of (current and future) customers (the Customer Function). The implementation of the CoP and the associated MHC process will bring market-wide benefits to all customers and licensed providers. In light of its duties, and to ensure cost effectiveness, WICS has taken responsibility for undertaking the MHC process. WICS will establish a team (the **MHC team**) that will undertake the process in line with the approach set out in this document.

### 3.2. Funding arrangements

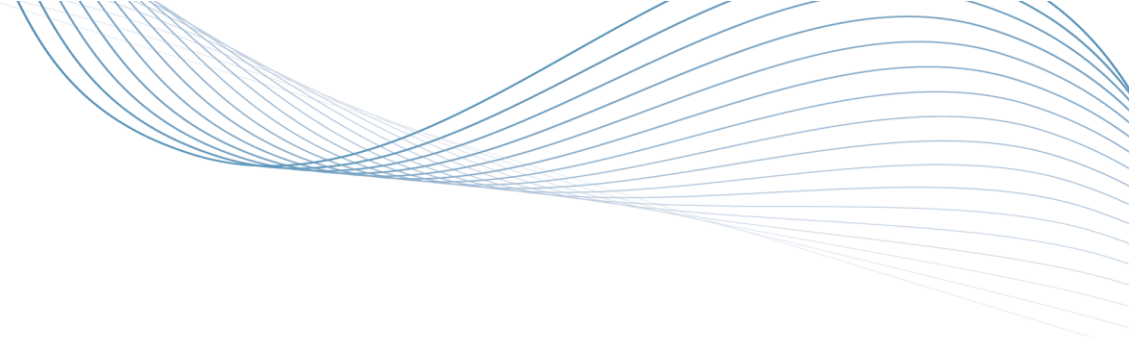
Given that WICS has taken responsibility for undertaking the MHC process, the activities associated with the MHC would form part of WICS' ordinary workplan (similarly to the day-to-day management of the licencing regime or compliance monitoring). Consistent with the operating principles, all costs associated with the MHC process will be shared and recovered proportionately through the ongoing levies collected by WICS from all licensed providers (irrespective of whether a licensed provider has committed to the CoP), and as a result there is no additional or separate fee for the participation in the MHC process.

## 4. Testing methodology

### 4.1. Areas of assessment

The assessment of a licensed provider's compliance with the CoP carried out as part of the MHC process will be strictly limited to the content and requirements outlined as part of the CoP. This includes any future amendments or additions to the CoP agreed as part of the CoP Customer Panel. For the avoidance of doubt, all requirements are contained within the four key sections of the CoP:

- Section 1 - Choosing a supplier
- Section 2 - Ongoing service
- Section 3 - Dealing with service issues
- Section 4 - Transferring supplier



The assessment of a licensed provider's compliance with their licence conditions carried out as part of the MHC process will be strictly limited to the content and requirements outlined in Part A and Part B of the standard licence conditions that all general licensed providers are required to comply with. The assessment will avoid checking specific elements of the SLCs that are otherwise covered by the CoP or the CMA audit.

To ensure cost effectiveness and proportionality, the MHC team will limit its scope of assessment to the high-impact and high-risk areas of the CoP and SLCs. For the avoidance of doubt, in most cases, an area of assessment represents one specific paragraph or distinct requirement contained within the CoP or SLCs.

The selected areas of assessment will be kept under review by the MHC team and may change between different MHC cycles. This maintains confidence in the process and maximises the opportunities for learning and improvement of licensed providers. For the avoidance of doubt, the selected areas of assessment will always be the same between all licensed providers regardless of any changes to the areas of assessment between MHC cycles.

## 4.2. Testing approach

Given the diverse nature of the requirements contained within the CoP and SLCs, the MHC testing will involve a qualitative and a quantitative approach. In most cases, the MHC team will adopt a traditional quantitative sampling-based approach for customer specific areas of assessment.

However, to ensure consistency with some of the requirements within the CoP or SLCs, other areas of assessment will involve a wider qualitative approach that will focus on the internal policies and procedures rather than specific customer occurrences. The following table provides some examples in relation to the two approaches.

Category	Quantitative	Qualitative
Focus	Customer specific	Non-customer specific
Examples	Information provision prior to agreeing Terms and Conditions (CoP 1.1.1) or Transfers (CoP 2.9.9)	Policy on dealing with Third Party Intermediaries (CoP 1.7.4) or complaints handling process (CoP 3.1 and 3.2)
Approach	Random sampling - SPIDs	Targeted - internal policies, processes and procedures



### 4.3. Sampling

The quantitative approach will entail obtaining lists of SPIDs (based on specific criteria) from the CMA. The MHC team will also request specific lists of SPIDs from licensed providers to account for certain areas of assessment where the information held within the CMA systems would not be sufficient to determine which SPIDs are relevant for testing (i.e. complaints or contract renewals). The MHC team will request the same type of lists of SPIDs for all licensed providers.

