

July 2022

Creating tomorrow, together:  
consulting on our methodology for PR24

# Appendix 6 – Performance commitments

## About this document

This appendix sets out further detail on our proposals for performance commitments for the 2024 price review (PR24). It builds on submissions to our Future Ideas Lab, the discussion documents covering performance commitments that we published in November 2021 and April 2022,<sup>1</sup> and discussions with the [Outcomes Working Group](#). We have published draft definitions of our performance commitments in [Appendix 7](#).

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<sup>1</sup> Ofwat, '[PR24 and beyond: Performance commitments for future price reviews](#)', November 2021, and '[Operational resilience discussion paper](#)' April 2022.

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## 1. Introduction

Performance commitments are the metrics that we use to measure the service that water companies deliver for customers and the environment. They are the cornerstone of our outcomes regime which aims to focus water companies on delivering the things that really matter to customers and the environment. Common performance commitments apply to every company in England and/or Wales, while bespoke performance commitments target the needs of a specific company's customers.

This appendix sets out further detail on our proposals for performance commitments for the 2024 price review (PR24). It has five sections which set out:

- our approach to choosing performance commitments;
- our proposed performance commitments to incentivise excellent service to customers every day;
- our proposed performance commitments to incentivise protecting and enhancing the environment;
- our proposed performance commitments to incentivise maintaining and improving asset health; and
- further stakeholder proposals for common performance commitments at PR24 which relate to outcomes that we consider are better addressed in alternative ways.

In each section, we set out our proposed approach in the draft methodology, and then explain why we consider this appropriate, taking account of stakeholder views on the approach and alternative propositions that were provided in response to the discussion documents we published in [November 2021](#) and [April 2022](#), as well as those received through the Outcomes Working Group. We build on the proposals that we set out in the two discussion papers and, for brevity, do not repeat material set out there. We have provided draft definitions of performance commitments in [Appendix 7](#).

## 2. Our approach to choosing performance commitments

In this section, we discuss our proposal to focus performance commitments on:

- key outcomes of importance to customers (which are also likely to be important in future price reviews);
- metrics that are suitable for financial incentives; and
- outcomes that are common across companies, with limited company specific measures.

We also explain how we take account of external factors that may influence an outcome when we select and define performance commitments.

Finally, we discuss our proposed approach to changing performance commitments during the 2025–30 period.

### 2.1 Focus on key outcomes

#### 2.1.1 Draft methodology proposal

We propose performance commitments should reflect key outcomes that are important to customers and the environment, taking account of our statutory duties and the need to act in accordance with priorities and expectations set out to us in the UK government's strategic policy statement (SPS) and the Welsh Government's strategic priorities and objectives. This includes performance commitments and associated financial incentives to support compliance with other regulators' regulations where enforcement alone does not provide sufficient incentives to comply.

We intend to incentivise these outcomes in future price reviews, although the exact way that we incentivise and measure key outcomes may adapt over time, for example as metrics that better reflect the end outcome are developed.

We propose to not set performance commitments on outcomes that significantly duplicate or underpin other performance commitments. We also do not intend to focus performance commitments on outputs. As discussed in [Appendix 9](#) (setting expenditure allowances), where we cannot adequately capture the impact of enhancement expenditure through PR24 outcomes measures (for example, because it

addresses a low probability event or because the benefits will accrue in PR29), we will use price control deliverables (PCDs) to track delivery instead.

We also want our performance commitments to support a more outcomes focused WINEP/NEP. We are working with the Environment Agency to trial and develop this approach to WINEP in PR24, in line with Action 1 from the WINEP Roadmap.<sup>2</sup> The core aim of this work is to test and establish the management and governance frameworks necessary to operationalise this outcomes-based approach more widely in PR29 and beyond. In Wales, we are keen to discuss whether an outcomes-based approach would be appropriate to elements of the NEP. This is consistent with Welsh Government's strategic objectives to adopt an outcomes-based approach. An outcomes-based approach is also consistent with the Welsh requirement to achieve the Sustainable Management of Natural Resources (SMNR) and Natural Resources Wales is supportive of this direction of travel.

We expect that our proposed performance commitments will cover the key areas of focus of an outcomes-based approach to WINEP/NEP such as river and bathing water quality. However, if necessary, we will consider whether any further performance commitments are required to support this approach.

### **2.1.2 Assessment**

At PR19, we had around 675 different performance commitments. This added significant complexity to the price control. In line with our desire to simplify the price control where we can, at PR24 we propose to streamline our approach to performance commitments to increase focus on key outcomes.

We do not think streamlining the price control will significantly reduce the benefits delivered to customers and the environment. Around 50 of the PR19 performance commitments related to tracking of outputs. We think it is clearer to refer to these as PCDs and retain the term performance commitment for outcomes. Other PR19 performance commitments underpin higher level performance commitments. For example, some companies had a performance commitment focused on reducing sewer blockages, but we consider that a continued focus on reducing higher level outcomes such as sewer flooding and pollution incidents will ensure a focus on reducing sewer blockages. Other examples included a wide range of performance commitments relating to water demand, which could be more easily captured by fewer measures.

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<sup>2</sup> UK government, [Water industry national environment programme \(WINEP\) roadmap](#), May 2022.

We consider streamlining the number of performance commitments will also help to incentivise companies to invest for the long term. This is because companies will have greater confidence in the outcomes that will matter at PR29 and be clear that their future returns will depend upon the extent to which they meet these outcomes.

Stakeholders that responded to our [November discussion document](#) are generally in favour of a focus on key outcomes. Environment Agency, Thames Water, Anglian Water and CCW were in favour of maintaining outcomes across price controls as this will not only allow but encourage companies to do more long-term planning. Dŵr Cymru and Wessex Water recognised that utilising the same outcomes in future price reviews will align to long term delivery strategies and adaptive pathways.

As discussed above, we agree that the key outcomes should continue to be incentivised in future price control periods although we consider it important to allow flexibility to develop the metrics. We discuss below several areas where we are proposing evolutions on metrics in PR24 (for example, water demand) or would like to develop metrics further for PR29 (for example, sewer flooding).

Several stakeholders said that asset health performance commitments are not typically outcomes focused. However, we consider they are important to focus companies on having adequate resilience, including in the long term. This is in line with our duties, the UK government's SPS and the Welsh Government's strategic objectives and priorities.

## 2.2 Focus on financial incentives

### 2.2.1 Draft methodology proposal

We propose to have meaningful financial ODIs for all performance commitments at PR24.

### 2.2.2 Assessment

At PR19, some performance commitments were reputational-only and had no financial incentives attached to them. We consider that outcomes that do not require financial incentives to drive performance, or are not suitable for them, should be incentivised outside the price control.

We do not consider this will lead to a significant impact on customers or the environment. We intend to use tools outside the price review to incentivise performance in areas that are not included within the outcomes package at PR24. This includes reputational incentives, licence conditions, charging rules and our enforcement powers. These tools allow us to be more flexible and responsive, particularly in areas where significant additional funding is not required. We will use additional performance information collected as part of our monitoring regime to support these tools. Companies should also collect, develop and report further metrics for their internal decision making and to communicate with their customers and other stakeholders.

PR19 also had some performance commitments with lower value financial incentives. However, in line with our focus on key outcomes, we expect all performance commitments to have significant financial incentives at PR24.

Stakeholders that responded to our [November discussion document](#) generally agreed with this approach. However, they did differ on whether there should be outperformance as well as underperformance payments on all measures and how these should be set. We discuss this further in [Appendix 8](#) (outcome delivery incentives).

## 2.3 Focus on common performance commitments

### 2.3.1 Draft methodology proposal

We propose to focus more on common performance commitments, and have fewer bespoke performance commitments, in PR24.

There may be some cases where differences between the legislative framework in England and Wales may merit distinct common performance commitments for England and Wales. In such cases, we may ask companies to report against the performance commitments used in the other nation to help us benchmark performance.

We consider that bespoke performance commitments may be appropriate where:

- There are local circumstances that do not apply to most other companies, and there is compelling evidence that a performance commitment is required to provide incentives to drive benefits for customers, communities and the environment; or
- a company provides poor service on a common issue where other companies' performance is generally adequate and the risk of deterioration is low (such a performance commitment is likely to have underperformance payments only).

We will also consider other cases where a company has compelling evidence that there are company-specific circumstances which mean a bespoke performance commitment will lead to significant additional benefits for customers that are unlikely to be realised without it. This includes measures such as the Abstraction Incentive Mechanism, which requires detailed information for each site to be included, meaning that the definition cannot be the same for different companies and a bespoke performance commitment may be appropriate. We discuss this further in Section 6.11. Bespoke performance commitments could also result from responding to strategic steers on long-term outcomes and priorities from the collaborative approach in Wales.

As with common performance commitments, bespoke performance commitments should also be suitable for financial incentives.

Based on our experience from previous reviews, we expect at most two or three bespoke performance commitments per company at PR24. Where possible, we propose to use standardised definitions and may require all other companies that don't have the performance commitment to report on these metrics so that we have comparable information across companies.

### 2.3.2 Assessment

At PR19, most performance commitments were bespoke to each company – in the 2020–25 period, water and sewerage companies have 15 common performance commitments, but up to 35 bespoke performance commitments. Likewise, water only companies have 10 common performance commitments and up to 28 bespoke performance commitments. Some of the bespoke performance commitments relate to specific outputs and will be reclassified as price control deliverables (PCDs) at PR24.

We consider many of the outcomes that matter to customers are shared by all customers. Indeed, setting aside output-based scheme delivery performance commitments, only a very small number of bespoke performance commitments at PR19 were focused on measuring outcomes that were not applicable to other companies.<sup>3</sup> Many relate to common outcomes and were measured in different ways, including greenhouse gas emissions, biodiversity, and bathing water quality, which we are considering setting as common performance commitments at PR24 – see Section 4. We consider that it helps to streamline the price control and improve benchmarking if we measure and incentivise these outcomes in a common way, driving better results for

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<sup>3</sup> See Appendix B of our [November discussion document](#).

customers and the environment. Common performance commitments also help stakeholders to compare company performance.

In PR19 the same common performance commitments applied in England and in Wales. Our April 2022 collaborative customer research report indicated that customers in England and Wales are likely to have the same overall views about the most important areas of company performance.<sup>4</sup> We therefore consider the common performance commitments will usually be the same in England and Wales. However, differences may be appropriate in some cases at PR24 – for example relating to strategic steers on long-term outcomes and priorities from the collaborative approach in Wales or with respect to business customers where market structures differ. When considering such differences, we will also consider the impact on our ability to benchmark companies.

The majority of stakeholders who commented on the balance of common and bespoke performance commitments in their response to our [November discussion document](#) agreed with the move towards common performance commitments and the subsequent reduction in the number of bespoke performance commitments. Many agreed that refining the list of common performance commitments will allow direct comparisons across companies (Waterscan, CCW, Anglian Water, United Utilities, Environment Agency, Affinity Water, Thames Water). Hafren Dyfrdwy, CCW and Dŵr Cymru welcomed our view that there may need to be different performance commitment definitions for application in England and Wales.

Others commented that common performance commitments may need to be adjusted if customer research shows that priorities differ (CCW, Anglian Water, Severn Trent Water, Northumbrian Water, Thames Water). In particular, South West Water and Bristol Water were concerned that this approach may mean customers are not central to defining service improvements. We propose to reflect local customers' preferences through performance levels and incentive rates on common performance commitments. We will also consider bespoke performance commitments where there are company-specific circumstances, as outlined above.

The majority of respondents to our [November discussion document](#), felt that the two criteria we proposed for bespoke performance commitments were appropriate, but a large number (eleven) of them requested that we expand the criteria in order to provide benefits for customers. A number of responses pointed specifically to bespoke performance commitments helping to foster collaboration between water companies and other stakeholders. UKWIR also noted that performance commitments or PCDs could be used to help to improve data. Severn Trent Water sponsored a Future Ideas

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<sup>4</sup> [Research on customer preferences](#), A joint report by CCW and Ofwat, April 2022.

Lab paper that provided a valuation of the benefits of the outcomes framework and suggested there should be a mix of common and bespoke performance commitments.<sup>5</sup>

We agree that bespoke performance commitments are appropriate where a company has compelling evidence that there are company-specific circumstances which mean a bespoke performance commitment will lead to significant additional benefits for customers that are unlikely to be realised without it. However, we expect such cases to be very limited, as many of the bespoke performance commitments that were set at PR19 are already covered by our expanded set of common performance commitments, are appropriate for PCDs rather than performance commitments, or are inappropriate for financial performance commitments.

A number of respondents, including United Utilities, Thames Water, Wessex Water and Southern Water, suggested that bespoke performance commitments should incentivise benefits beyond the five-year period, for example through education within local communities. As set out in Section 2.1 above, we do not propose to use performance commitments to measure outputs, such as educational activities. However, we may consider requests for enhancement costs and use PCDs to capture impacts on performance commitments beyond the five-year period. As set out in Appendix 9, while we are keen for companies to put forward enhancement schemes which deliver wider environmental and social benefits, we expect benefits to be measurable and robust if they are a significant driver of costs.

Companies have also suggested that bespoke performance commitments can be experimental and help to develop future common performance commitments. To support this approach, they pointed to the inclusion in PR24 of some common performance commitments which had been bespoke performance commitments in PR14 and PR19, such as greenhouse gas emission reductions and improving biodiversity (South East Water, Thames Water, Severn Trent Water).

While we are proposing new common performance commitments on areas previously covered by bespoke performance commitments – including biodiversity, bathing water quality, river water quality and operational greenhouse gas emissions – the proposed definitions have been developed since PR19, including through Task and Finish groups. We do not consider that we need to set such metrics as bespoke performance commitments in order to develop new common performance commitments. We encourage companies to develop further measures, beyond performance commitments, to understand their performance. We also plan to work with companies

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<sup>5</sup> Fast Track Squared, ['Outcome delivery incentives – successfully delivering improved performance'](#) May 2022

to develop new measures to monitor and drive operational resilience outside the price review. Developing measures that are not bespoke performance commitments means that definitions can be improved over the period, whereas performance commitment definitions remain fixed for each five-year period.

## 2.4 Managing external factors

### 2.4.1 Draft methodology proposal

We consider that a performance commitment does not need to be fully in a company's control for it to be worth incentivising company action to deliver its functions in the interests of customers. And we do not consider exceptions to performance commitments to account for external factors where companies can mitigate the impact on customers such as weather, are appropriate.

