

Market Review: Summary of Responses and Decision on Changes to the Gap Site Scheme

March 2020

In September 2018 the Commission published a notice setting out its intention to carry out a comprehensive review of the non-household retail market and providing an indicative timeline and scope for the review.

In January 2020 the Commission launched a consultation on changes to the Gap Site Scheme. This document summarises stakeholders' responses to that consultation and the Commission's decision on changes to the Gap Site Incentive Scheme.

This document has been sent to:

- All licensed providers;
- Scottish Water;
- The Central Market Agency Limited;
- The Scottish Government; and
- Citizens Advice Scotland.

This document is also available on the Commission's website: www.watercommission.co.uk

1. Introduction

The Commission has reviewed the Gap Site Incentive Scheme and [consulted](#) on changes to the scheme. We thank all stakeholders for their comments. We received seven responses to the consultation on Changes to the Gap Site Scheme. These comprised responses from six licensed providers and Citizens Advice Scotland.

Having considered all of the responses the Commission has set out its decision on the changes to the Scheme.

2. Changes to the Gap Site Policy

2.1 Sites identified through the SAA Silver Tassie project

Comments received from stakeholders

All respondents were in support of the proposed removal of separate payments for sites identified by the SAA Silver Tassie project.

One respondent requested that the changes are retrospectively backdated to historical gap site applications.

The Commission's response

The Commission does not believe that a retrospective change to the Scheme would be fair given that all licensed providers have taken part to the Scheme in the knowledge of the current incentive payments.

2.2 Level of incentives payments

Comments received from stakeholders

Respondents were broadly supportive of the Commission's proposal of dividing the incentive payments into three distinct categories based on the size of the rateable value and the meter size of the premises.

One respondent suggested that, given that most drainage only sites have a relatively low rateable value (and therefore contribute towards a low wholesale charges) a *de minimis* threshold could be introduced.

Another respondent indicated that the reduced incentive levels would make it no longer financially viable to participate in the Scheme.

The Commission's response

Since 2014 the average wholesale charges for gap sites has reduced significantly. Therefore, the Commission has decided to adjust the incentive payment to reflect the reduced wholesale charges. The Commission believes that these revised payment levels provide licensed providers with a

reasonable upfront incentive payment whilst ensuring that the incentive payment is proportionate to the wholesale revenue.

The incentive payment for each category 2 and 3 have been set to (broadly) reflect the three years' worth of wholesale charges that Scottish Water levies, on average, across the portfolio of gap sites in each category¹.

The Commission also notes that, under the revised Scheme, drainage-only sites may, in some cases, receive a larger payment under the revised payment levels. It is important that, in line with Scottish Ministers' principles of charging, all customers (including smaller drainage-only sites) are brought into charge as swiftly as possible and pay for the services that are being received. The Commission, therefore, does not believe that a *de minimis* threshold would be appropriate. The Commission also notes that the payment level has been set a fair level and is proportionate to the wholesale charges collected across the portfolio of sites within each category.

2.3 Applying for an incentive payment

Comments received from stakeholders

One respondent suggested that all incentive payments should be automatically triggered without requiring licensed providers to submit a formal application to Scottish Water.

The Commission's response

It is important that licensed providers submit valid applications that allow Scottish Water to verify the integrity and correctness of each claim before a payment is being made.

2.4 Changes to the market codes

Comments received from stakeholders

One respondent suggested that, in order to improve customers' switching experience, the Commission should consider removing the twenty day period before a gap site is allowed to transfer from the Default Provider (allocated through the gap site allocator) to a new licensed provider.

Another respondent requested that the requirement to submit a meter reading at the same time as an application should be removed given that it would be impractical for licensed providers to undertake a meter read in such short timescales.

¹ Given the large rateable value of premises in category 1, the Commission decided that it would be more proportionate to set the payment level at £4,000, which reflects one years' of wholesale charges. This lower payback period takes into account the fact that licensed providers would not incur significantly higher costs in identifying larger rateable value premises compared to identifying lower rateable value premises.

One respondent suggested that the three-day period during which licensed providers are required to submit an incentive application should be increased to five days in line with other market processes.

The Commission's response

The Commission believes there is merit in reviewing the market code timescales. This, however, goes beyond the scope of this consultation. It, therefore, encourages licensed providers to take responsibility for such a review and bring forward a change proposal at the next Technical Panel meeting.

The Commission agrees with the suggestion to remove the twenty days window before a gap site is allowed to transfer to a new licensed provider. The application process set out in the appendix to this document has been updated accordingly.

2.6 Eligibility for incentive payment

Comments received from stakeholders

One respondent disagrees with the introduction of the 12-week notification window before licensed providers can claim valid payments for a gap site and believes this undermines the Commission's aim of bringing unidentified gap sites into charge as swiftly as possible.

The respondent also suggested that licensed providers who have erroneously registered a site due to a data mistake caused by Scottish Water should still receive an incentive payment.

The Commission response

The Commission believes that the 12-week window avoids duplicating the work between Scottish Water and licensed providers for the registration of these new sites and it, ultimately, reduces costs to customers. It also ensures that Scottish Water is incentivised to bring these premises into charge as swiftly as possible. The Commission has looked closely at the timescales for Scottish Water to register a new gap site from when it first appears on the Assessors' register. The Commission believes that this period is a reasonable time period for Scottish Water to complete the registration process.