For the avoidance of doubt, each list will include all SPIDs that fall under a specific category or match certain criteria within a defined timeframe (the timeframe for the first MHC will be limited to the previous 6 months of operations to account for the go live date of the CoP). As an example, a list of SPIDs could include the following:

SPID list	Description	Timeframe	Source
1	SPIDs that transferred away from a licensed provider	24 months	CMA
2	SPIDs where a complaint was received	24 months	licensed providers

The MHC team will select a random sample from each list of SPIDs. The sample sizes outlined below have been set to ensure alignment with the operating principles on proportionality and cost-effectiveness. The sample sizes are also reflective of a testing approach that focuses on specific subsets of customers depending on the areas of assessment (i.e. customers that have completed a transfer as opposed to the entire customer base of a licensed provider). The samples sizes will be kept under review by the MHC team and may be adjusted as necessary during subsequent MHC cycles.

Size	Market share (by SPIDs)	Sample size
Small	<1%	5
Intermediate	>1% - <15%	10
Large	>15%	20

### 4.4. Required information

Depending on the specific area of assessment, the MHC team will require various types of information from licensed providers that would demonstrate compliance. This may include, but is not limited to, written records of communications with customers (i.e. letters or emails), written records with Third Party Intermediaries, and internal policies and procedures. All such written records should clearly



indicate the date of issue and should not contain any redacted information. To ensure consistency, the MHC team will request the same type of information for each area of assessment from all licensed providers. Licensed providers may share more information than requested should they wish to do so.

#### 4.5. Overall approach

Consistent with the operating principles, the testing approach will be transparent and straightforward. The MHC team will focus its testing on determining whether the information provided by licensed providers demonstrates their compliance with the selected areas of assessment (consistent with Section 4.1). For the avoidance of doubt, the following illustrative example outlines the testing approach for an area of assessment:

Area of assessment	Information from CMA	Information from licensed providers	Testing approach
1.1.1 (CoP) - licensed providers shall provide customers the information outlined in subsections i) – xii) before submitting a transfer or agreeing Terms and Conditions (whichever is earlier).	<p>Obtain from the CMA a list of all SPIDs transferred to the licensed provider within the previous six months (including the date when the transfer was submitted).</p> <p>Randomly select a small, medium or large sample of SPIDs and share with licensed provider.</p>	<p>Written communication records issued to customers (e.g. emails, letters etc) containing:</p> <ul style="list-style-type: none"> <li>- the information outlined in paragraphs i) - xii);</li> <li>- the date when the information outlined above was provided; and</li> <li>-the date when the Terms and Conditions were agreed.</li> </ul>	<p>Verify whether written communication records issued to customers contain the information outlined in subsections i) – xii), including whether this information was provided prior to submitting a transfer or agreeing Terms and Conditions (whichever is earlier).</p>



## 5. Process

### 5.1. Key stages

Consistent with the operating principles, the MHC process will be standardised and transparent. Recognising the importance of providing clarity around the practical delivery of the MHC, this document sets out the key stages:

1. Obtain SPID information
2. Request information
3. Review information
4. Decision

An overview of the MHC standard operating procedure is included in Annex 8.1. For the avoidance of doubt, all licensed providers will progress simultaneously through the key stages of the MHC. All timescales will be the same for all licensed providers. These timescales will be kept under review by the MHC team and may be adjusted as necessary during subsequent MHC cycles.