In defining performance commitments, we have proposed some limited exclusions, where this does not compromise the companies' focus on outcomes for customers, communities and the environment. But we intend to design the performance commitment such that this is clear ahead of the final determinations and no detailed consideration is required ex post as part of annual reporting.

### 2.4.2 Assessment

Some stakeholders that responded to our [November discussion document](#) suggested or implied that we should focus on metrics that water companies can fully, or very significantly, control. For example, they suggested we should exclude the impact of severe weather events when defining our performance commitments and should not include performance commitments where companies have limited control.

Our performance commitments focus companies on delivering better outcomes for customers, communities and the environment. We consider that water companies have a significant level of control over these matters. But we do not consider that an outcome has to be fully within a company's control for it to be worth incentivising. Where they have a material influence over the outcome, they should be incentivised to use this, even if other factors may also have an impact. This includes, for example, water demand.

Moreover, in many cases companies can mitigate the impact of external factors on customers. This includes, for example, the impact of weather events. Companies can

prepare for and respond to such factors, including by working with third parties. We consider this is necessary to meet their statutory obligations,<sup>6</sup> and the expectations and needs of customers, communities and the environment. If companies do not bear such risks, they are transferred to customers. It is important that risks lie with those that can best mitigate or bear them, and as customers cannot mitigate these risks, we consider that it is appropriate to have performance commitments to incentivise companies to manage them effectively.

In defining performance commitments, we have allowed some limited exclusions, where this does not compromise the companies' focus on outcomes for customers, communities and the environment. But we intend to design the performance commitment such that this is clear ahead of the final determinations and no detailed consideration is required ex post as part of annual reporting.

We have considered the impacts of our approach to managing external risk. To a large extent, this simply clarifies our PR19 position. Greater clarity should reduce regulatory burdens for companies and regulators, by reducing the need for detailed debate with regulators about intervening on individual events during the price control period. Such debate could reduce a company's focus on delivering the best service they can. Companies will continue to face strong incentives to mitigate the impact of external factors on customers and the environment, which we consider is a key benefit of this approach. We also note that external factors can have positive and negative impacts on companies' performance. Because companies have asymmetric incentives to request exceptions only when they stand to benefit, this should ensure a fairer balance of outcomes between customers and companies. Overall, we do not consider our proposal places excessive risk on companies. As set out in Appendix 8, we are proposing to set symmetric incentive rates for most performance commitments at PR24, so external factors may lead to outperformance payments as well as underperformance. If there are significant negative events in a given year, our proposed aggregate sharing mechanism will protect companies from very large underperformance payments beyond certain thresholds.

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<sup>6</sup> For example, sections 37 and 94 of the [Water Industry Act 1991](#).

## 2.5 Change control process

### 2.5.1 Draft methodology proposal

Where a performance commitment definition refers to third-party materials which are updated in the course of the 2025–30 period, we will consider if any change is required to performance commitment definitions during this period. An example of such third-party material are the environment regulators' Environmental Performance Assessment (EPA) methodologies that set out how pollution incidents and discharge permit compliance are measured. Where a company considers such changes should be incorporated in the performance commitment definitions, we will consult with stakeholders as appropriate, as to our treatment of (and the timing of) them. This follows our PR19 approach.

But apart from correcting unambiguous errors and considering any necessary changes arising from updates to third-party materials, we do not intend to make any other adjustments. This is a change to our PR19 approach, where companies could ask for changes during the period that they considered represented a material improvement in customers' interests.

### 2.5.2 Assessment

We fix performance commitment definitions for the five-year period to provide regulatory certainty so that companies have confidence in how performance will be judged and so have incentives to invest to deliver the best outcomes for customers, communities and the environment.

At PR24, most performance commitments will have common definitions which will be scrutinised by all companies during the price review process and which relate to core aspects of their business. There have been no changes to improve common performance commitment definitions other than to update for third party materials or to implement changes that were signalled in PR19 final determinations. Moreover, many PR24 performance commitments are being retained from PR19 and so will be well established. Consequently, we expect less need for decisions on changes to performance commitment definitions during the 2025–30 period. Therefore we only propose to correct for unambiguous errors, and to make changes in period that relate to updates of third-party materials.

We consider that this will not have a material detrimental impact on customers or companies. Rather, we consider having a clear policy in this area helps simplify our

price control process, encouraging companies to focus efforts on delivering against their performance commitments rather than seeking to alter them.

### 3. Customers receiving excellent service everyday

Table 3.1 sets out our proposals for PR24 performance commitments relating to customer service. Further details of each performance commitment are discussed below.

**Table 3.1 – Proposed PR24 direct customer service common performance commitments**

Water and wastewater	Water only	Wastewater only
C-MeX (residential customer measure of experience) D-MeX (developer measure of experience) BR-MeX (business customer measure of experience) [England] Business customer experience in Wales	Water supply interruptions Compliance risk index (CRI) Customer contacts about water quality	Internal sewer flooding External sewer flooding

#### 3.1 Customer measure of experience (C-MeX)

Measuring residential customers' satisfaction puts the onus on companies to understand the experience of their residential customers, to identify what they want and how the company will deliver this.

At PR19, we used the C-MeX measure to do this. It has been operational since April 2020 in its current form, and in shadow form for one year prior to that. It is a relative performance commitment, ie a company's performance is compared to other companies rather than against an absolute performance level.

It is designed to:

- encourage companies to innovate;
- be simple and meaningful for customers;
- be proportionate;
- be practical to implement;
- measure performance consistently, reliably and fairly; and
- reflect customer changes and market changes.

### 3.1.1 Draft methodology proposal

We expect to maintain C-MeX at PR24. At this stage, we are only proposing minor amendments to this measure. This includes removing the check and challenge process. We are also considering the use of online panels and the number of communication channels required. We do not consider the detailed design of C-MeX will affect companies' business plan submissions. We therefore propose to continue to review the effectiveness of C-MeX as more data comes to light and consult on further changes ahead of our determinations where appropriate.

### 3.1.2 Assessment

Most stakeholders that responded to our [November discussion document](#) supported the retention of C-MeX as a common performance commitment and welcomed our intention to review it.

Affinity Water was the only stakeholder that did not support the continuation of C-MeX as a common performance commitment, preferring that the UK Customer Satisfaction Index (UKCSI) was used instead. We do not consider that this is appropriate. The UKCSI is a well-established national measure of customer satisfaction that is generated from surveys of over 250 organisations spread across 13 different economic sectors, and as such is ideally placed to be used as a basis for the C-MeX cross-sector threshold. However, the UKCSI methodology does not lend itself to producing robust and comparable customer satisfaction scores for individual water companies on an annual basis. Specifically, the list of organisations included in the UKCSI is not fixed, but dependant on which service providers the survey respondents choose to discuss. Therefore, it cannot be guaranteed that every water company would feature in the index every year, or that their individual scores would be sufficiently robust.

We have considered some minor amendments to C-MeX, including those raised by stakeholders. In doing so, we have considered the need for C-MeX to be sufficiently accurate and robust to incentivise improvements in customer service, whilst minimising its complexity and cost. We seek to balance these priorities in a proportionate and practical manner.

#### Check and challenge

We propose to remove the check and challenge step whereby companies can review recordings of telephone interviews undertaken during the year to inform C-MeX. Check and challenge was designed for the specific purpose of checking the accuracy of the record taken by our survey agent of its telephone conversations with customers. It does

not apply to online records. We have observed a number of challenges focused on technicalities rather than accuracy of the survey record, which is outside the scope of the check and challenge process and not in line with the principles of C-MeX.

The data that we have gathered to date suggests that the levels of challenges upheld as part of the process are low when taken in the context of the number of surveys carried out and that removing check and challenge better supports our success criteria of C-MeX being proportionate and practical to implement. Ceasing to provide check and challenge data also guards against the risk of customers being contacted inappropriately by companies in relation to their survey responses. We will continue to work with survey agents to ensure that they have adequate quality management systems in place to ensure a good level of accuracy in surveying. Quality and assurance levels for survey agents will be monitored as part of ongoing contractual arrangements.

### **Alternative surveying approaches**

In addition, whilst we have continued to reach the required survey quotas for all age groups to ensure the Customer Experience Surveys (CES) are reflective of each company's demographic profile, we acknowledge that the reliance on telephone surveys for the CES may make it more difficult to do this in future. We will investigate the possible use of alternative surveying approaches such as online panels, using postcode address files and incentivised invitations alongside telephone, online and face to face interviewing.

### **Communication channels**

One part of companies' C-MeX score relates to them offering a minimum number of communication channels through which they can be contacted by customers. We are considering raising the minimum requirement from five. This is to further incentivise companies to offer a broader range of communication channels for customers, in line with progress in the rest of the economy. Our intention is to continue to reduce a company's overall C-MeX score by three points if it does not offer our stated number of channels.

### **Sample sizes**

United Utilities suggested increasing the sample size. Following detailed analysis, our PR19 survey sample size was set at 200 interviews per survey per company per quarter – or 1600 interviews per company per year. This sample size gives C-MeX the best opportunity for adequate confidence level intervals whilst not significantly increasing the operational costs of the surveys. The stability of results to date indicates that these sample sizes remain adequate. It is our view that increasing sample sizes provides

diminishing returns as the costs increase, which is not in line with the overarching principles of C-MeX and we have no reason to revise our approach at this point in time. However, we will continue to keep this under review and consider changes should new evidence arise.

### **Online correction factor**

United Utilities also proposed a review of the online correction factor. In the PR19 final determinations we said we would apply an upward correction factor of 5% to individual survey results from customers who responded online to the customer service survey, to address the fact that the results of online surveys are significantly less positive than phone survey results. Our decision was supported by research carried out by our pilot year and shadow year survey agents and we have no reason to revise our approach at this time, but we will continue to keep this under review and consider changes should new evidence arise.

### **Potential biases relating to water only companies and wealth**

South East Water has suggested that the C-MeX methodology should be adjusted to account for both an inherent bias against water only companies and the negative impact of wealth on customer satisfaction scores. For our PR19 final determinations we analysed all the available SIM and C-MeX data and did not find evidence of a significant difference between water only and water and wastewater companies. Therefore, we did not agree there was a case for introducing additional weightings, correction factors or separate league tables for water only and water and wastewater companies. During the C-MeX pilot year our survey agent observed no significant socio-geographic differences between companies' C-MeX data. We concluded in the final determination that all companies are challenged by the socio-demographic features of their customer base, which requires them to understand their customers and respond accordingly. We consider attempting to make company-specific adjustments for these factors year-on-year would add undue complexity to C-MeX. As with sample sizes, evidence has not been observed to merit overturning either of these decisions. However, we will continue to monitor the growing evidence base.

### **Overall impact on customer service**

Some issues were also raised about the overall focus of C-MeX. National Energy Action suggested a service measure, like C-MeX, for those on the priority services register, or using a financial vulnerability flag. We agree that better monitoring is needed in this area – we have concerns that companies' understanding of the experience of

vulnerable customers<sup>7</sup> is limited and we have made clear that companies should take forward work to improve their understanding of vulnerable complainants' experiences.<sup>8</sup> If there are indications that vulnerable customers are not being treated fairly, we will consider what further action to take. In doing so, we will consider relevant aspects of the Public Sector Equality Duty. We will also consider how best to monitor companies' future performance in this area as part of our work to introduce a new customer-focused licence condition. We may also consider whether C-MeX could be adapted to better incentivise treatment of vulnerable customers.

CCW told us that it supports C-MeX, but that the complaints it directly receives about water companies have not fallen in the first year of C-MeX (and indeed rose by around 6%). It proposed putting more weight on its complaint numbers in C-MeX and that companies should be in the lower quartile of complaints to access any outperformance payments. As discussed in Appendix 8, rather than using C-MeX as a gateway to outperformance payments, we are considering increasing the amount of revenue at stake through C-MeX to increase companies' focus on customer service in general. However, high numbers of CCW complaints may also indicate there are specific issues with worst served customers. In this case, we may need to consider whether the design of C-MeX should be adapted to increase incentives specifically for that group. We will continue to consider this issue as more evidence comes to light on the operation of C-MeX.

In our [November discussion document](#), we suggested we would review C-MeX over summer 2022 ahead of the PR24 final methodology. However, issues such as those relating to vulnerable consumers and worst-served customers may require a fuller review. We do not consider the detailed design of C-MeX will affect companies' business plan submissions. We therefore propose to consider issues that come to light and consult on further changes ahead of our PR24 determinations as appropriate.

## 3.2 Developer services Measure of Experience (D-MeX)

We introduced the D-MeX measure in PR19 in response to concerns that developers were receiving poor service from some water companies. Measuring satisfaction puts

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<sup>7</sup> A person may be vulnerable when, due to personal characteristics, their overall life situation or due to broader market and economic factors, is not having reasonable opportunity to access and receive an inclusive service which may have a detrimental impact on their health, wellbeing or finances.

<sup>8</sup> See Ofwat and CCW, '[Putting things right: household complaints practices in the England and Wales water industry](#)' November 2020.

the onus on companies to understand what developer services' customers want and to deliver this effectively.

D-MeX has been operational since April 2020 in its current form, and for one year prior to that in shadow form. In the PR19 final determinations, and in subsequent amendments, we selected a number of Water UK metrics to be included in the quantitative component of D-MeX relating to services provided to self-lay providers (SLPs) and new appointees, both of which compete with the incumbent water companies in the market for developer services.

### 3.2.1 Draft methodology proposal

We propose to retain D-MeX at PR24. We are not proposing to make any changes to D-MeX at this point. However, we will continue to review its effectiveness as more data comes to light, and our overall approach to developer services evolves. We do not consider the detailed design of D-MeX will affect companies' business plan submissions. We will consult on further changes ahead of our PR24 determinations as appropriate.

### 3.2.2 Assessment

Stakeholders that responded to our [November discussion document](#) generally supported the continuation of D-MeX as a common performance commitment, and our intention to review the measure was welcomed.

However, Yorkshire Water queried whether D-MeX was necessary if the new connections market becomes increasingly competitive.

As set out in [Appendix 3](#) (developer services), we are consulting on a number of options for the developer services market, some of which include removing parts of developer services from the price control. A more deregulated market would still require incumbents to provide good service to new appointees and SLPs on an equal footing to their own developer services businesses. We therefore consider D-MeX would still be needed in some form. If we do change our approach to regulation in the developer services market, we will consider whether we need to adapt our D-MeX measure to ensure that company performance is measured consistently, reliably and fairly.