The Commission does not believe that it would be appropriate for Scottish Water to pay an incentive payment for premises that are not eligible for water and/or sewerage services. The Commission, however, recognises the importance of ensuring that the information that Scottish Water provides licensed providers is complete and accurate. To this end, the Commission will monitor closely the number of gap sites applications and, if there is material number of unsuccessful applications due to a data error caused by Scottish Water, it will consider taking appropriate steps.

3. Gap Site Incentive Scheme

Having carefully reviewed all responses the Commission has now reviewed the Gap Site Incentive Scheme (the Scheme). The following section summarises the final changes to the Scheme. The appendix to this document sets out the revised process for claiming incentive payments.

3.1 Payment levels for gap sites

The reduced payment for sites identified by the SAA Silver Tassie project will be removed. All gap sites notified to Scottish Water after 1 May 2020 will be eligible for incentive payments based on these revised payment levels set out in the table below:

Table 1 - Incentive payment levels

Category	Gap site	Incentive payment
1*	a) Water services are provided; and b) Meter larger or equal to 40mm or rateable value (RV) larger or equal to £20K.	£4,000 as a single payment
2*	a) Water services are provided and b) £20K > RV > £2.5K and c) The meter is smaller than 40mm.	£1000 in 2 instalments of £500
3	i) Surface water drainage only; or ii) a) Water services are provided and b) The RV is smaller or equal to £2.5K and c) The meter is smaller than 40mm.	£450 in 2 instalments of £225

*Categories 1 and 2 apply to both metered and unmetered sites.

3.2 Administrative Charge

Scottish Water can levy an administrative fee of £250 on any licensed provider who applies for an incentive payment for a gap site subsequently removed from the market with retrospective effect. Where the information used by the licensed provider to verify and register the Supply Point was incorrect due to an error on Scottish Water's behalf, no administration charge should be levied by Scottish Water.

3.3 Implementation

The changes will take effect from 1 May 2020. All gap site notifications submitted to Scottish Water by 1 May 2020 will be treated under the revised Scheme.

Appendix

Process for claiming Gap Site incentive payments

1. Upon identifying a non-household customer who meets the definition of being a gap site, the Licensed Provider will contact the customer to inform it that:
 - a. it should be in the market; and
 - b. the Licensed Provider will be serving it.
2. Within ten business days of identifying the gap site, the Licensed Provider will notify Scottish Water of the site and provide them with the details of the site needed to request a new SPID in line with the requirements of Operational Code Process 30.
3. The registration process for the gap site will continue as laid out in section 3.1.1 of Code Subsidiary Document 0101. All procedures and time scales set out in that document will be followed.
4. Upon receipt of T035.0 from the CMA, the Licensed Provider will apply, within 3 business days of receipt, to Scottish Water, using the appropriate form, for payment of the gap site incentive. The form must have the basic consumer information and SPID along with a signed declaration of eligibility. A meter reading must be submitted for metered customers to the CMA at the same time as any application.
5. To be eligible to qualify for a gap site incentive payment:
 - a. the premise must not have been registered in the market;
 - b. the premises must have been an eligible premise for more than 30 days.
 - c. The premise must have been included on the SAA database for a period exceeding 12 weeks prior to and remain unregistered at the time a Licensed Provider notifies Scottish Water that the premise is a gap site.

Eligibility must be affirmed in the Licensed Provider's signed declaration to Scottish Water.

6. Gap site incentive application forms that are found to be incomplete or contain incorrect information may be rejected by Scottish Water. Scottish Water will also reject applications for sites that have not completed the registration process or do not fall under the definition of a gap site. Where an application is rejected, Scottish Water will provide the licensed provider with the reason for the rejection. The licensed provider will then have 5 business days from the date of notification of rejection to reapply.
7. If the application is complete and valid, Scottish Water will pay the first half of the incentive payment within 12 business days of the SPID(s) appearing in the first R1

settlement run following the creation of the SPID(s). Scottish Water will include the payment in the next regular non-Primary charges bill.

8. Two years following from the T035 transaction, Scottish Water will calculate the total amount of wholesale charges for the customer over the previous 24 months. This will include all fixed and volumetric charges for water and wastewater and drainage charges as applicable. For the purposes of this calculation, Scottish Water may subtract any vacant property incentive payments from the total wholesale charges paid.
 - a. If the total wholesale charges paid in the previous 24 months exceed the total incentive payment available, Scottish Water will pay the second half of the incentive payment. Scottish Water will then include payment in the next regular non-Primary charges bill.
 - b. If the SPID(s) are deregistered in the first 24 months, Scottish Water will not make the second payment.

9. The Licensed Provider will have 10 business days from the date of either payment to dispute the amount of the payment. If the Licensed Provider disputes the amount, it will provide Scottish Water with evidence of the amount of wholesale charges the payment should be based on. Scottish Water will have 10 business days to reply to the Licensed Provider's dispute.

10. Scottish Water may levy a £250 administration charge and recover any incentive payment made if the following conditions apply:
 - a. The Licensed Provider requested that a SPID(s) is created for a gap site under section 5.4.9 of the Market Code and Process 30 of the Operational Code.
 - b. The Licensed Provider applied for a gap site incentive payment.
 - c. Scottish Water creates the SPID(s) in good faith.
 - d. The SPID(s) is subsequently removed from the market with retrospective effect due to it being either a duplicate SPID(s) or otherwise not an eligible premise.
 - e. Where the above conditions apply and the information used by the Licensed Provider to assess the SPID has been incorrect due to an error on Scottish Water's behalf, no administrative charge will be levied although Scottish Water may recover the incentive payment made.