

March 2021

**Consultation on changes to the
Environmental Performance
Assessment Methodology referenced in
two PR19 common performance
commitments – Our decision on 2020-21
(year 1) performance commitment
reporting and ODI calculation**

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Background

Some of the performance commitments we set in the final determination in December 2019 reference the Environmental Performance Assessment (EPA) [version 3](#), which was released in November 2017. We set out in annex 2 of each company's PR19 final determination performance commitment appendix that – if a company considers that any changes to third party documents should be reflected in our assessments of company performance against performance commitment levels and consequential outcome delivery incentives (ODIs) – we would consider incorporating changes to third party materials referenced in performance commitment definitions.

In October 2020 and December 2020 respectively, the Environment Agency and Natural Resources Wales released an updated EPA Methodology [version 8](#). In January 2021 we consulted on proposals to update the references in two common performance commitments to version 8, effective from 1 April 2021 for 2021-22 (year 2) onwards.

Our original consultation was prompted by a company that suggested we update the reference to version 7 in year 1. In response to our consultation, two other companies suggested that we should update the reference to the EPA for 2020-21 (year 1) performance commitment reporting and outcome delivery incentive determination. This document details the specific proposals in our consultation; respondents' views, and; our assessment and decisions on changes to performance commitments for year 1. We intend to publish a separate document on our decisions for 2021-22 (year 2) onwards in due course.

Our January 2021 consultation

In our January 2021 consultation, we proposed that:

- References to the EPA methodology in the treatment works compliance and pollution incidents common performance commitments should be read as relating to version 8.

- The effective date for the proposed changes should be 1 April 2021, meaning that performance for the full 2021-22 charging year would be based on EPA reporting for the 2021 calendar year.
- Reported performance for the charging year 2020-21 would remain based on the methodology specified in EPA version 3.

Our consultation was prompted by South West Water which requested in spring 2020 that we consider updating the reference to the EPA included in the definition of the pollution incidents and treatment works compliance common performance commitments from version 3 to version 7 (the latter was published in November 2019). The company proposed that this change should take effect for reported performance in 2020 (for the charging year 2020-21). In considering this request, we identified some material data discrepancies in version 7 of the EPA. Furthermore, we were aware that the Environment Agency and Natural Resources Wales had recently consulted on, and intended to publish, version 8 of the EPA methodology in which these data discrepancies are corrected. Consequently, we consulted on updating the reference to the EPA to version 8 from 2021-22 (year 2).

Respondents' views

We received responses from all eleven companies which provide both water and wastewater services.

Regarding retaining reference to EPA version 3 in the pollution incidents and treatment works compliance common performance commitment for 2020-21, eight companies agree with our proposal - Hafren Dyfrdwy, Northumbrian Water, Severn Trent Water, Southern Water, Thames Water, United Utilities, Wessex Water and Yorkshire Water.

Anglian Water, Dŵr Cymru and South West Water consider that the reference should be updated for 2020-21 performance reporting and determination of ODI payments. Dŵr Cymru implies that the update in 2020-21 should be to version 8 while Anglian Water and South West Water specify that the update for 2020-21 should be to version 7.

Dŵr Cymru advises, that in the case of the pollution incidents performance commitment, an update to version 8 minimise the difference between the actual sewer length and the length used in the measure.

Anglian Water considers that an update to version 7 is consistent with the aim of common performance commitments, i.e. that there should be no differences between performance reported to various stakeholders. It also advises that version 3 of the EPA excludes the company's rising mains from the total length of sewer. The company considers that this has a significant impact on its reported performance which is therefore not comparable with other companies, and that its use in calculating financial incentive payments is unjust.

South West Water considers that updating the EPA reference to version 7 for treatment works compliance ensures consistency of reporting, accuracy and legitimacy.

Regarding the updating the reference for pollution incidents, the company notes that the performance commitment definition requests that companies highlight in their annual performance report any changes in the length of the wastewater network that will have a material impact on the performance of this measure. However, it considers that, in the interests of being accurate, transparent and consistent in how pollution incidents are reported between regulators, EPA version 7 should be recognised and used to calculate incentive payments, where applicable. The company considers that data discrepancies within EPA version 7 for some companies should not prevent the accurate reporting of performance commitments across the industry. It also considers that it is unacceptable for version 7 not to be used for outcomes reporting and incentive payment determination as it is supported by the Environment Agency and because retaining version 3 results in what it considers to be additional financial penalties. The company also notes Ofwat's use of pollution incidents measured as specified in version 7 in the 2019-20 Service delivery report.

Our assessment and decisions

We have considered views from all respondents and we set our decisions and reasoning below on performance commitment reporting and ODI determination for pollution incidents and treatment works compliance in 2020-21 (year 1).