Portsmouth Water and Yorkshire Water suggested we review the weightings of the metric to ensure proportionality. Given the current evidence, we consider that the Water UK metrics included in D-MeX are appropriate. These metrics were consulted on

following the introduction of the Water UK Code for Adoption Agreements Level of Service indicators. We consider the metrics within D-MeX represent the key elements of service delivery across the different customer and connection types.

Independent Water Networks suggested we should increase consistency in reporting between companies by determining a common starting point for performance measures. For example, when measuring performance in responding to a point of connection (POC) request, they said most companies 'start the clock' from the day they receive the request, but some delay this until they receive payment. We will continue to work with Water UK and companies to ensure consistency in reporting.

United Utilities and Independent Water Networks expressed concern as to the limitations of how often new appointees and SLPs can be selected for sampling, suggesting that this places insufficient weight on their views. We have already made changes to increase the likelihood of all developer services customers' (including new appointees and SLPs) views being picked up in our surveys. In particular, we reduced the exclusion period for repeat surveying of customers that have dealt with more than one company during this time from six months to two months in the PR19 final determinations. This means that developer services customers would only be in the sample once in six months for any particular water company but can be in the sample for up to three water companies during that six-month period. It also increases the chance of being selected for surveys for those developer services customers who deal with more than one company. We also consulted specifically on new appointee and SLP measures that came into place fully in the second year of D-MeX which are now fully in operation. We do not think further changes are appropriate at this point in time. But we will continue to consider SLP and new appointee representation in D-MeX as we review the first two years of operation.

### **3.3 Business customer and retailer measure of experience (BR-MeX) for English companies**

Since the expansion of the business retail market in England in April 2017, the role of water companies in the business sector has changed, with retailers taking on the provision of retail activities. This includes customer-facing activities such as billing, meter readings and acting as the first line of communication between end customers and water companies when business customers want to raise issues regarding the services delivered by water companies.

Water companies have retained responsibility for providing wholesale services to business customers, the costs of which comprise on average around 90% of the final bill. Many of the activities undertaken by water companies in the business sector are

the same as those undertaken in the household sector and relate to water and wastewater operations, involving the ownership and maintenance of assets (including meters), responding to service failures (such as leakage, sewer flooding, supply interruptions), and providing services around new connections, meter installations and repairs.

Water companies play a key role in facilitating the delivery of a good business customer experience. For example, our market monitoring and customer research indicates business customers require timely and accurate meter reads as this is crucial to managing cash flows in addition to enabling more efficient use of water. Timely and accurate bills rely on timely and accurate meter reads. If there are any issues with the meter (such as installing, locating, fixing, replacing, or disconnecting the meter), that prevents the retailer from reading the meter and/or issuing an accurate bill, then it is the water company's responsibility to resolve these issues. How water companies resolve these issues materially affect the experiences of business customers.

Our [monitoring](#) of the business retail market, as well as our review of incumbent company support for effective markets ([Project RISE](#)), conclude that water companies' support for the business retail market needs to improve. This support is key in helping to resolve the three main frictions<sup>9</sup> that continue to impede the development of a more effective business retail market and the delivery of better outcomes for business customers. Our market monitoring and Project RISE also indicate that water companies need a stronger focus on understanding the needs and requirements of their business customers and to tailor their wholesale service offerings accordingly. In many cases this relates to qualitative aspects of wholesale service provision, which is also influenced by company culture.

### 3.3.1 Draft methodology proposal

We propose to include a business customer measure of experience as a common performance commitment at PR24 for companies whose systems are wholly or mainly in England. We propose a single, combined common performance commitment capturing both the experience of end business customers and the experience of retailers as intermediate customers. This composite measure will be referred to as the business customer and retailer measure of experience – BR-MeX.

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<sup>9</sup> The three main market frictions are: 1) poor quality customer, asset and consumption data; 2) cumbersome and inefficient wholesaler-retailer interactions; and 3) inadequate wholesaler performance.

For clarity, and in response to concerns raised by some companies, we confirm that BR-MeX will apply only to companies operating wholly or mainly in England, where all business retail services are now provided by retailers. In Wales, most businesses are not able to choose their supplier and so business retail services are still largely provided by the incumbent water companies. The Welsh Government has committed to consult on increasing the eligibility threshold further, which would lead to more business customers being served by the water companies. The two Welsh companies already have financial performance commitments that measure business customer satisfaction in Wales, which we propose to retain, as we set out in Section 3.4.

### 3.3.2 Assessment

Both CCW and retailers, in their responses to our [November discussion document](#), supported the introduction of one or more common performance commitments focussed on improving the experience of business customers.

The market operator (MOSL) was supportive of such incentives being introduced, although it did not set out a strong view about whether they should be included in PR24 or the Market Performance Framework (MPF), set out in the market codes. Whilst we fully support and are actively engaged in work to reform the MPF, we consider PR24 provides a better opportunity to introduce a strong and targeted financial BR-MeX incentive. We see this complementing the important programme of work to reform the MPF, which will include additional incentives on water companies as well as retailers. We are working closely with MOSL and the market to ensure the PR24 and MPF frameworks complement each other to drive better outcomes for customers.

Water companies were mixed in their views about whether PR24 should include incentives to improve the business customer experience.<sup>10</sup> Some considered incentives would help raise the profile of business customers and drive improvements. However, many water companies noted some concern about whether business customers could distinguish between retailers and water companies or noted that the relationship between retailers and customers was not under a company's control (Southern Water, South West Water, Severn Trent Water, South East Water, United Utilities, Portsmouth Water, Anglian Water, Wessex Water, Northumbrian Water).

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<sup>10</sup> The November discussion document referred to B-MeX and R-MeX incentives separately. It noted the business retail market had introduced a reputational incentive to reflect retailer feedback on water company performance ('R-MeX'). It also noted work in the business retail market to develop a survey that captures feedback directly from business customers regarding their interactions with companies, which could be used to develop a 'B-MeX' incentive.

We propose to introduce BR-MeX as a relative performance measure (similar to C-MeX and D-MeX) using two main sources of evidence to measure water companies' wholesaler performance:

1. **Feedback from end business customers:** To address concerns raised by water companies and to avoid retailer performance unduly influencing feedback from customers, we propose business customer feedback is sought via a survey following specific direct or indirect contact with the water company.<sup>11</sup>
2. **Feedback from retailers:** We would like to build on and further develop the current [R-MeX survey](#). We also want to work with MOSL and market participants to explore how we could supplement this survey with more granular feedback from retailers via the new [bilaterals hub](#).<sup>12</sup>

Some water companies were concerned about potential duplication with existing performance commitments (Southern Water, Northumbrian Water, Affinity Water, Yorkshire Water) and noted that further consideration would be required before such incentives are introduced (South West Water, Thames Water, Severn Trent Water).

We agree and want to work collaboratively with MOSL and other market participants to design, test and implement this new incentive in the run up to PR24. Similar to when C-MeX and D-MeX were introduced at PR19, we intend to pilot and test the exact design of the BR-MeX incentive, so it would not be fully specified by the PR24 final methodology in December 2022. Instead, it is expected to be fully specified in time for inclusion in the companies' draft determinations in 2024.

Subject to feedback from stakeholders on our proposals, we plan to publish a timetable for design and implementation of this new incentive in the final methodology. Our current thinking is that we would work with the sector to pilot a survey seeking feedback from business customers in 2023. This would draw on the recommendations of the [B-MeX working group](#) on how this survey should be designed.

Given strong links with the MPF and the bilaterals hub we propose that MOSL funds,<sup>13</sup> collects and publishes relevant performance data during the 2025-30 period, which

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<sup>11</sup> This is also consistent with the recommendations included in the [Europe Economics study](#) on B-MeX.

<sup>12</sup> The bilaterals hub aims to standardise and automate bilateral requests between retailers and wholesalers – for example where a retailer raises a request on behalf of a business customer for the wholesaler to locate or fix a meter. Following the completion of each bilateral task, the retailer could provide a score on the wholesaler's performance (for example out of 10).

<sup>13</sup> Funding here means in relation to the administration of customer and retailer surveys or feedback. It does not include incentive payments as any outperformance and underperformance payments would be reconciled using the price control mechanism.

would be supported by governance arrangements set out in the market codes. We propose this is an in-period ODI so Ofwat would use this published information to calculate a water company's BR-MeX score for reconciliation each year.

Some companies (South West Water, Severn Trent Water) noted the importance of making sure household customers do not pay towards outperformance payments. We agree and therefore propose the following:

- outperformance and underperformance payments are reconciled via the water network plus and wastewater network plus price controls;
- in the absence of a business retail control, we propose to amend the charging rules so water companies can ensure any outperformance or underperformance payments are reflected in charges to business customers only.

Portsmouth Water suggested developing the measures of experience further, with the introduction of a 'W-MeX' measure to allow water companies to rate retailers on their service. It is not immediately obvious how such a measure would translate into improved outcomes for business customers (if water company feedback does not align with customer feedback), but as retailers are outside the scope of the 2024 price review, any such measure would need to be considered as part of the MPF, not PR24.

## **3.4 Business customer experience in Wales**

For customers of premises which use systems located wholly or mainly in Wales, only those that consume more than 50 million litres of water a year are eligible to choose their water retailer. The Welsh Government has committed to consult on increasing the eligibility threshold further, which would lead to more business customers being served by the water companies

### **3.4.1 Draft methodology proposal**

We propose retaining the current business customer satisfaction measure for the two Welsh companies. We will work with the Wales PR24 Forum to consider if the PR19 performance commitment, which has a similar definition for Dŵr Cymru and Hafren Dyfrdwy, should be developed further.

### 3.4.2 Assessment

As most businesses using Welsh systems are not able to choose their retailer, they need the protection of the price control, including incentives to provide good service, similarly to residential customers.

In response to our [November discussion document](#), Dŵr Cymru suggested that incorporating companies in Wales in BR-MeX would not be proportionate due to the low number of customers in the retail market and that continuing with a common performance commitment for the two Welsh companies is appropriate. We agree with this view.

## 3.5 Water supply interruptions

Reducing the number and duration of interruption to customers' water supply improves the reliability of supply and reduces negative social and public health impacts on customers.

### 3.5.1 Draft methodology proposal

We propose that water supply interruptions should be a common performance commitment at PR24. At PR19 this was measured as the average number of minutes lost per customer, for the whole customer base, for water supply interruptions that lasted three hours or more. For PR24, we propose to maintain the performance commitment but to remove the reference to the Civil Contingencies Act 2004 in our supply interruptions reporting guidance (see Appendix 7). We may allow adjustments, such as exceptions to trial new techniques, if companies provide evidence that the current performance commitment is inhibiting innovation and an adjustment of this nature is the best way to deal with it.

### 3.5.2 Assessment

All those replying to our [November discussion document](#) in relation to this performance commitment agreed that it was a measure which should be retained for PR24. It provides incentives for companies to consider how to minimise the number and duration of events as well as the impact on customers, such as encouraging the use of a secondary supply for customers or enabling remedial work to be undertaken without impacting on customers.

Some respondents suggested areas for further development which broadly fell into two categories of proposed changes, ie to improve:

- incentives to innovate; and
- risk allocation.

### **Improving incentives to innovate**

Yorkshire Water and United Utilities considered the current definition hinders innovation. They said that the majority of companies continue to use open trenching techniques for mains repairs to remain within the three-hour window rather than trialling new techniques which may take longer but could help to reduce greenhouse gas emissions, leakage and expenditure.

Yorkshire Water proposed an increase to the three-hour interruption threshold to enable these techniques. United Utilities suggested we consider accounting for reactive and planned work separately, as considering them together may overly inhibit innovation in planned works. This is because the ODI rate reflects the average harm including from unplanned works, rather than the lower harm from planned work, and creates too strong a disincentive to trial new techniques for planned works which take longer than three hours.

Our customer research does indicate that a loss of supply over a period of 3–6 hours is viewed as more tolerable than longer events, but it is still seen as inconvenient and shorter interruptions would be better. It also shows that the degree of disruption to customers can be mitigated by prior notice of works and/or being undertaken during non-waking hours.<sup>14</sup>

However, we consider that the separate performance commitments on greenhouse gas emissions and leakage (see Sections 4.2 and 4.3) should incentivise companies to trial new techniques in these areas. Companies should also benefit through the cost sharing mechanism if the technique is cheaper.

Moreover, we are concerned that Yorkshire Water's suggested extension to the three-hour window would not necessarily mean that companies would utilise differing techniques, and so customers could be left with longer outages, with no counterbalancing benefit. We therefore do not consider it appropriate to extend the three-hour threshold.

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<sup>14</sup> [Research on customer preferences – A joint report by CCW and Ofwat](#), April 2022

Having separate performance commitments for planned and unplanned interruptions with different ODI rates may provide more precise incentives, but it would also increase complexity. We do not have evidence as yet that the current performance commitment definition is holding up innovation or the customer benefits of separate performance commitments would merit the additional complexity.

However, we will continue to review available evidence in order to understand whether a change may improve outcomes for customers and the environment. We ask that if companies consider that the PR19 water supply interruptions performance commitment prevents implementing appropriate mains rehabilitation techniques they provide evidence of this together with evidence of the benefits to customers and the environment from a change.

If there is compelling evidence that our approach may not incentivise mains rehabilitation techniques required for long-term outcomes, we will consider what adjustments we should make. One approach may be to allow limited pilots for companies to extend the three-hour threshold for a small number of planned works in order to test the benefits of a change and gather further evidence in advance of PR29. This could inform PR29, particularly if it is in the period 2025–27. Any decision to allow pilots would be made as part of the PR24 final determinations and would not be changed during the 2025–30 period. If we allow pilots, we may enhance the requirements to warn customers, reduce the impact on vulnerable customers and also expect companies to publish details of such experience so that all stakeholders can benefit. Respondents should suggest what scale of trials would be appropriate.

## **Risk allocation**

Some respondents suggested ways to reduce the financial impact of some events on water companies. Thames Water and Affinity Water suggested a limit on the impact of individual events, as they are concerned that a single instance can dwarf everything else a company is doing to minimise interruptions from other events. Northumbrian Water suggested excluding or separately reporting instances due to severe weather.