### 5.2. Obtain SPID information

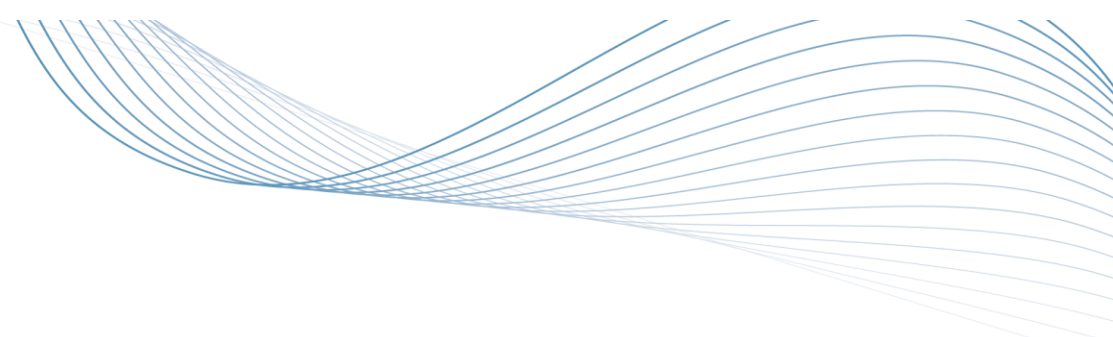
Consistent with Section 4.3, the MHC team will request several distinct lists of SPIDs from the CMA and each licensed provider. The required lists of SPIDs, including the due date for the provision of information will be set out in a letter that will be issued by the MHC team to the CMA and each licensed provider. Section 7.2 outlines further details on how this information should be shared.

**Timescales:** The requested information should be provided by all licensed providers within 10 business days of the date of issue of the letter. Any delays could result in a delayed decision, or, in certain circumstances, the MHC team may have to suspend its MHC consideration of the relevant licensed provider altogether. The implications in such cases are outlined in Section 2.4.

### 5.3. Request information

In the information gathering phase, the MHC team will issue a request for information to each licensed provider undertaking the MHC. The request for information will outline the areas of assessment (consistent with Section 4.1), the relevant SPID samples (consistent with Sections 4.3 and 5.2), and the information required for each SPID (consistent with Section 4.4).

Whilst section 7.2 outlines the general arrangements on information sharing, licensed providers should collate the requested information for each SPID within individual electronic folders on the cloud platform. These folders should be saved within an overarching electronic folder for each area



of assessment (i.e. licensed provider > area of assessment > SPID > information). All folders and information files should be labelled in a descriptive manner that enables ease of reference and identification. Licensed providers may wish to include a map or guide to assist with the identification of documents and the review of information. In cases where a sample of SPIDs is used to review multiple areas of assessment, and certain information would apply to one or more areas of assessment, licensed providers should provide this information within each relevant electronic folder regardless of whether this results in duplication.

**Timescales:** The request for information will be made in a letter that will outline the date for the provision of information. For clarity, all licensed providers will be required to provide the requested information within 20 business days of the date of issue of the request for information. Any delays could result in a delayed decision, or, in certain circumstances, the MHC team may have to suspend its MHC consideration of the relevant licensed provider altogether. The implications in such cases are outlined in Section 2.4.

#### 5.4. Review information

The MHC team would thereafter assess the information provided by licensed providers against the requirements of each area of assessment. To ensure proportionality and cost-effectiveness, the MHC will primarily focus on addressing major or systemic issues.

**Timescales:** The MHC team will aim to complete its review within 50 business days. It is however important to note that this specific timescale is indicative and therefore remains flexible. The review process may take longer if, for example any complex issues are identified. The MHC team will inform all licensed providers should the review process take longer than anticipated.

Following its review, in certain cases, the MHC team may request further information or clarifications from certain licensed providers. The MHC team will inform the relevant licensed providers as soon as possible if their submission is incomplete or requires further clarifications.

**Timescales:** Any requests for further information will be made in a letter that will outline the date for a response. Licensed providers will be required to provide the requested information within 10 business days of the date of issue of the request for further information. Any delays could result in a delayed decision, or, in certain circumstances, the MHC team may have to suspend its MHC consideration of the relevant licensed provider altogether. The implications in such cases are outlined in Section 2.4.



The MHC team will thereafter review the additional information provided by licensed providers.

## 5.5. Decision

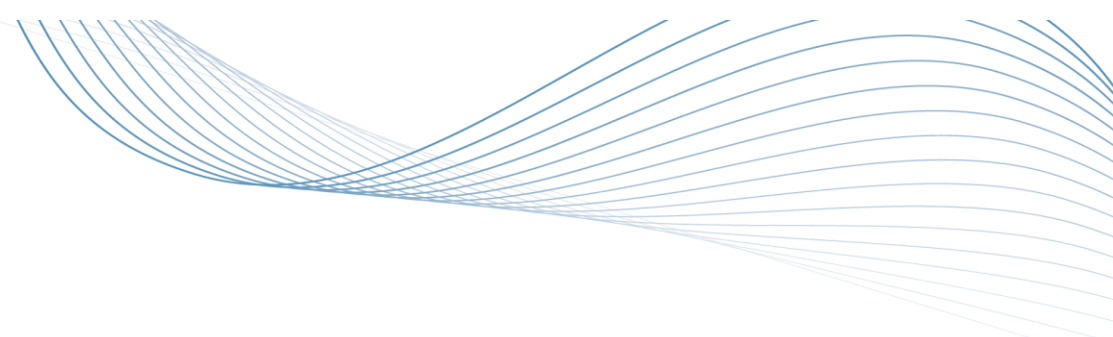
Following its assessment, the MHC team will determine whether any issues have been identified. For the avoidance of doubt, the different outcomes are set out in the table below:

