



Water Industry Commission for Scotland:

Licence contraventions – Enforcement procedure

January 2009

Introduction

Waterwatch Scotland (WWS) is the national complaints handling authority for all domestic and non domestic water customers and consumer representative body for the water industry in Scotland.

Our role is to:

- Investigate complaints
- Represent customers' interests and views
- Influence policy
- Inform and advise

WWS' responsibility for second tier complaints handling means that it can take forward individual customer grievances against water providers. WWS can also make statutory recommendations to Scottish Ministers, the Scottish Government, Scottish Water and other industry regulators on customers' behalf including: Scottish Environment Protection Agency (SEPA), Drinking Water Quality Regulator (DWQR) and the Water Industry Commission for Scotland (WICS). WWS can report on any matter that it understands to be relevant to the customer and in the customer's best interest.

Licence Contraventions – Enforcement Procedure

In general, WWS welcomes WICS recognition of WWS' role in respect of dealing with 2nd-tier complaints against licenced providers. Given this role there will undoubtedly be some overlap in the work of both WWS in its complaint handling role and that of WICS in its licence contravention role.

WWS is disappointed that the consultation period for this matter has been very short and has taken place over the festive period, therefore reducing the time available for a detailed response to be drafted in what it considers to be an area of key import. WWS's response to the consultation will therefore be general in nature. Clearly both WICS and WWS have important statutory roles in respect of water customers. However for both the complaints handling and licence contravention processes to work smoothly, it is vital that further detailed dialogue take place between WWS and WICS prior to any licence contravention process being finalised.

WWS considers that there is a myriad of circumstances which are likely to occur in the future where a more detailed provision in the Memo of Understanding to be finalised between WWS and WICS would assist in guiding complainants, stakeholders and staff on the agreed process for dealing for these various circumstances. Initially, WWS would therefore seek to meet with WICS to discuss this in more detail prior to the drafting of any agreement and the finalisation of any procedure to be adopted by WICS.

WWS suggests that the use of the term 'complaint' in any of WICS literature describing the licence contravention procedure may prove confusing for customers and would suggest that this term is not used in respect of licence contraventions.

The current process as described within the consultation document does not make it clear whether individual customers can raise a potential licence contravention with WICS, as the document refers only to licence contraventions being raised on WICS own initiative or from other stakeholders. The consultation also fails to deal with the scenario where a complaint to

WWS may in part relate to an allegation of breach of licence condition or vice versa, to WICS with any alleged breach of licence also involving WWS issues e.g. complaints in general.

WWS has concerns regarding the factors which WICS will firstly consider before opening an investigation, in particular 'whether it is a priority matter for the Commission, due to its apparent seriousness and the resource implications of an investigation' and would welcome further dialogue with WICS as to how this may actually be implemented in practice.

It is unclear from the consultation document when a financial penalty is imposed by WICS, where the proceeds from this penalty will be retained. WWS would suggest that all customers adversely affected by the licence contravention should receive the benefit of any financial penalty.