As set out in Section 2.4, we consider that risks should be borne by those that can best manage them and we consider that customers have little control over water supply interruptions. While companies have no control over the weather, as we identified in our 2018 report 'Out in the cold',<sup>15</sup> we consider that companies should plan for and react effectively to both the individual and cumulative effects of severe weather

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<sup>15</sup> Ofwat, '[Out in the cold](#)', June 2018.

incidents. Transferring the risk of severe weather from companies to customers would not be in customers' interests.

For similar reasons, we propose to remove from the performance commitment definition the reference to companies being able to make a representation to us for an exception to be granted on the basis of a civil emergency under the Civil Contingencies Act 2004. The Act and supporting regulations and statutory guidance establish a clear set of roles and responsibilities for those involved in emergency preparation and response at the local level. Emergency planning should aim where possible to prevent emergencies occurring, and when they do occur, good planning should reduce, control or mitigate the effects of the emergency.<sup>16</sup>

Events that fall under the 2004 Act are not necessarily unforeseen, indeed such events tend to occur each year – so customers expect companies to plan for them. We consider it appropriate for companies, rather than customers, to manage the risk of emergencies, for example from storms, and that removing the reference to the Civil Contingencies Act 2004 will make it clear that we consider companies remain responsible.

We consider the appropriate way to manage financial risks associated with the outcomes package in Appendix 8.

## 3.6 Compliance risk index (CRI)

The compliance risk index (CRI) is designed to measure the risk arising from treated water compliance failures. It aligns with the risk-based approach to regulation of water supplies used by the Drinking Water Inspectorate (DWI) and includes an assessment of the action taken by companies in response to the failure. This performance commitment incentivises companies to fully comply with statutory obligations to promote customer confidence in water quality. It was included at PR19.

### 3.6.1 Draft methodology proposal

We propose that CRI should remain as a common performance commitment for PR24 using the DWI's definition.

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<sup>16</sup> Cabinet Office, '[Preparation and planning for emergencies: responsibilities of responder agencies and others](#)', February 2013.

### 3.6.2 Assessment

Respondents to our [November discussion document](#) that commented on the CRI agreed to retain it as common performance commitment at PR24. Some made suggestions on the setting of performance commitment levels (PCLs), which we deal with in Appendix 9, and the use of deadbands and the incentive type, which we deal with in Appendix 8.

While Bristol Water supported monitoring the CRI, it proposed the use of DWI's emerging Risk Assessment Risk Index (RARI) metric to replace CRI in the price control. We consider that the RARI is not sufficiently mature at this time to consider it for PR24, but we will continue to look into its development and consider what insight this measure could provide. We could consider how to use RARI as part of our proposed integrated monitoring framework for operational resilience, recently set out in our April discussion document.<sup>17</sup> Considering this information as part of a holistic view of operational resilience could help to improve understanding of risks and support increased confidence in the ability of companies to provide resilient services.

## 3.7 Water quality contacts

Measuring the number of times customers contact their water company about water quality helps to identify cases where, although water is safe to drink, it is not acceptable to customers. In PR19 all companies have some form of bespoke performance commitment to measure this outcome with financial incentives attached to it. Some companies have two performance commitments, one that measures complaints about taste and odour and a separate performance commitment measuring the appearance of water, that is whether it was cloudy or discoloured. Other companies measure this in a single performance commitment.

### 3.7.1 Draft methodology proposal

We propose a common water quality contacts performance commitment for PR24 covering taste, odour and appearance. To improve consistency of reporting between companies, we propose the type and reporting of water quality contacts are aligned with the Discover Water website which sources specific data from the DWI, collected in accordance with the guidance included in its information letter 1/2006 on Annual Provision of Information on Consumer Contacts.

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<sup>17</sup> Ofwat, [Operational resilience discussion paper](#), April 2022.

However, while the Discover Water website publishes appearance separately to taste and smell, we propose a combined single performance commitment covering these contacts. We do not think that the assorted forms of contact are sufficiently different to merit the complexity of separate performance commitments.

### 3.7.2 Assessment

Most of the respondents to our [November discussion document](#) that commented on water quality contacts supported the proposal to have a common performance commitment in this area in PR24.

However, Anglian Water and Wessex Water questioned the need to have this performance commitment as they consider that the DWI's monitoring of performance and legal powers already incentivises companies to drive performance against this measure. We consider having a performance commitment drives further improvement which may not always be achievable through use of regulatory enforcement powers.

## 3.8 Sewer flooding (internal and external)

Sewer flooding is one of the worst service failures that customers can experience. Flooding can occur within or outside of a customer's property.

### 3.8.1 Draft methodology proposal

We propose to retain the internal sewer flooding common performance commitment for PR24. We also propose to include a common performance commitment for external sewer flooding incidents, that nine of the eleven companies had at PR19. We propose to use substantially the same definitions as at PR19, with only minor clarifications to the guidance.

We want to work with companies to collect information on the consequence of sewer flooding. This could result in a performance commitment for PR29 which weights incidents by consequences, providing better incentives for companies to focus on the most serious incidents.

### 3.8.2 Assessment

Stakeholders that responded to our [November discussion document](#) were in favour of retaining a measure on internal sewer flooding and also welcomed the extension of common performance commitments to external sewer flooding.

Comments were also raised on:

- the potential use of consequence information;
- severe weather; and
- clarifications to the guidance.

We discuss our views on each in turn.

#### Consequence information

We have discussed with industry whether to combine internal and external sewer flooding in a single metric, with a weighting for the customer consequence of different internal and external events.

There was support for developing such a metric from Thames Water, Wessex Water, United Utilities and CCW. Others were in favour in principle but wanted to understand the categorisation of incidents, weighting and incentives proposed. Northumbrian Water and South West Water considered that we should continue to report internal and external sewer flooding incidents separately, as they said a combined metric could lead to companies prioritising external sewer flooding over internal sewer flooding.

A Water UK working group has considered how best to collect consequence information in an objective and consistent way, without incurring significant costs or affecting how staff operate to deal with incidents. It proposed to have four categories of incidents depending on whether the location was an internal living space, other internal space, or external and whether flooding had occurred before.

We consider that, while the proposal is a step forward in understanding consequence, the four proposed categories will not always reflect the different consequences to customers. For example, while some external flooding events are minor, some are severe and may have a greater impact than minor repeat flooding of an internal space such as an unused coal cellar. In addition to issues with the categorisation, any performance commitment would have to weight together different categories. Such weightings should reflect customer views on the severity of the events. But as these could change between companies it would lead to problems in comparison and a lack of transparency. On balance we do not consider that it is appropriate to use the

proposal as a new performance commitment for PR24. However, we urge companies to start to collect information on consequence and consider how this could be developed for the future.

## Severe weather

United Utilities suggested that as climate change and severe weather is outside of company control, the impact of severe weather should be excluded or reported separately. Severn Trent Water and Northumbrian Water advocated separately reporting incidents occurring as a result of severe weather incidents. Thames Water preferred instead using bespoke performance commitments or PCDs to focus on scheme delivery to reduce the risk in areas of high risk.

We do not agree with these companies' proposals. We consider including the impact of severe weather best allocates the risk of severe weather events to those best able to manage them and that is not customers – in line with our discussion in Section 2.4. While companies have no control over the weather, we expect them to plan and effectively react to both the individual and cumulative effects of severe weather incidents. Transferring the risk of severe weather from companies to customers would not be in customers' interests.

## Clarifications

Some companies have also proposed a number of detailed clarifications for the PR19 guidance including clarifications on roads, property gullies, external flooding and fluvial (river) flooding.

We consider that the first three suggestions for clarifications do not change the intended meaning and remove potential ambiguity. As such, we propose to accept them:

- **Highway drainage failure** – clarification that flooding incidents caused by highway drainage failure include failure of any road gully serving a highway connected to a public sewer (eg run off from highway gradients where road gullies are unable to intercept flows).
- **Flooding incidents caused by private assets** – clarification that, for the purposes of consistent reporting, flooding caused by the blockage, capacity, or failure of: i) a single property gully; or ii) a gully shared by two or more properties, and connected to a public sewer, or blockage of the gully grating, or the failure of any pipework above ground, shall be excluded.
- **External flooding** – Any sewer flooding not contained within the highway or an open space and enters a property ownership curtilage (eg enters a driveway or

seeps through a boundary fence/hedge/wall) shall be recorded as curtilage flooding.

However, we are concerned that the proposed clarification on **fluvial (river) flooding** could lead to a change not just of the meaning, but also of water company responsibilities. The proposal was that fluvial flooding would include areas where flooding is caused by a watercourse which is connected to the combined sewer network. Exclusions of events under the proposal would require companies to produce evidence that demonstrates the watercourse is the root cause and has led to the hydraulic incapacity. However, we consider this does not take into account areas where the sewerage system has incorporated the natural river course, resulting in the sewer becoming the sole drainage system for that area. With no alternative route available for the river, we consider this interaction between the sewerage system and watercourse renders it inappropriate to exclude any resulting flooding.

## 4. Environmental outcomes

Table 4.1 sets out our proposals for PR24 performance commitments with a view to reducing the environmental impact of water companies. Further details of each performance commitment are discussed below.

**Table 4.1 – Proposed PR24 environmental common performance commitments**

Water and wastewater	Water only	Wastewater only
Biodiversity	PCC (per capita consumption) Leakage Business demand (or a Water demand performance commitment that combines all three measures) Operational greenhouse gas emissions - water	Total pollution incidents Serious pollution incidents Discharge permit compliance Bathing water quality River water quality Storm overflows Operational greenhouse gas emissions - wastewater

### 4.1 Biodiversity

Water companies can play a critical role in maintaining and enhancing biodiversity. In PR24, we want to incentivise companies to improve biodiversity assets, for example in tandem with delivering nature-based solutions.

#### 4.1.1 Draft methodology proposal

We propose a performance commitment that measures the change in biodiversity on company owned land and third-party land on which they are working in partnership as part of their statutory functions. We propose this should be measured by people with relevant experience and qualifications conducting site visits and using the baseline pre intervention assessment of the biodiversity metric 3.1 for each visit.<sup>18</sup> We propose site visits will be on a set frequency and propose it should be every four-years. No change could be recorded until the second site visit, four years from the first visit. Companies should start these site visits before 2025 in order to record increases in biodiversity in the 2025–30 period. Rather than all sites being assessed in a single year, we envision site visits being a rolling assessment across the four-year period.

<sup>18</sup> Natural England, [Biodiversity Metric 3.1 User guide](#), April 2022.

As well as a performance commitment, we also expect to set price control deliverables (PCDs) to ensure that companies deliver the biodiversity benefits of the WINEP and NEP programmes – many of which will emerge after 2030. We explain our approach to PCDs in Appendix 9, including how we expect performance commitment levels in future price control periods to reflect these allowances.

We expect companies to have completed at least a first visit at each site to assess biodiversity for company owned land by 31 March 2028.

### 4.1.2 Assessment

All respondents to our [November discussion document](#) were in favour of establishing a common performance commitment in this area. Some made suggestions on the setting of performance commitment levels, which we deal with in Appendix 9.

There are complexities with measuring biodiversity including:

1. the lack of existing baseline data on biodiversity;
2. the inherently long timescales required to deliver meaningful and valuable biodiversity outcome; and
3. that biodiversity can be measured in different ways, including with reference to population sizes of different species and by the condition of habitats.

To address issue '1' above, ahead of PR29, we propose that all companies should have rolling programmes to assess biodiversity in order to establish comprehensive and consistent biodiversity baselines so that all of their land is assessed over a four-year period. This should also give companies and regulators a better understanding of the state of the natural capital value and associated potential on company-owned land.

Due to issue '2' above, we consider that as well as the performance commitment, we may also need to set PCDs to reflect the benefits of biodiversity expected by the NEP and WINEP, but which will not be realised until after 2030. This is similar to Northumbrian Water and Thames Water's suggestion for a multi-period performance commitment.

In terms of '3' above, we are grateful for the time and commitment given by the biodiversity performance commitment task and finish group members that have considered the options and have proposed that the biodiversity metric is the most appropriate way for water companies to measure their contribution to improving biodiversity. We expect to reconvene this group to assist with determining the details of the performance commitment definition.

We consider that this performance commitment will help incentivise improvements in water companies' contribution towards Defra's proposed Environment Act 2021 target to create or restore in excess of 500,000 hectares of a range of wildlife-rich habitats outside protected sites by 2042, compared to 2022 levels. The biodiversity metric, which is the basis of this proposed performance commitment is one of the ways of defining wildlife-rich habitats.<sup>19</sup>

Creating or restoring wildlife-rich habitats is also essential to deliver a further target proposed by Defra, which is to increase species' abundance by at least 10% by 2042, compared to 2030 levels.<sup>20</sup>

There is a third proposed target for biodiversity on land, which is to improve the England-level GB Red List Index of species extinction risk by 2042, compared to 2022 levels. We consider that the most appropriate way for water companies to support this third target would be through the WINEP programme as the actions may need to be specified at a detailed level, with specific deliverables.

## 4.2 Operational greenhouse gas emissions

Greenhouse gases are produced during water companies' operational activities and contribute to climate change. We expect that companies plan to reduce the amount of operational greenhouse gas emissions generated, with a view to achieving the government's legally binding net zero emissions target by 2050.

### 4.2.1 Draft methodology proposal

We propose introducing common operational greenhouse gas emissions performance commitments. These will be aligned with the definition we already use in the Regulatory Accounting Guidelines (RAGs).<sup>21</sup> We propose to set separate performance commitments for water and wastewater based on a normalised measure to enable direct comparisons between companies.

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<sup>19</sup> Defra, '[Biodiversity Terrestrial and Freshwater Targets – Detailed Evidence report](#)', April 2022, p.24.

<sup>20</sup> Defra, '[Consultation on environmental targets](#)', May 2022 p.12.

<sup>21</sup> Ofwat, '[Consultation on regulatory reporting 2021-22 – Responses document](#)', October 2021. We will consider changing the RAG for the 2022-23 reporting year and may amend the definition in advance of PR24 final determinations.

We do not propose a common performance commitment for embedded greenhouse gas at PR24, but we expect progress to be made in the development of a suitable metric during the 2025–30 period. We consider this further in Section 6.9.