Outcomes	Decision
No issues identified	Licensed provider passes the MHC
Space for improvement identified	Licensed provider passes the MHC, including one or more observations for improvement
Major issues identified	MHC team sets out recommended corrective actions to be implemented within defined timescales

Should no issues be identified, the MHC team will issue a letter confirming that the relevant licensed provider has passed the MHC. In cases where space for improvement has been identified, the MHC team will issue one or more observations to the relevant licensed providers should they seek to further improve their operations and offerings. These will not be disclosed publicly, and the licensed provider will be expected to take ownership and responsibility for implementing those observations. The observations will be included as part of the same letter which confirms that the relevant licensed provider has passed the MHC.

To ensure fairness, the MHC team will publish on WICS' website and on the Scotland on Tap website which licensed providers have completed the MHC process ahead of any licensed providers where major issues have been identified. Consistent with the operating principles, if the MHC team identifies any major or systemic issues, then it would set out recommended corrective actions to be implemented within defined timescales.

**Timelines:** When major issues have been identified, the MHC team will issue a letter explaining the required actions, including the evidence required to demonstrate remediation of the major or systemic issues. To ensure consistency, all relevant licensed providers will be required to submit this evidence within 20 business days of the date of the letter issued by the MHC team. In cases where remediation may take longer, the licensed provider should provide evidence of the steps taken and interim solutions that have been put in place.



The MHC team will then review the follow-up evidence. For ease of reference, the different outcomes are set out in the table below:

Outcomes	Decision
Major issues remediated	Licensed provider passes the MHC
Major issues not remediated	Licensed provider does not pass the MHC

Following review, in cases where the relevant licensed provider has taken appropriate steps to address the major issues within the timelines set out, the MHC team will issue a letter confirming that the relevant licensed provider has passed the MHC. The MHC team would also publish on WICS' website and on the Scotland on Tap website which licensed providers have completed the MHC process.

In cases where it appears that the identified issues have not been addressed within the timelines set out, the MHC team will consider the appropriate next steps. In certain cases, depending on the follow-up evidence, the MHC team may decide to provide an extension to the relevant licensed providers to complete their remediation process. Otherwise, the MHC team would issue a letter explaining that the relevant licensed provider has not passed the MHC. The implications in such cases are outlined in Section 2.4.

## 5.6. MHC cycles

To ensure customer confidence and proportionality, all subsequent MHCs will be organised in biannual cycles following the first MHC. Licensed providers that wish to obtain or maintain their MHC pass will be required to successfully complete each regular MHC cycle. Recognising that the MHC already provides opportunities to address major or systemic issues, ad hoc cycles will not be scheduled for licensed providers that fail to complete or pass the MHC during a regular cycle. Those licensed providers would be able to obtain their MHC pass as part of the following regular cycle.

In cases where a new entrant has committed to the CoP and following successful completion of their initial compliance testing, that new entrant will be required to successfully complete the closest upcoming MHC cycle should they wish to maintain their MHC pass.

The MHC team will issue a reminder letter to all licensed providers three calendar months prior to each upcoming MHC cycle.



## 6. Lessons learned

WICS recognises that the MHC process will need to be reviewed and refined over time and will therefore undertake a review of the process including through the use of a survey at the end of each MHC cycle. This will be done in close collaboration with the joint Steering Group and the Senior Stakeholder Group and will seek to draw lessons for improvement that will be shared with all participants to the MHC and the CoP Customer Panel.

## 7. Data and communications

### 7.1. Communications

Any communications relating to the MHC should be sent to [MHC@wics.scot](mailto:MHC@wics.scot).

### 7.2. Data sharing

All licensed providers (including the CMA) will receive restricted individual access to a secure cloud platform for the purposes of sharing the information outlined in Section 5. For the avoidance of doubt, the MHC team will be able access all areas of the cloud platform. To ensure confidentiality, however, the access of all other users will be restricted to their own individual area. Consistent with the operating principle on cost effectiveness, licensed providers should not require any additional software licences to access the cloud platform.

