

12 January 2009

Richard Khaldi  
Analyst  
Water Industry Commission for Scotland  
Ochil House  
Springkerse Business Park  
Stirling  
FK7 7XE

Dear Richard

**Ref: License Consultation 23, License contraventions – Enforcement procedure**

Thank you for providing us with the opportunity to give feedback on the proposals presented in the consultation document. On the whole we consider the proposals to be both appropriate and fair to all parties. We have some minor comments which you may be able to consider when implementing these guidelines.

*Page 9 - 'The Commission recognises that if the complainant is a smaller company or an individual, it may be more difficult to provide all relevant information and we will therefore work with the complainant to help where necessary'*

We would just like to note that while we would always support the Commission with any queries there may be cases where it is difficult to respond in short timescales. In many cases this would simply be because data cannot be easily gathered. Flexibility allowing Licensed Providers to provide accurate information may be beneficial in most cases.

*Page 10 - 'Should the Commission decide to proceed to a formal investigation, we will usually publish brief details of the fact and nature of the investigation on the Commission's website'*

We understand the rationale for this approach however, we have some concern that this may create inappropriate perceptions in the market place. For example in some cases it could take up to six months for a final view to be taken by the Commission. If in this case the Licensed Provider was found to be not in breach of license the publication may be present for this time unnecessarily

*Page 12 – 'The Commission may also permit the complainant or other stakeholders (for example, Scottish Water) to comment on the complete or an abbreviated version of the statement of case.'*

We would like to understand more about this element of the proposals. For example what stakeholders might be consulted, what criteria would be used to consider which stakeholders are consulted, and also what information might be shared? We consider it may be worthwhile to devise some generic rules around this statement.

We suggest that notification of investigation is delayed until a later stage of an investigation, or that this note is continually updated to present the status and nature of the complaint. Both methods would ensure that appropriate information was available in the market place and at the right time.

*Page 13 (footnote) – ‘Before an Enforcement Notice can be issued, the Commission must consult with Scottish Water and such other persons as it considers appropriate. Once issued, a copy of the Notice must be sent to the Scottish Ministers and Scottish Water.’*

We are unsure whether the wording suggests that in all cases Scottish Water would be consulted? In many issues it may not be relevant to consult Scottish Water and we do not see a requirement for them to be consulted in all cases.

**Yours sincerely**

**Tom May**

**Head of Regulation and Procurement**