## 4.2.2 Assessment

There is unanimous support from stakeholders that responded to our [November discussion document](#) to extend the coverage of common performance commitments to include reducing operational greenhouse gas emissions. This will incentivise companies to work towards the final and interim targets for net zero emissions of the UK and Welsh governments.

The RAGs for 2021–22 require water companies to report operational greenhouse gas emissions. This will help in developing the standardisation of reporting by water companies. Respondents including Affinity Water, Thames Water, Wessex Water, Portsmouth Water and Waterwise consider that reporting is an established process built upon data collection that has been ongoing in the UK for more than ten years using the UKWIR carbon accounting workbook (CAW). But others consider there is more to do in this area (Bristol Water, South East Water, South Staffs Water). It is likely that greenhouse gas emission reporting practices will continue to evolve (as noted by Yorkshire Water, Dŵr Cymru, Northumbrian Water). We will consider such points as we review companies' annual performance reports (APRs) in July 2022 and we will propose revisions to the RAGs where necessary.

The proposed performance commitments could be normalised measures or percentage reductions from a base year. A percentage reduction is favoured by Dŵr Cymru and United Utilities so that changes could be more easily made to the performance commitment during the period. Several companies suggest annual updates to the definition. We consider that automatic annual updates of the definition to the latest version of the CAW methodology present a risk of future versions containing significant changes in methodology that could impact the integrity of the performance commitment. It is important that we consider the impact of any revised version before deciding whether we should make a change. For example, changes may mean that performance over the period cannot easily be compared and understood, and automatic updates could increase uncertainty in expected future performance making it more difficult to distinguish genuine company action to reduce emissions from changes driven by updates to the CAW methodology. This reduces transparency for stakeholders.

We consider that a normalised measure would provide greater transparency to customers on companies' relative performance. The measure could be normalised by

an appropriate metric such as distribution input or volume of wastewater treated. This would require different performance commitments for water and wastewater to reflect the different activities so that meaningful comparisons can be made across companies.

Thames Water and United Utilities suggested using a market-based approach to measure operational greenhouse gas emissions.<sup>22</sup> This reflects, for instance, purchasing renewable energy. We consider that it is important that the proposed performance commitments provide transparency on reductions achieved through the actions companies themselves take to reduce emissions, for instance choosing to invest in nature-based solutions if these result in overall less power and chemicals. Sole reliance on a market-based approach risks masking a lack of progress and not incentivising actions for companies to reduce their own emissions. Northumbrian Water and Wessex Water suggested including the option to offset emissions in order to deliver reductions in the near term, as they argued that time is needed for some approaches such as nature-based solutions to deliver reductions in greenhouse gas emissions. As we set out in our January 2022 [net zero principles position paper](#), we expect companies to prioritise the elimination and reduction of greenhouse gas emissions before the use of offsets. We will consider such points as we review companies' annual performance submissions (APRs) in July 2022 and will propose revisions to the RAGs where necessary.

Companies can reduce net operational greenhouse emissions by generating electricity from bioresources. As discussed in [Appendix 4](#) (bioresources control), we previously noted that the variation in bespoke performance commitments that relate to bioresources in the 2020–25 period may affect trading in the bioresources market.<sup>23</sup> We are now proposing a common performance commitment on operational greenhouse gas emissions. This would standardise the incentives on companies and so should reduce any market distortions. That said, we want to understand if any residual distortions could be created by our outcomes framework and whether further steps would be helpful to address this.

### 4.3 Water demand (leakage and consumption)

Given the pressures of climate change, all water companies need to reduce the demand for water where possible for the foreseeable future, if not for their own

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<sup>22</sup> A market-based method is inclusive of the greenhouse gas emissions from electricity that companies may have chosen. A location-based method is inclusive of the average greenhouse gas emissions intensity of grids via which energy consumption may happen. See '[GHG Protocol Scope 2 Guidance executive summary](#)', January 2015.

<sup>23</sup> Ofwat, '[Review of the bioresources market – consultation](#)', May 2021.

customers, then to allow transfers of water to areas that require it. This will allow abstraction to be reduced to protect the environment, while also allowing sufficient water for customers. It should also help to avoid the need to develop new water resource options that could increase greenhouse gas emissions or otherwise cause significant impacts on the environment.

### 4.3.1 Draft methodology proposal

We propose to set performance commitments, or a performance commitment, to ensure that companies focus on reducing leakage and on promoting water efficiency to both residential and business customers

We invite views on whether we should either have:

- three separate performance commitments to reduce leakage, per capita consumption, and business demand; or
- a combined single water demand performance commitment.

The combined water demand metric would be the potable water produced by water treatment works, adjusted for water transfers between water companies. If we include the combined metric, we would still expect companies to report on the individual metrics. Likewise if we include separate metrics, we would expect companies to also report on the combined metric.

For both options, we propose to exclude water consumption of very large business customers.

### 4.3.2 Assessment

Stakeholders that responded to our [November discussion document](#) in relation to this performance commitment had a range of views, falling under the following themes:

- focusing on sustainable abstraction;
- activity based approaches;
- using PR24 incentives to reduce business demand;
- the impact of large businesses; and
- whether to have a single or combined metrics.

#### Focus on sustainable abstraction

Wessex Water and Severn Trent Water considered that ideally the focus should be on sustainable abstractions of water, rather than reducing demand. However, Severn Trent Water recognised that there is currently no suitable measure and considered that to properly understand sustainable abstractions, any measure may need to focus on abstractions at a granular level and over short periods of time. We do not consider it possible to introduce a performance commitment that measures sustainable abstractions for PR24. We agree that there is currently no suitable measure of sustainable abstractions, and that it may be difficult to develop a robust metric focused on future abstractions. However, in the short to medium term, all companies need to reduce water demand across the board and so we consider that it is appropriate to measure and incentivise water company progress in reducing water demand.

### Activity based approaches

Severn Trent Water, Affinity Water, Thames Water, SES Water, South East Water and South Staffs Water consider that the performance commitment should focus on the delivery of actions by water companies. South East Water considers that water consumption is outside of company control, due to aspects such as business cycles. Instead, the company proposes that outputs are measured, either through specific outputs such as meters or an approach that estimates the water saved from water company efforts, for example by multiplying the number of outputs delivered by an assumed water saving.

We consider that water companies have a significant role in water efficiency that includes:

- providing the right metering;
- communicating with customers or providing the right information for others to communicate;
- setting water charges; and
- providing more direct support to help water customers reduce their demand.

While there are simple activities that could be tracked, such as the number of leaks detected or the number of meters and water efficiency devices installed in customers' homes, we consider that tracking them will not be sufficient to deliver the outcomes that companies need to deliver. Research suggests that to achieve long-term water conservation habits, a well-aligned conjunctive use of different techniques is crucial.<sup>24</sup>

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<sup>24</sup> S.H.A. Koop, A.J. Van Dorssen, S. Brouwer, '[Enhancing domestic water conservation behaviour: A review of empirical studies on influencing tactics](#)', Journal of Environmental Management, Vol 247, 2019, pp. 867-876.

We consider that, over the long term, basing performance commitments on the amount of water customers use provides appropriate incentives for companies to consider innovative and long-term focused approaches to help promote water efficiency.

It is therefore clear that water companies can influence water demand. As set out in Section 2.4, we consider that a performance commitment does not need to be fully in company control for it to be worth incentivising company action to deliver their statutory functions in the interests of customers. However, in the section below on refining water demand performance commitments, we consider how we might refine potential performance commitments to limit the impact of factors truly outside management control, such as business cycles.

### **Using PR24 incentives to reduce business demand**

Most responses focused on how incentives for wholesale companies to help reduce business demand should be introduced, rather than whether they should be introduced. However, Southern Water considered that the responsibility for the promotion of efficient use of water by business customers using systems wholly or mainly in England has been transferred by Parliament to retailers (via the Water Act 2014) and that a performance commitment would not be appropriate. We consider this is not the full picture – retailers and wholesalers each have their own responsibilities in relation to the efficient use of water within their respective functions, and so both need to play their role.<sup>25</sup> Without participation by water companies, there are difficulties in promoting effective demand management in the business retail market. We consider that a performance commitment is appropriate in these circumstances, in line with our resilience duty and requirements under the UK Government's SPS to encourage companies to improve the water efficiency of businesses.

Therefore, we propose to incentivise reductions in business consumption through PR24. This view is consistent with a recent report commissioned by a Retailer-Wholesaler Group Water Efficiency subgroup.<sup>26</sup> It recommended a predominantly wholesaler-led approach, and that it is carefully designed to avoid precluding retailers from competing on water efficiency, particularly over the longer-term. Pannon Water Services,

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<sup>25</sup>While business retailers have a duty to promote the efficient use of water by their customers, wholesale water companies still have a role to play in relation to the efficient use of water by business customers. For example, water companies have a duty to further water conservation when formulating or considering proposals relating to any of their functions (section 3(2)(a) of the Water Industry Act 1991), a duty (together with other statutory undertakers) to take into account, where relevant, the desirability of conserving water supplied or to be supplied to premises (section 83 of the Water Act 2003), and a power to take action if water supplied to business customers is being wasted, misused or unduly consumed (section 75(1A)(d) of the Water Industry Act 1991).

<sup>26</sup> Economic Insight, '[Options for promoting water efficiency in the NHH water market](#)', April 2022.

Southern Water, MOSL, Business Stream and Everflow also consider that there are risks that PR24 incentives could have a detrimental effect on retail competition.

We want to see water companies work collaboratively with retailers as well as other third parties to deliver water savings in the business sector and the best outcomes for customers - now and in the future. Water companies need to comply with their competition law obligations, which do not prevent them from delivering water efficiency savings in the business sector, but they do mean that companies need to do this in a non-discriminatory way which does not foreclose opportunities for other service providers given their monopoly position in the provision of wholesale services.

We will consider these concerns further in how we design the incentives. For example, we are exploring the possibility of potentially disallowing outperformance payments if water companies cannot demonstrate they have explored options to deliver business water efficiency in collaboration with retailers or other third parties. In some cases, it may be necessary for water companies to work directly with business customers to deliver water savings; but in many other cases it will be more appropriate and effective over the longer term for water companies to take a more collaborative approach to deliver sustained reductions in water used by business customers.

### **Impact of large businesses**

In our [November discussion document](#), we proposed to exclude larger business customers (such as those consuming more than 50 mega litres a year) from any water demand performance commitment. This is because we consider that the behaviour of the largest water users, for example due to expanding or reducing production, could dwarf the impact of greater water efficiency of smaller businesses in overall business demand measures. Excluding these largest users reduces the risk on water companies from the economic behaviour of business customers, such as closing down or relocating sites outside a water company's area. We have worked with MOSL to consider how we could practically exclude such users from the performance commitment definition. We consider we could do this regardless of whether we have three separate performance commitments or combine them.

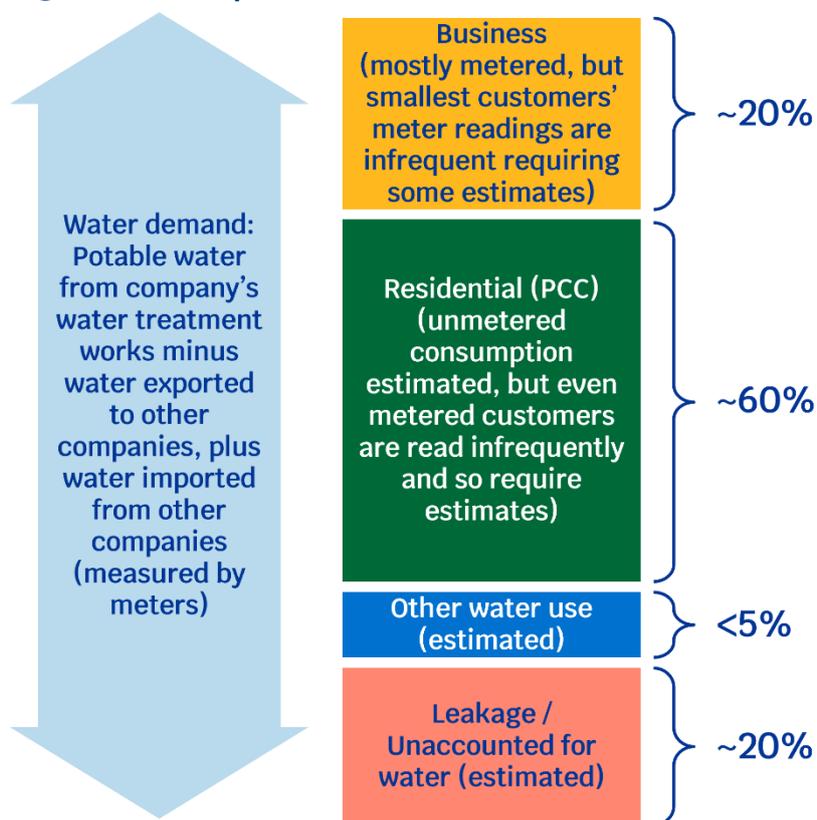
United Utilities and Everflow recognised that it may be necessary for practical reasons to exclude larger business customers from a common performance commitment. However, Thames Water, Wessex Water and MOSL suggested that there should be no exclusions as there should be incentives to help all business customers reduce demand. Seven Trent Water considered that excluding the largest customers would not sufficiently help address demand factors outside management control, such as business cycles.

We could instead mitigate the impact of external events on companies by excluding any business customer where the change in usage is greater than might be expected from changes in water efficiency. For example, we could exclude companies with changes in consumption of more than 50% increases or decreases relative to a base year (such as 2023–24). This could preserve incentives for all customers and reduce the impact of wide macro-economic factors such as business cycles. However, we consider this would add significant complexity even if we only applied this to a subset of customers, for example those that use more than 10Ml a year. Moreover, we consider that large customers are likely to have stronger commercial incentives to manage their own water efficiency. We therefore consider there is less need for water companies to have financial incentives to promote water efficiency to these customers. As such, we propose to simply exclude the largest users from the measure of business demand.

### Separate or combined water demand performance commitments

Figure 4.1 shows the components of water demand. We could set a performance commitment at either the combined level or set individual performance commitments for each component.

**Figure 4.1 Components of water demand**



Dŵr Cymru, South West Water and Anglian Water support combining the three metrics as it is closer to the desired outcome and provides more flexibility. Wessex Water also supported a combined metric, as opposed to separate metrics. United Utilities and Waterwise considered that the incentives between residential and business customers should be equalised, and a combined measure could deliver this to avoid barriers to companies reducing demand for business customers. Yorkshire Water, Bristol Water and South East Water supported such a measure in principle, but suggested further information is required and a period of shadow reporting.