Individual access to the cloud platform, including any specific instructions, will be shared separately by the MHC team prior to each MHC cycle.

### 7.3. Data management

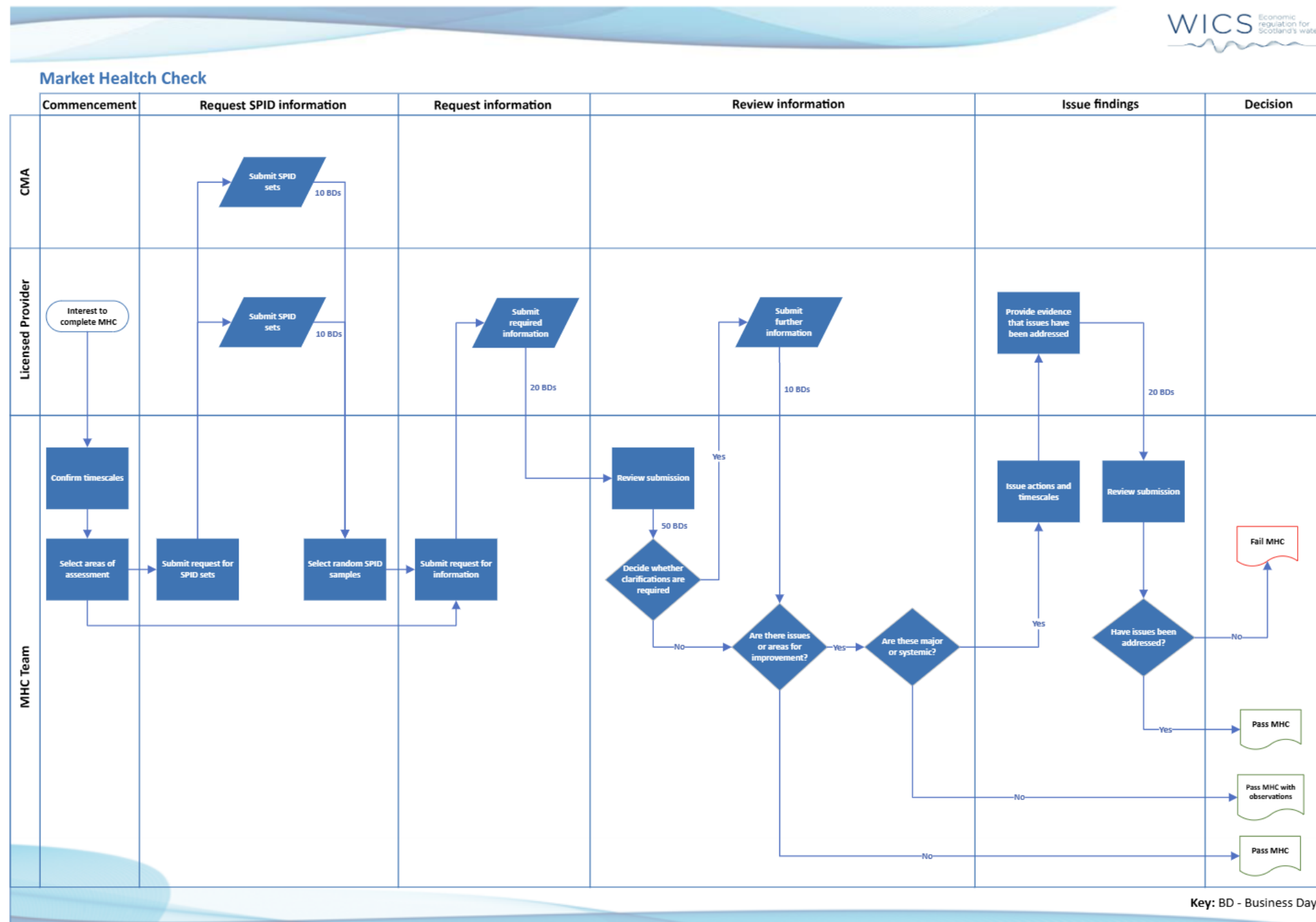
All data obtained as part of the MHC will be handled in accordance with WICS' [Information Management Policy](#).

### 7.4. Disclosure of information

The MHC team will not voluntarily publish or disclose any specific information, issues or recommendations received or identified as part of the MHC process outwith WICS. Instead, the MHC team will limit its disclosure of information by publishing on WICS' website and on the Scotland on Tap website whether each licensed provider has passed the MHC.

## 8. Annex

### 8.1. MHC process







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