

## Reasonable-cost determinations

### Statement of procedure

This statement sets out how the Water Industry Commission for Scotland will process any questions that it is required to consider under:

- Section 6(3) of the Water (Scotland) Act 1980; and
- Section 1(4) of the Sewerage (Scotland) Act 1968.

This statement sets out our procedure for determining questions under both Acts. We may, from time to time, review this statement following consultation.

For simplicity we refer to all related determinations that we have a duty to make in accordance with this statement as 'reasonable cost determinations'.

### Background

Scottish Water<sup>1</sup> is required to provide on demand to every property within its area, provided it is practical at 'reasonable cost':

- a domestic water connection;
- domestic sewerage;
- surface drainage; or
- trade effluent.

We discuss this more fully in 'Information Note 1: New connections to the water and wastewater networks in Scotland' (available on our website<sup>2</sup>).

The level of 'reasonable cost' is established in accordance with Regulations issued by Scottish Ministers. The latest Regulations were issued by Scottish Ministers in 2015<sup>3</sup> and came into force on 1 April 2015.

We have a duty to provide reasonable cost determinations concerning:

- whether a reasonable cost has been properly determined in accordance with Scottish Ministers' Regulations;
- where questions arise about whether Scottish Water has discharged its duty to make network connections available.

These duties relate to both Scottish Water's requirements to domestic water connections and domestic wastewater and trade effluent provisions. Non-domestic water connections are not included in the relevant legislation and we will not therefore consider appeals in this area.

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<sup>1</sup> In certain circumstances, it may be a "private provider" that a question is raised about. However, for simplicity, this statement refers only to Scottish Water.

<sup>2</sup> [www.watercommission.co.uk](http://www.watercommission.co.uk).

<sup>3</sup> The Provision of Water and Sewerage Services (Reasonable Cost) (Scotland) Regulations 2015.

## **The connections process**

We would expect a developer seeking to connect to Scottish Water's networks to contact Scottish Water in the first instance. Scottish Water has put in place a number of policies and procedures that allow developers to connect to the network. A developer may connect if he meets the cost of part 2 of part 3 improvements to the infrastructure. Scottish Water will either reimburse these costs or pay the reasonable cost contribution

We set out in Information Note 1 the type of process that we would expect to be followed prior to a Reasonable Cost Question being submitted to the Commission for us to determine.

## **What we require**

In order to refer a question for determination, a developer must submit the following:

- a written request, stating the nature of the question and explaining any issues that it considers material; and
- copies of all relevant correspondence with Scottish Water (including, where possible, application, drawings and reports).

We consider that a request for a reasonable cost determination should be evidence-based and we expect a developer to include any evidence with its submission to the Commission. Without such information, we may not be satisfied that there exists a genuine question for determination.

We will be able to process requests for determinations more quickly where they include all of this information.

We may request additional information from either Scottish Water or the developer in order to make our determination. We would usually expect to receive this information within 20 working days of the request. However, we may be able to agree (in advance) a longer time period in exceptional circumstances.

If we do not receive all of the information that we require we will make a decision on the basis of information provided and assumptions that we consider reasonable.

## **The procedure that we will follow**

In developing our procedure, we have been mindful that parties will wish to see as quick a process as possible.

Our review of the determination process can be broken into a number of stages and we have included indicative time periods for each stage. We expect that, if a request is straightforward, we should be able to issue a determination more quickly. We will endeavour to achieve these timescales,

however, in some circumstances it may not be possible for us to complete our work within the indicative time period.

*Stage 1: Acknowledge receipt of request*

Within 10 working days of receiving the request we will open a case and acknowledge receipt. We will issue a unique reference number and provide contact details for further queries regarding the case.

*Stage 2: Assess jurisdiction and if further information is required*

We will scrutinise the request to identify whether we have jurisdiction to deal with it under the relevant legislation. If necessary, we may need to obtain further information in order to make that assessment. If we conclude that we do not have jurisdiction to deal with the matter, we will close the case and advise the party making the request.

In assessing whether we have jurisdiction, we will have to be satisfied that there exists a genuine question for determination. In the absence of evidence that reasonable steps have been taken to resolve the relevant issues with Scottish Water before approaching us, we are unlikely to be satisfied on this account.

We will aim to establish if we have jurisdiction over a decision within 10 working days of receiving a request.

We believe that developers and Scottish Water should normally be able to agree on how a connection to the network can be made and how much this may cost. Scottish Water's improved information about its assets and its 'Strategic Asset Capacity & Development Plan' should assist in this regard. Scottish Ministers' Directions and Regulations on reasonable cost contributions also make it clear the reasonable cost contribution that Scottish Water should pay in the majority of cases.

Consequently, we would expect to receive evidence of the steps that have been taken by the developer to resolve the relevant question before it is referred to us.

We would also expect parties to approach us with information that is reliable and relevant. If we have doubts as to the reliability or relevance of any information submitted to us, e.g., where the subject matter of the question referred appears to be historic, we may have to request clarification.

We will normally consider requests and respond in writing.

If we require further information to allow us to process the request, we will notify Scottish Water or the developer within 20 working days of receipt of the request.

### *Stage 3: Draft Determination issued*

A determination will include our decision on the question referred. If necessary, it will include our determination of the reasonable cost contribution. We will also explain the reasoning for our determination.

We expect our determinations to consist of the following sections:

- introduction;
- background;
- the submissions made by both parties;
- any representations by other statutory bodies

We will endeavour to issue a draft determination 30 working days from receipt of the final piece of information.

If we consider that any other statutory body has a material interest in the outcome of a determination, we will send copies of the draft determination to them for comment.

We will ask for responses to our draft determination. We expect to receive these within 25 working days. However, we may agree a longer response period if either party requires this.

### *Stage 4: Final Determination issued*

We will normally issue a final determination within 25 working days of receiving responses to the draft determination. We will take these responses into account in framing the final determination.

Scottish Water is required to give effect to our Determination.

We intend to publish each of our decisions on our website. We will aim to do this within 25 working days of issuing a final determination. If either party considers that any part of our Final Determination is sensitive, they should notify us within 15 working days of receipt of the Final Determination. We will consider removing this information from the published decision.

### **Timescales**

Please note that the timescales specified in this statement are indicative only. Whilst the Commission will endeavour to adhere to them wherever possible, there may be cases in which more time is required, e.g. to deal with particularly complex issues. Conversely, in straightforward cases, the amount of time may be less.

We will advise both developer and Scottish Water if this is the case.

## **How to make a request**

There are two ways that you can make a request for a determination:

- in writing (by post or by hand); or
- by e-mail.

The procedure we will follow in both cases is the same. Please note that we will still require copies of all correspondence if the complaint is made by e-mail. We are unable to process requests received by telephone, however, we are happy to clarify procedural details prior to submission if you telephone us.

The Commission will be prepared to accept requests in other forms where, by reason of disability, parties are not in a position to make such requests in writing or via email.

Our Contact Details are as follows:

*Address:*

Determinations  
Water Industry Commission for Scotland  
First Floor, Moray House  
Forthside Way  
Stirling  
FK8 1QZ

*E-mail address*

[determinations@watercommission.co.uk](mailto:determinations@watercommission.co.uk)

*Telephone*

01786 430 200

## Appendix 2: Process for determining reasonable cost appeals