We consider a combined performance commitment would be more robust than the separate components, which are primarily based on company estimates. As Portsmouth Water, Thames Water and Wessex Water note, it may also go some way to handling variability in where customers use water. In particular, measures introduced to combat the Covid-19 pandemic resulted in non-household water use decreasing and household water use increasing. This would have been easier to manage within a combined metric compared to a suite of individual metrics.<sup>27</sup>

Seven Trent Water notes that a combined measure would not help situations where changes have occurred across company boundaries. We recognise that it will not address issues where demand has shifted between companies.

SES Water considered that residential and business demand should not be combined because the company said it would distort incentives and may result in undesirable outcomes. We consider the main benefits from reduced consumption from either households or non-households are similar and that combining them would not distort incentives.

Southern Water and CCW supported keeping leakage and per capita consumption as performance commitments for PR24 given the level of customer and stakeholder interest. We recognise that leakage has significant salience and customers may see it as distinct from consumption. Separate PCs would allow us to set separate incentive rates that take account of any difference in customer views.

In either case, we would expect companies to report against all four measures. Reporting all four metrics would provide transparency and allow companies to show how they are making progress in delivering a 50% reduction in leakage from 2017 to 2018 and contribution towards reducing personal water consumption to 110 litres of

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<sup>27</sup> See Ofwat, '[Consultation on changes to per capita consumption performance commitments – our decision on reporting performance and ODI timing](#)', November 2021 for further details of our expectations on PPC reporting and payments.

water per head per day (l/h/d) by 2050 as set out in the UK government's SPS. It will also show progress towards Defra's proposed Environment Act 2021 target to reduce the use of public water supply in England per head of population by 20% by 2037.

We will continue to consider this issue ahead of our final methodology and welcome further views.

## **4.4 Pollution incidents (total and serious)**

These performance commitments are designed to incentivise companies to promote improved water bodies by reducing the number of times that untreated wastewater impacts them.

### **4.4.1 Draft methodology proposal**

We propose to retain pollution incidents as a common performance commitment. We also propose to include a serious pollution incidents common performance commitment for PR24. We propose that these will use the same definitions as used in the Environmental Performance Assessment (EPA) by environmental regulators. The EPA defines total pollution incidents as all category 1, 2 and 3 incidents from wastewater assets and the serious pollution incidents as category 1 and 2 incidents from both water and wastewater assets.

### **4.4.2 Assessment**

We expect all companies to progressively reduce total pollution incidents, and all respondents agreed that there should be a common performance commitment for pollution incidents.

There has also been a longstanding expectation that all companies should reach zero serious pollution incidents (category 1 and 2) as soon as possible. This has been reiterated in the UK government's SPS and is consistent with the Welsh Government's strategic priority for the environment. For PR24, we are proposing a separate performance commitment on serious pollution incidents to hold companies to account for this.

We note that the number of serious pollution incidents does tend to fall as companies reduce the number of total pollution incidents. However, we observe a stagnation in these reductions for some companies which we consider needs to be addressed. The

Environment Agency and Natural Resources Wales also have enforcement powers which can result in financial penalties which reflect the seriousness of the incident, but they can take some time to deliver and the financial impacts are not reflected in customers' bills.

We propose that serious pollution incidents should apply to water and wastewater companies, but also seek views on whether this should apply to water only companies as well because this measure includes serious pollution incidents from the water assets as well as the wastewater assets.

## **4.5 Discharge permit compliance**

This performance commitment is designed to ensure that companies contribute to improving river water quality. It incentivises companies to operate and maintain their treatment works so that discharges into rivers meet strict parameters and rivers can improve to achieve good ecological status. It measures the number of failing sites as a percentage of total sites.

### **4.5.1 Draft methodology proposal**

We propose to retain the PR19 performance commitment as a common performance commitment at PR24. This utilises the definition in the EPA used by environmental regulators. At PR19 we referred to this performance commitment as treatment works compliance but have now amended it to use the same title as the environmental regulators.

### **4.5.2 Assessment**

Northumbrian Water and United Utilities agreed that the definition should be the same as the EPA. This is reflected in how the current discharge permit compliance measures the failing sites rather than the failing discharges.

Wessex Water proposed that the measure quantify the actual impact on the environment, favouring a more outcomes-based approach in accordance with the Environmental Act 2021, where companies are required to monitor the quality of the water potentially affected by discharges. We consider it appropriate to incentivise compliance with statutory requirements. We consider Wessex Water's proposal further as part of our assessment of our proposed storm overflows performance commitment in Section 4.8.

## 4.6 Bathing water quality

The purpose of this performance commitment is to incentivise companies to improve the quality of bathing waters. Many companies had a bespoke performance commitment in this area at PR19. These were based on the Environment Agency's and Natural Resources Wales' classification of bathing waters in a company' area.

These classifications are made for sites where a large number of people are expected to enter waters to paddle or swim. Following an application, such sites can be designated as bathing waters by the UK government or Welsh Government. The Environment Agency and Natural Resources Wales monitor the quality of designated bathing waters during the bathing season (15 May to 30 September) for intestinal enterococci and E. coli. These are faecal indicator organisms which can be from pollution from sewage, livestock, or urban sources such as misconnected drains. Based on the outcomes of these tests, they then classify each bathing water as 'excellent', 'good', 'sufficient' or 'poor'.

Defra's [consultation](#) on its Storm Overflow Reduction Plan which closed in May 2022, included a proposal to improve the quality of bathing waters.<sup>28</sup> It proposed that for storm overflows discharging into and near designated bathing waters, water companies must significantly reduce harmful pathogens by either applying disinfection, such as with ultraviolet radiation, or reduce the frequency of discharges to meet Environment Agency spill standards by 2035. We consider storm overflows further in Section 4.8.

### 4.6.1 Draft methodology proposal

We propose a bathing water quality performance commitment covering the bathing waters that can be impacted by the company.

We could base the measure on the number of bathing waters achieving the "excellent" classification in a company's area, or the improvement in bathing waters more generally (including, for example, waters that move from sufficient to good). These measures would be based directly on the Environment Agency's and Natural Resources Wales' classifications, which are made on individual bathing waters. However, these classifications allow a number of exclusions and are based on observations over four years. In line with our general approach to performance commitments, we have considered whether we can reduce the number of exclusions, and increase the focus

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<sup>28</sup> Defra, ['Consultation on the Government's Storm Overflows Discharge Reduction Plan'](#), March 2022.

on the actual outcome for customers, by measuring the average suitability of the water for bathing in during each year. This could be based on the underlying results of bathing water samples used to classify the bathing water. We will work with stakeholders over the coming months to consider whether this could drive better results for customers and the environment.

#### 4.6.2 Assessment

The quality of bathing waters is important to customers. Research suggests it has a lower priority than other performance commitments, partly because customers have a choice over swimming in bathing water, whereas drinking tap water is essential.<sup>29</sup>

Stakeholders generally supported a common performance commitment in this area. However, the lack of control by water companies over bathing water quality due to the potential activities of third parties or by variations in weather was raised by the Environment Agency, Northumbrian Water, Dŵr Cymru, Anglian Water, Yorkshire Water Wessex Water, and Thames Water.

Since privatisation, the water industry has invested more than £2.5 billion in improvements to bathing water quality.<sup>30</sup> We consider that a common performance commitment will help to hold water companies to account for this past investment and any further investment.

We recognise that in some circumstances (eg an isolated lake), there will be no potential for a bathing water to be affected by the activities of a water company. We propose to exclude these bathing waters from any performance commitment.

We also recognise that other parties can sometimes impact bathing waters. However, improvement in bathing waters has primarily been driven by improvements in wastewater treatment,<sup>31</sup> which demonstrates that water companies have a high degree of control, notwithstanding third-party impacts. We expect this to continue to be the case in the foreseeable future. As we set out in Section 2.4, an outcome does not have to be fully in a water company's control to be worth incentivising, especially in an area like this where those incentives could encourage partnership working to achieve environmental benefits. In these circumstances, we consider it is not appropriate to exclude observations which may be affected by third parties from the performance

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<sup>29</sup> ['Research on customer preferences – A joint report by CCW and Ofwat'](#), April 2022

<sup>30</sup> Defra, ['Bathing water standards published'](#), November 2012.

<sup>31</sup> European Environment Agency, ['European bathing water quality in 2021'](#), June 2022.

commitment definition. In addition, attempting to exclude the impact of third parties would introduce significant judgement as to the responsible party, which it is not always possible to distinguish. We consider that this would distract water companies from delivering improved bathing waters and instead they may focus efforts on attempting to establish fault.

We have considered three options for measuring bathing water quality:

- the percentage of bathing waters classified as 'excellent' by the Environment Agency or Natural Resources Wales;
- an approach based on weighting the classifications by the Environment Agency or Natural Resources Wales; and
- one based on the underlying sample data.

### **Percentage of excellent bathing waters**

Our [November discussion document](#) proposed measuring the proportion of bathing waters that have an excellent status. However, Wessex Water, Thames Water, Yorkshire Water, South West Water and United Utilities suggested we should take account of improving the quality of all bathing waters, for instance from sufficient to good, and not just the proportion of bathing waters that have an excellent status. We agree and therefore consider how to define the performance commitment to capture movement of bathing waters between all classification levels below.

### **Weighted classification-based approach**

In order to better account for improvements in all classifications of bathing waters, we could assign each classification a weighting and base the performance commitment on an average score. For example, we could assign 100% to excellent classification, 66% to good classification and 33% to sufficient classification, so an average of 100% would mean that all bathing waters are excellent and 0% would mean all bathing waters are poor.

Companies would then have an incentive to improve all bathing waters to improve their average scores. If we have evidence that customers value some changes between categories more than others, we could reflect this in the weighting that we assign to each category in the performance commitment definition.

We propose that this measure would only cover the sites that are designated as bathing sites in 2024, in advance of the PR24 final determinations. If, during the period, a bathing water was not classified in a given bathing season, as happened in England in 2020, we propose that the previous year's classification would apply instead. If a

bathing water were to be de-designated, we would not include that bathing water in the average score.

### Sample-based approach

We are also considering an approach which could potentially better reflect the outcome that customers experience. This could be based on underlying results of the samples collected to classify the bathing water.

The thresholds between the bathing water classifications (ie excellent, good, satisfactory, poor) that are used by the Environment Agency and Natural Resources Wales are from the 2006 Bathing Water Directive, which in turn is based on the statistical relationships between measurements of intestinal enterococci and E.coli in bathing waters and bathers becoming ill.<sup>32</sup>

Each year, the Environment Agency and Natural Resources Wales classify individual bathing waters by comparing the statistical distribution of samples taken from it over a four-year period against those thresholds.<sup>33</sup> They exclude short-term events that are not expected to occur again in a four-year period. They also exclude samples when 'pollution risk forecasts' are in place, which advise the public not to swim in bathing waters at certain times.

Excluding some samples in this way helps to provide the right information to the public about whether to enter the bathing water, when there is no sign in place advising against it. But we consider that it does not represent the outcome that customers experienced. During these events, while customers were advised not to use the bathing water, they still experienced a poor outcome – even if the event is unlikely to occur again. For the purposes of a performance commitment, we propose to include all samples so that it fully reflects the outcome for customers – both whether or not they should enter the waters and the quality of the water they experience when it is safe to bathe. Moreover, we are concerned that allowing exclusions could focus companies' attention on whether or not a particular event should be excluded rather than on improving outcomes.

However, our proposal to include all samples may make it challenging to directly compare them with the existing thresholds between bathing water classifications. This

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<sup>32</sup> Kay, D. et al. (2004) 'Derivation of numerical values for the World Health Organization guidelines for recreational waters', *Water research (Oxford)*, 38(5), pp. 1296–1304. doi:10.1016/j.watres.2003.11.032.

<sup>33</sup> Excellent and good waters are assessed using the log to the base 10 of each parameter of samples taken at the bathing water, finding the 95 percentile assuming the distribution is normal, and considering whether that meets the appropriate threshold. Sufficient waters are assessed at the 90th percentile.

is because the statistical distribution of all samples may not correspond to the underlying research that generated the existing thresholds between classifications, due to the initial research not including highly polluted water (with large values of intestinal enterococci or E.coli).<sup>34</sup>

We therefore propose to work with stakeholders to develop an appropriate way of rating bathing waters based on the underlying sample data. We could, for example, compare the samples taken from a bathing water with the samples taken at bathing waters which have consistently been rated as excellent, good, or satisfactory. For example, by considering bathing waters that are consistently classified as excellent, we could determine thresholds beyond which samples would not be consistent with the outcomes generally experienced at excellent bathing waters. The aim of a new measure would be to provide information on actual outcomes delivered. It would complement the Environment Agency's and Natural Resources Wales' classifications which are representative of normal conditions that bathers are likely to encounter when there is no advice not to bathe.

We would need to account for the bathing water categorisation criteria for inland bathing waters, which are different to coastal bathing waters.<sup>35</sup> Most inland bathing waters in England and Wales are on lakes that are not impacted by water companies. However, some sites on rivers are starting to be designated as bathing waters, such as the River Wharfe at Cromwheel in Ilkley in 2021 and Wolvercote Mill Stream in Oxford in 2022. We need to consider if the sample approach for inland bathing waters would be appropriate – we note that Ilkley was categorised as poor based on 20 samples taken in 2021. Because water companies are being encouraged to increase the number of bathing water sites on rivers, we do not consider that it would be appropriate to exclude such sites from the measure, as suggested by Wessex Water.

## 4.7 River water quality

The impact that wastewater has on river water quality is a key environmental concern for customers.<sup>36</sup> The UK government's SPS expects us to challenge water companies to improve their day-to-day environmental performance to enhance the quality of the water environment. In March 2022, the UK government consulted on a statutory target

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<sup>34</sup> For example, in a study that informed the standards the highest recorded enterococci exposure was 158 cfu per 100ml. See page 1300, Kay, D. et al. (2004) 'Derivation of numerical values for the World Health Organization guidelines for recreational waters', *Water research (Oxford)*, 38(5), pp. 1296–1304. doi:10.1016/j.watres.2003.11.032.

