

By email to: ComplaintsAdministrator@sepa.org.uk

Copy by post to:

Customer Service
SEPA
Strathallan House
Castle Business Park
Stirling
FK9 4TZ

3 October 2019

Dear Sirs,

This letter is a formal complaint from the Scottish Salmon Producers Organisation (SSPO) regarding the regulatory practices, standards and behaviours of SEPA which continue to impact detrimentally on Scottish Salmon farmers – members of the SSPO. It is our belief that SEPA continues to operate contrary to the principles set out in the Scottish Regulators' Strategic Code of Practice resulting in the reputational and financial detriment of our member companies.

Earlier this year, we complained in writing to Terry A'Hearn, SEPA's Chief Executive, about the failure of SEPA to process applications within the expected statutory timeframes, resulting in continuing delays in application determinations. A copy of that letter dated 30 May is attached. We also expressed, verbally and in writing to SEPA our concerns in relation to other actions undertaken by SEPA and the detrimental behaviours which our members experience from our environmental regulator.

We understand that some corrective actions were implemented following the submission of our previous complaint though we have not received anything in writing that either acknowledges or demonstrates progress towards addressing the issues raised.

Since 1 June, our member companies have reported a marked decline in regulatory performance relating to determination of applications. We also believe there has been an increase of poor regulatory practices across our own and SSPO member company interactions with SEPA.

This letter should therefore be considered a Stage 2 complaint under the SEPA Customer Complaints procedure.

We specifically advise of the following complaint areas and can supply evidence to support each point if required:

- Pre-application correspondence and delays;
- Continuing delays in application determinations;
- Inconsistent and incorrect interpretations of published SEPA guidance and statements;
- Introduction, publication and use of policies, procedures and guidance documentation without appropriate consultation with regulated businesses;

- Introduction, publication and use of policies, procedures, tools and guidance documentation without appropriate consultation, which are incomplete and insufficiently tested, resulting in delays, confusion, inconsistency and errors in decision making;
- Failure to provide inspection, compliance or audit reports within reasonable timeframes;
- Failure to respond within agreed timelines to medicine use authorisations;
- Failure to respond timeously to routine compliance related enquiries;
- Failures to correct errors in regulatory decision documentation issued to operators;
- Failure to correct 'false' benthic fails leading to misrepresentation of actual environmental performance; through
 - o continued use of a soft substrate condition control on hard substrate sites; and
 - o failing benthic survey due to known locational issues arising from model errors
- Continued lack of engagement with SSPO member companies and the SSPO in respect of completion of the revised licensing framework; and,
- Commencement of a major Environmental Quality Standard review, contrary to SEPA Executive direction, with insufficient regard to the consequences and impacts which may ensue on regulated businesses.

A common thread that runs through the above issues is the regulatory behaviour demonstrated by SEPA officials in interactions with our member companies. The wide range and scale of the issues experienced by our members points to a long-term failure of SEPA to discharge its duties in accordance with the Scottish Regulators' Strategic Code of Practice.

We are seeking a formal independent investigation of all aspects covered above and a detailed report of the findings.

I am copying this letter to your Chief Executive as our earlier complaint was directed to him. As with my earlier Stage 1 complaint, I am copying this letter to **Redacted**, Cabinet Secretary for Environment, Climate Change and Land Reform and **Redacted**, Cabinet Secretary for the Rural Economy.

I look forward to your early response.

Yours sincerely,

Redacted

Redacted
Chief Executive

Cc:

Redacted, MSP, CabSecECCLR@gov.scot

Redacted, MSP CabSecRE@gov.scot

Terry A'Hearn, SEPA, Terry.ahearn@sepa.org.uk

Bob Downes, SEPA bob.downes@sepa.org.uk