We maintain our position to retain the reference to EPA version 3 for 2020-21 (year 1) reporting and ODI determination instead of updating to version 7 or 8 as proposed by some respondents. Our approach is supported by most respondents.

In making our decision, we have sought to balance providing companies with certainty of performance against their targets, monitoring and reporting methodologies with consistency of reporting for various stakeholders and between companies. In this instance we were not able to evaluate the impact of a change to either version 7 or version 8 in order to consult with the sector on proposals to update the reference from version 3 in sufficient time to provide certainty for 2020-21. Our decision for year 1 retains the performance reporting expectations set in PR19 final determinations and consequently it does not result in unexpected detrimental impacts for companies in this year. Our decision means that performance in year 1 as reported for Ofwat will not be consistent with performance reported for the Environment Agency and Natural Resources Wales. Our consultation proposed that this would be resolved from year 2 onwards and we will subsequently publish our decision on a potential update.

The pollution incidents and treatment works compliance performance commitments are common for all companies providing wastewater services and therefore should be reported consistently between companies. Our consultation noted that the length of sewer in EPA version 7 includes data discrepancies. One respondent (Anglian Water) advised that the length of sewer used in EPA version 3 excludes the company's rising mains. Both issues compromise the consistency with which performance is reported and outcome delivery incentives are calculated across the sector.

In deciding which version of the EPA to use in year 1 we have sought to reconcile the lengths of sewer used in EPA versions 3 and 7 with data submitted by companies in their annual performance reports (APRs) and to identify the source of any discrepancies. We have not been able to reconcile the 2012-13 lengths of sewer used for some companies in version 7 with the associated APR data and we have not identified a systematic source of the differences, making them complex to correct. In comparison, for version 3, we have been able to directly identify the exclusion of 2012-13 rising mains as the source of material discrepancies, which is simple to correct. To ensure that outcome delivery incentive payments are calculated on a consistent basis for all companies, we will include the 2012-13 rising mains in our 2020-21 determination of outcome delivery incentive payments if a company evidences that they are excluded from EPA version 3.

We note the concern raised by one respondent (South West Water) that Ofwat's 2019-20 Service delivery report used the sewer lengths included in EPA version 7, which contain data discrepancies. Incentive payments are calculated on companies' precise performance whereas the 2019-20 Service delivery report considers relative performance. We have assessed the outcome of the relative classification of company's performance included in the report using EPA version 3 and version 7 and we are satisfied that the outcome was not affected. We will ensure that companies' performance is compared consistently in future communications with the sector.

Other issues raised by respondents

In their responses, Dŵr Cymru, Southern Water, Thames Water and Yorkshire Water identify that the regulatory accounting guidelines (RAGs) advise companies to use the total length of sewer as reported in annual performance report (APR) table 7C to normalise pollution incidents for reporting against the common performance commitment. These companies consider this to be inconsistent with the definition of the performance commitment as specified in companies' PR19 final determination outcomes performance appendices.

We confirm that the length of sewer specified in the version of the EPA referenced in companies' Outcomes performance commitment appendices should be used to normalise pollution incidents for reporting against the common performance commitment. On 26 February 2021, we reissued the [2020-21 RAGs](#) and corrected this error. Whilst we endeavour to make all of our publications fully consistent, the definitions specified in companies' PR19 final determination outcomes performance commitment appendices take precedent in all instances.

Finally, one company – Northumbrian Water – has highlighted that it considers that its treatment works compliance performance commitment is designed to measure the compliance of its assets only in the region in which it provides wastewater services and not in the region in which it provides only water services. Our view is that the treatment works compliance performance commitment has a common definition which applies for all wastewater companies and includes all of their wastewater and water treatment works assets. EPA version 3 specifies that wastewater and water treatments works are

included. We are aware that, in its annual EPA report, the Environment Agency excludes treatment works compliance failures incurred in regions where water and sewerage companies (WaSCs) provide only water services. However, companies are still required to report these failures to the Environment Agency and the exclusion from the annual EPA report is presentational. Ofwat's common performance commitment on treatment works compliance applies to wastewater and water treatment assets across all regions in which WaSCs operate.

Next steps

EPA version 3 applies for companies' annual reporting and determination of outcome delivery incentives for the charging year 2020-21 and therefore no updates to performance commitment definitions are required ahead of year 1 performance commitment reporting and ODI determination. Companies that wish for us to consider their excluded 2012-13 rising mains when calculating 2020-21 ODIs should provide evidence of the excluded length alongside their APR submission.

We intend to publish a further decision document on performance commitment reporting and ODI determination for pollution incidents, treatment works compliance and sludge use/ disposal performance from 2021-22 (year 2 onwards).

**Ofwat (The Water Services Regulation Authority)
is a non-ministerial government department.
We regulate the water sector in England and Wales.**

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