<sup>35</sup> Defra, [Bathing Water Quality \(data.gov.uk\)](https://data.gov.uk)

<sup>36</sup> ['Research on customer preferences – A joint report by CCW and Ofwat'](#), April 2022

for water companies to reduce phosphorus loadings from treated wastewater by 80% by 2037 against a 2020 baseline in England.

The Welsh Government also wants to see a step change in river water quality in Wales. It expects us to challenge water companies to pursue an integrated outcomes-based approach that is consistent with its requirement to achieve the Sustainable Management of Natural Resources (SMNR). The Wales Better River Water Quality Taskforce is driving a collaborative approach to identifying and then delivering actions to make improvements at pace.

#### **4.7.1 Draft methodology proposal**

We propose a common performance commitment for river water quality that measures the reduction in phosphorous from water company activities. We intend for this to cover both:

- the reduction in the amount of phosphorus discharged at wastewater treatment works; and
- the phosphorous stopped from entering rivers from wider partnership working, including by using nature-based solutions and catchment management.

We are collaborating with stakeholders through a task and finish group to establish an appropriate performance commitment for this area and will continue this work in order to develop a detailed definition.<sup>37</sup>

#### **4.7.2 Assessment**

We consider that improving river water quality is an important outcome for customers that should therefore have a performance commitment associated with it. This is in line with the views of many stakeholders (including Affinity Water, Anglian Water, Southern Water, South West Water, Wessex Water, Thames Water, Blueprint for Water, the Environment Agency and CCW).

Some stakeholders, such as United Utilities, Severn Trent Water, Northumbrian Water and Thames Water, said they are concerned that there could be overlaps with the

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<sup>37</sup> The task and finish group is jointly chaired by United Utilities and Blueprint for Water. It includes Ofwat, Environment Agency, Natural Resources Wales, Anglian Water, Dŵr Cymru, Severn Trent Water, South West Water, Thames Water and Wessex Water. We are grateful for the time and commitment of this group.

discharge permit compliance and pollution incident performance commitments. We consider each performance commitment predominantly measures a different aspect of performance. This is because a single instance of failing a discharge permit will not necessarily lead to an acute problem at the point of discharge that would be counted as a pollution incident. Moreover, while a pollution incident is damaging to river water quality, a one-off incident is unlikely to have a long-lasting impact. In contrast, our proposed river water quality performance commitment is focused on the overall health of the river. Therefore, compliance with discharge permits and low numbers of pollution incidents are necessary but not sufficient to lead to good river water quality. As discharge consents are tightened it should lead to improvements in river water quality. However, water companies have flexibility in how they manage treatment works while meeting discharge permit compliance, and the different approaches have different effects on the overall health of the river. As such, we consider measuring and incentivising river water quality directly, as far as is possible, is most likely to lead to water companies acting to improve that outcome.

Rivers may also become designated as bathing waters along particular stretches. But the requirements for river water for the general environment and the standards which make river water appropriate for humans to bathe in are very different. We therefore do not consider that these performance commitments materially overlap, although both incentivise water companies to improve their management of wastewater services.

Stakeholders including Severn Trent Water and United Utilities also highlighted that overall river water quality, as measured by the good ecological status classification, is significantly impacted by many sectors, and so would not be an appropriate performance commitment. They considered that river water quality should be addressed through the use of PCDs. We agree that it is more appropriate to focus the performance commitment on companies' contribution to pollutants in the water environment from companies' discharges, to challenge them to address nutrient pollution. We consider that this aligns with Defra's proposed Environment Act 2021 target on nutrient pollution from wastewater. As both Thames Water and Northumbrian Water identified in their responses, we need to be careful to join up with each government's policy and to ensure any measure complements WINEP/NEP investment.

We consider three options for measuring and incentivising river water quality, the first two of which were considered as possible options by the task and finish group (see above):

- reasons for not achieving good status (RNAGS);
- loads discharged from wastewater treatment works (our preferred option); or
- price control deliverables to monitor company delivery (suggested by some companies).

## Reasons for not achieving good status (RNAGS)

RNAGS are produced by the environmental regulators and represent an understanding at a point in time of why a water body does not meet the requirements of good status. We could base the performance commitment on the number of RNAGs attributed to a water company. However, the number of RNAGS can change as new information comes to light as well as because of company actions to improve water bodies. While it is important for companies to reduce the number of RNAGs, we consider it may not be sufficiently robust to place financial incentives upon this and so it is not the most appropriate approach.

## Loads discharged from wastewater treatment works

We propose to consider further how we could develop a performance commitment that measures how water companies are reducing loads discharged to rivers more directly. This is the recommended option of the task and finish group. The main pollutants from the sewerage system are compounds of nitrogen and phosphorus. However, phosphorus is the most common reason why a water body fails to be classified good status in England and Wales, and most of the phosphorus in the water environment comes from wastewater companies.<sup>38</sup> Although it is important that water companies limit all pollutants over the long term, we propose that the river water quality performance commitment focuses on phosphorus.

As part of the task and finish group, some companies suggested that actual loads being discharged by treatment works would be volatile and that we should consider basing the performance commitment on modelled amounts instead. We are concerned that modelled estimates would not be robust and consider we should use actual measurements where possible. We would need compelling evidence that using modelled amounts would be superior to actual measurements. An exception to this is where companies are involved with other stakeholders to reduce phosphorous, for example by using nature-based solutions. In cases such as these, the only practicable option may be to use modelling to assess the reduction in phosphorous provided it is well-evidenced.

We consider a performance commitment of this nature would provide a direct incentive to improve the environment over and above meeting statutory duties that are monitored by the performance commitments for pollution incidents and discharge

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<sup>38</sup> For example Defra, [Water targets Detailed Evidence report.pdf \(defra.gov.uk\)](#), May 2022, page 36 and Natural Resources Wales, '[Western Wales River Basin Management Plan 2021 – 2027 Summary](#)', May 2021, page 25.

permit compliance. It should also best reflect the impact of a company's performance on river water quality. We consider that this aligns with Defra's proposed Environment Act 2021 target on nutrient pollution from wastewater.

Companies should consider how to deliver long-term sustainable solutions that take into account factors such as the impact on greenhouse gas emissions and biodiversity.

In order to set stretching performance commitment levels, we will require historical information that includes, at the level of each treatment works:

- the amount of phosphorus discharged on an annual basis;
- the amount of annual wastewater that is treated; and
- the discharge consent level that applied.

We are collaborating with stakeholders through a task and finish group to establish an appropriate performance commitment for this area and will continue this work in order to develop a detailed definition.<sup>39</sup>

### **PCDs to monitor company delivery**

Severn Trent Water and Yorkshire Water suggest the use of a PCD for this area, rather than a performance commitment. We consider that while such outputs as the installation of measuring apparatus or discrete pieces of work with third parties may lend themselves to a PCD, it would complement the performance commitment, rather than replace it.

## **4.8 Storm overflows**

Storm overflows are safety valves within the combined sewer system designed for when it is at risk of being overwhelmed, for example during heavy downpours when a lot of rainwater runs into drains and the sewerage system in a short space of time. This protects properties from flooding and prevents sewage from backing up into streets and homes. Storm overflow spills can also occur in emergency situations, for example, if there are sewer blockages or equipment failures at wastewater treatment works.

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<sup>39</sup> The task and finish group is jointly chaired by United Utilities and Blueprint for Water. It includes Ofwat, Environment Agency, Natural Resources Wales, Anglian Water, Dŵr Cymru, Severn Trent Water, South West Water, Thames Water and Wessex Water.

Our expectation is that storm overflows are used by exception, rather than as a norm. We expect water companies to maintain their networks and equipment in such a way as to minimise any impact on storm overflow use.

The Environment Act 2021 includes new duties which will require each sewerage company in England to secure a progressive reduction in the adverse impacts of discharges from the company's storm overflows, monitor water quality near storm overflows and report on the discharges that do occur.

Defra's Storm Overflow Taskforce, which includes Ofwat, the Environment Agency and Water UK was set up in August 2020 to collectively work towards achieving the long-term aim of eliminating harm from storm overflows in England. Defra's [consultation](#) on its Storm Overflow Reduction Plan closed in May 2022,<sup>40</sup> and we expect the final plan to be published by September 2022. It sets out the following headline targets:

- Water companies shall only be permitted to discharge from a storm overflow where they can demonstrate that there is no local adverse ecological impact. This must be achieved for all storm overflow sites by 2050
- For storm overflows discharging into and near designated bathing waters, water companies must significantly reduce harmful pathogens by either applying disinfection, such as with ultraviolet radiation, or reduce the frequency of discharges to meet Environment Agency spill standards by 2035.
- Storm overflows must not discharge above an average of 10 rainfall events per year by 2050.

Under the UK government's SPS, we are expected to challenge water companies to demonstrate how they will significantly reduce the frequency and volume of sewage discharges from storm overflows, so they operate infrequently, and only in cases of unusually heavy rainfall.

In Wales, the Better River Quality Taskforce was established to evaluate the current approach to the management and regulation of storm overflows in Wales and to set out detailed plans to drive rapid change and improvement. We will consider if any changes are required to our proposals for the final methodology in light of the Taskforce's roadmap, to be published in July 2022, which sets out objectives and measurable outcomes for delivering improvements to the management and environmental regulation of overflows in Wales.

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<sup>40</sup> Defra, ['Consultation on the Government's Storm Overflows Discharge Reduction Plan'](#), March 2022

### 4.8.1 Draft methodology proposal

We propose that there should be a common performance commitment in this area to hold companies to account and incentivise them to go further in reducing the number of spills. We propose it should be the average number of spills per overflow. We will work with stakeholders to consider if there are reasons for this to differ in England and Wales to reflect the differences in legislation in this area.

### 4.8.2 Assessment

Stakeholders did not know the emerging proposals from Defra when providing views on our proposals for common performance commitments at the end of 2021. Several said they preferred measures to reduce the adverse impacts from storm overflows rather than measuring the number or volume of overflows (Thames Water, Northumbrian Water, Wessex Water, United Utilities, Anglian Water, Severn Trent Water). Yorkshire Water said it would prefer the focus to be on the causes of the issues, rather than the effects of the discharge. While we agree that the most important aspect to address is the harm to rivers, water companies must also reduce the scale of overflows that occur. Until there are monitors in place it is not possible to directly measure the environmental harm of spills. This will not be in time for the start of the 2025–30 period. In order to address performance in this area, we propose to have a common performance commitment in England based on a simple average of spills per overflow. We consider this to be the most transparent measure and the easiest for stakeholders to understand. An alternative would be to only count the number of spills over a certain point (such as 10 spills – the proposed target for English companies by 2050). This more complex approach would avoid providing incentives to reduce spills where the numbers are already low and less likely to be leading to harm to the environment. However, this will be more complex for stakeholders to understand and we consider the improvement in incentives would be minimal and so propose the simpler measure.

Some stakeholders suggested using sustainable urban drainage solutions (SUDS), with companies proposing significant investment to reduce the risk of storm overflows, instead of a common performance commitment (Environment Agency, Hafren Dyfrdwy and Severn Trent Water). Thames Water acknowledged the value of SUDS but recognised that they can take time to produce results, so considered a common performance commitment would be better. We share this view as it focuses on the outcome and better aligns with the expectations of the UK government's SPS.

In Wales, there is no explicit legislative requirement to reduce the number of spills. The upcoming roadmap on storm overflows in Wales, with possible action plans or programmes for improvements developed through their partnership working, will help

to inform the appropriateness of developing performance commitments in this area for Wales.

## 5. Asset health

Asset health performance commitments provide information about operational resilience. We propose focusing on three key asset health performance commitments, shown in table 5.1. In our April discussion document<sup>41</sup> we intend to complement them with further monitoring outside the price review, to form a holistic and complete view of asset health and operational resilience.

**Table 5.1 – PR24 asset health performance commitments**

Water and wastewater	Water only	Wastewater only
	Mains repairs Unplanned outage	Sewer collapses

### 5.1 Mains repairs

This performance commitment is designed to incentivise the company to maintain and improve the below ground water mains network. While repairing a water main can improve outcomes for customers, the increasing need to do this over time indicates the company is not managing its network appropriately such as by replacing or relining its water mains.

#### 5.1.1 Draft methodology proposal

We propose to include a common mains repair performance commitment for PR24 using the same definition as PR19. This measures the number of physical repairs to mains from which water is lost. To be able to compare companies, the total number of mains repairs is divided by the length of the company's mains.

#### 5.1.2 Assessment

We consider that the mains repairs performance commitment continues to be the best available performance commitment for PR24 for incentivising companies to improve the asset resilience of water mains. It incentivises all companies to manage their water networks, target mains to replace and reline, and ensure work is carried out to high

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<sup>41</sup> Ofwat, ['Operational resilience discussion paper'](#), April 2022

standards to reduce the chance of future bursts occurring. Minimising the number of mains repairs also has a positive impact on vehicle and pedestrian delays, disruption to the public and businesses, noise pollution, as well as additional greenhouse gas emissions produced during traffic delays.

CCW and Severn Trent Water supported retaining the PR19 asset health performance commitments. Severn Trent Water noted that an element of continuity is an important way of encouraging a longer-term focus.

Thames Water and United Utilities suggest we exclude company-identified mains repairs to avoid disincentivising leakage reductions. As we set out in our [April discussion document](#), there are two reasons why we do not consider that this is appropriate for PR24:

1. We are concerned that companies do not consistently differentiate between customer-identified mains repairs and company-identified mains repairs.
2. A financial incentive to reduce only the number of customer-identified mains repairs could lead to unintended consequences. This is especially the case as companies can anticipate that there will be increases in mains bursts in cold weather and a resulting increase in customers identifying repairs. Having financial incentives on customer-identified repairs only could disincentivise companies from increasing resources at call centres to deal with these issues.

Thames Water and United Utilities did not provide evidence of how we could overcome these problems, although they committed to working to reach greater consistency in reporting.

We are mindful that increased leakage control activities could have an impact on mains repairs performance. Therefore, we will consider if we need to revise the assumptions about short-term increases in the number of mains repairs related to leakage activities that we made at PR19 to ensure that water companies were not disincentivised from reducing leakage. At PR24 we expect to have more data to understand the correlation between active leakage reduction and mains repairs, building on the experience of companies reducing leakage over recent years. We could also calibrate incentives to prioritise leakage reduction over reducing mains repairs, ie make sure that reducing leakage would lead to a greater increase in revenue from outperformance payments than the reduction in revenue from underperformance payments from proactively repairing more mains than expected.

Affinity Water noted that performance on mains repairs depends on actions over previous decades and that to act as an effective incentive, greater clarity would be needed on the nature and expected performance level over coming decades in order to

set the mains replacement and relining levels of today accordingly and focus innovation efforts. We consider that we need a continued focus on mains repairs, in PR24 and future price reviews, to incentivise such long-term investment. We discuss our approach to providing greater certainty over incentive rates at PR29 in Appendix 8. As set out, companies should expect there will be a continued focus on assessing asset health and operational resilience in future and so have clear incentives to make appropriate investment decisions.

## 5.2 Unplanned outage

This performance commitment is designed to incentivise the company to maintain and improve its above ground water assets.

### 5.2.1 Draft methodology proposal

For PR24, we propose to maintain a common performance commitment that measures the unplanned loss of peak week production capacity and reports this loss as a percentage of the overall company peak week production capacity. However, we propose to remove exclusions (see Appendix 7 for the proposed definition).

### 5.2.2 Assessment

No respondents disagreed with this performance commitment when we proposed it in the [April discussion document](#). We also consider that unplanned outage should remain a performance commitment at PR24. It provides an appropriate incentive for all companies to ensure that treatment works are maintained to reduce the risk that unplanned outage occurs when capacity is required.

As set out in Section 2.4, we consider that risks should be borne by those that can best manage them. We consider that companies are best placed to manage risks associated with unplanned outage and do not consider that exclusions are appropriate for this performance commitment.

## 5.3 Sewer collapses

This performance commitment is designed to incentivise the company to maintain and improve the wastewater assets below ground.

### **5.3.1 Draft methodology proposal**

We propose to continue with a common performance commitment for PR24 using the same definition as PR19. This measures the number of structural failures to pipes that result in a service impact to a customer or the environment.

### **5.3.2 Assessment**

We consider that the sewer collapses performance commitment should continue to be a performance commitment for PR24. It provides appropriate incentives for companies to monitor their networks and proactively resolve problems so that sewers have structural integrity.

CCW and Severn Trent Water supported retaining the PR19 asset health performance commitments.

United Utilities also proposed an additional performance commitment on sewer blockages as a measure of asset health because it is concerned that not having a performance commitment would reduce companies' focus on sewer blockages. We consider that a focus on reducing sewer flooding, storm overflows and pollution incidents, as reflected by our proposed performance commitments for PR24, will ensure a focus on reducing sewer blockages and that adding a common performance commitment on sewer blockages would be duplicative.

## 6. Further stakeholder proposals for common performance commitments

Following our [November discussion document](#), some stakeholders proposed additional common performance commitments. We have considered them but in many cases propose to regulate those outcomes or activities in other ways, including in other parts of the price review – or through our wider monitoring and powers. We also explain why we have excluded some of the PR19 common performance commitments.

The performance commitments considered in this section relate to void properties, gap sites, the priority services register, further affordability and vulnerability performance commitments, the Events Risk Index, metering, lead pipes, low water pressure, embedded greenhouse gas emissions, environmental programmes, the abstraction incentive mechanism, catchment management, the Environmental Performance Assessment, drought resilience, and the risk of sewer flooding in a storm.

### 6.1 Void properties

Voids are properties classified by water companies as being vacant; however, some voids are occupied, and should actually be billed. It is in customers' interests for water companies to have accurate records of occupied properties and bill them correctly, as this helps to reduce average bills across all customers. We expect companies to identify houses that are occupied and so reduce the proportion of properties they incorrectly identify as void.

#### 6.1.1 Draft methodology proposal

We do not consider it appropriate to include a common performance commitment relating to either residential or business void premises in PR24.

We propose that we should instead use other policy tools to continue to challenge companies to bill all possible properties. Where there is very limited competition – such as for the residential properties of all companies, and business properties in Wales – this could include, for example, reviews of the accuracy of companies' billing using independent information and challenge companies that are not billing all properties that they should. For business properties in England, we consider the issue is best addressed through the market performance framework (MPF).

## 6.1.2 Assessment

### Residential and Welsh business premises voids

Several stakeholders (Yorkshire Water, Severn Trent Water, Affinity Water and Thames Water) were concerned that just considering the level of void properties did not help to identify properties that could be billed but were not. Anglian Water, Thames Water, South East Water and United Utilities consider that different geographical areas will have different levels of void properties, due to socio economic factors that are outside of a company's control, and that a performance commitment would have to retain some flexibility to properly account for these differences.

At PR19 we considered it was appropriate to incentivise companies to bill all properties using a performance commitment, based on the number of properties identified as void, as there was evidence that water companies were not billing significant numbers of properties that were using services and we considered the number of void properties identified was likely to be erroneously high. However, it was challenging to set an appropriate performance commitment level. Moreover, as companies address billing issues through the 2020-25 period, there is a risk that any remaining unbilled properties that use services may have relatively low bills – for example due to low consumption levels. This means that there is a greater risk that the incentive payments funded by customers would be larger than the additional revenue from billing, which could result in customers' bills going up not down.

We therefore propose to not have a performance commitment in this area at PR24. Instead, we propose to review the accuracy of companies' billing using independent information<sup>42</sup> and challenge companies that are not billing all properties that they should.

### English business voids

Retailers are now responsible for billing all eligible business customers in England. If a retailer believes a business premise to be unoccupied, it will mark it as vacant on the central market operating system (CMOS). Since market opening the number of vacant business properties has increased (with around 16% of all eligible business premises marked as void in CMOS). This could be influenced by the lack of commercial incentives on retailers to incur additional costs from locating customers and bringing them back into charge when around 90% of the bill comprises wholesale charges. Incentives on retailers to incur additional costs by bringing business customers into charge may also

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<sup>42</sup> For example , UK government, '[Table 615: vacant dwellings by local authority district: England from 2004](#)'.

be influenced by a water company's wholesale policies on charging and the extent to which wholesale charges are levied (for fixed and volumetric charges) where business properties are marked as vacant.

We have considered whether this issue is best addressed within the market (ie, through the MPF as suggested by CCW, United Utilities, Affinity Water and Thames Water), or through a common performance commitment on void business premises. We conclude that the issue is best addressed through the MPF. The MPF can employ a variety of tools (including financial incentives but also including audit, rectification etc) that can be used to understand and tackle the root causes of vacancy in the business retail market. In addition, there are likely to be significant overlaps and linkages between any incentives on vacancy and other data quality items (eg gap sites) that will need to be reflected in a cohesive performance framework focused on improving the overall quality of market data.

## 6.2 Gap sites

A gap site is a property where water and/or wastewater services are provided, but the property is not on a water company's system and is therefore not billed.

### 6.2.1 Draft methodology proposal

We do not think it is appropriate to have a performance commitment for gap sites at PR24. There is already a small incentive through the residential retail price control (and the business residential control in Wales) for companies to identify and bill gap sites as these retail controls allow a fixed amount per customer, which we consider is sufficient. We consider incentives to identify and bill gap sites in the business sector are best addressed through the MPF rather than performance commitments.

### 6.2.2 Assessment

We consider there are several reasons that a performance commitment is unsuitable in this area.

First, gap sites are by nature something that a company has not measured, and it is therefore hard to set an appropriate performance commitment level.

Second, we consider that many gap sites should have been identified over the last 30 years and this should be a reducing issue.

Third, a performance commitment could create perverse incentives. This is because gap sites tend to arise when a company has poor internal processes for registering new properties on billing systems. A performance commitment would give companies a share of the increased billing, so a performance commitment for gap sites could see companies being given outperformance payments for a historical lack of data quality or inadequate handling processes. Moreover, a performance commitment does not solve the problem of companies keeping billing systems up to date as new properties are built.

We note that there is already a small incentive through the residential retail price control (and the business residential control in Wales) for companies to identify and bill gap sites as these retail controls allow a fixed amount per customer, which we consider is sufficient. We consider incentives to identify and bill gap sites in the business sector are better addressed through the MPF rather than performance commitments.

## 6.3 Priority services register

The priority services register (PSR) is how utility companies identify people that require specific assistance for their needs, for example due to a health condition or life circumstance. At PR19, we had a non-financial performance commitment that measured the proportion of customers on the PSR.

### 6.3.1 Draft methodology proposal

We propose that companies' responses to customer vulnerability challenges should be monitored and incentivised through means other than financial performance commitments, set out in Section 6.4.

### 6.3.2 Assessment

At PR19, there were very low numbers of customers on the PSR, and we considered that a non-financial performance commitment was appropriate to increase those numbers. However, we consider it is now appropriate to focus companies more broadly on considering the quality of the service and support provided to those customers with specific requirements, rather than simply identifying customers to add to the priority services register. Respondents to the [November discussion document](#) were generally supportive of this view.

## 6.4 Further affordability / vulnerability performance commitments

At PR19 a number of companies had bespoke performance commitments measuring the support given to vulnerable customers or those that struggled to pay their bills. Since PR19, CCW has conducted an independent review of water affordability, in which we, companies, the UK government, the Welsh Government, and the wider sector were closely involved.<sup>43</sup> The review recommendations are now playing a major role in prioritising policies and activities in this area.

### 6.4.1 Draft methodology proposal

We outline our approach to affordability for PR24 in [Appendix 1](#). This sets out that we will consider overall affordability when setting our price limits and we are also proposing affordability forms part of the business plan incentives for PR24, as set out in the PR24 draft methodology consultation document. But we think issues relating to social tariffs and vulnerability are best dealt with outside PR24, because it allows us to respond more flexibly to changing circumstances.

### 6.4.2 Assessment

In response to our [November discussion document](#), Northumbrian Water suggested that efforts should centre on reducing or eradicating water poverty, with accompanying PCDs, while other respondents made similar points.

National Energy Action, Thames Water, Yorkshire Water and United Utilities, suggested performance commitments relating to the reduction of customer debt alongside partnership working. Anglian Water said it preferred to have separate performance commitments for vulnerability and affordability, while CCW reiterated the need for the effectiveness of any assistance to be tracked in a transparent way. There was concern from Thames Water and National Energy Action that not having a performance commitment could reduce a company's focus on supporting customer with vulnerability and affordability challenges.

We agree with the importance of collecting, tracking and reporting on consistent metrics on affordability and vulnerability, not least because of the reputational incentives that the reporting may generate. In reissuing our guidance to companies on

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<sup>43</sup> CCW, [Independent Water Affordability Review](#), May 2021.

managing customer debt, we have asked companies to submit information by the end of this year on how they are supporting customers in debt, and we have committed to revisiting the information we gather annually on customer debt.<sup>44</sup> We currently collect certain affordability and vulnerability information as part of the annual performance reports.

We consider that this reporting and tracking is best dealt with outside PR24, because it allows us to respond more flexibly to changing circumstances. We do not propose to have financial performance commitments relating to affordability or vulnerability, but are proposing overall affordability forms part of the business plan incentives for PR24.

CCW's affordability review made ten key recommendations, one of which was to introduce a sustainable, single social tariff to eliminate water poverty in England and Wales at the 5% level (whereby households would not spend more than 5% of their disposable income on water bills). The sector is now working with the UK government and the Welsh Government looking to implement this recommendation. Its implementation would necessitate information gathering and reporting water affordability metrics. The treatment of vulnerable customers also remains a key concern. As discussed in Section 3.1, we are concerned that companies' understanding of the experience of vulnerable customers is limited and we have made clear that companies should take forward work to improve their understanding of vulnerable complainants' experiences.<sup>45</sup> If there are indications that vulnerable customers are not being treated fairly, we will consider what further action to take. In doing so, we will consider relevant aspects of the Public Sector Equality Duty. We will also consider how best to monitor companies' future performance in this area as part of our work to introduce a new customer-focused licence condition. We may consider whether C-MeX could be adapted to better incentivise treatment of vulnerable customers.

## 6.5 Event risk index (ERI)

The Event Risk Index (ERI) is a metric which has been reported to the Drinking Water Inspectorate (DWI) since 2017 and measures the impact on customers of drinking

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<sup>44</sup> As part of our '[Decisions on updating our Paying fair guidelines](#)', which are guidelines for water companies in supporting residential customers pay their bill, access help and repay debt, we have asked companies to update their policies and procedures in this area and provide us with supporting information by 31 December 2022.

<sup>45</sup> See Ofwat and CCW, '[Putting things right: household complaints practices in the England and Wales water industry](#)', November 2020.

water events. It includes the severity of the event, the population and duration that the event affects, and a measure of how the company responds.

Several measures are multiplied together for each event in the calculation of an ERI score, which can lead to the measure being volatile. The metric is not always proportionate to the impact on customers.

### 6.5.1 Draft methodology proposal

We consider strong incentives on CRI and water quality contacts, which we are proposing for PR24, should ensure that companies prioritise providing wholesome drinking water to customers. However, we could consider how to use ERI as part of our proposed integrated monitoring framework for operational resilience, recently discussed in our [April discussion document](#).

### 6.5.2 Assessment

Most respondents also considered that ERI should not be a common performance commitment for PR24. Reasons given included:

- potential overlaps with other performance commitments (making it difficult to distinguish between ERI, CRI and water quality contacts in terms of engagement and valuation of service improvement);
- volatility of the measure;
- that the DWI's enforcement powers already drive good performance in this area;
- potential inconsistencies in company reporting of events to the DWI;
- the perceived subjectivity of DWI inspectors' assessment of events; and
- scores not always relating to customer impacts (so it is not outcomes focused).

Dŵr Cymru and Portsmouth Water suggested that some of these points could be overcome through measuring performance on a three-year rolling average basis, introducing caps and collars and/or making it a non-financial performance commitment.

We have considered these points. We consider averaging performance over three years would risk poor performance in one year dominating reporting for three years, due to the high volatility of this measure. This could lead to companies not meeting their performance commitment levels for three years due to a single event, which may not have had any known impact on customers. As set out in Section 5.1 of Appendix 8, we propose to limit the number of caps and collars at PR24. And, as set out in Section 2.2

we do not propose to have any performance commitments that only have non-financial incentives. In any case, ERI is already publicly reported each year by the DWI, so further publication of the metric would add little value.

We therefore agree with the majority of respondents that the volatility and potential overlaps with other performance commitments makes ERI unsuitable for a common performance commitment at PR24.

Instead, we consider strong incentives on CRI and water quality contacts, which we are proposing for PR24, will ensure that companies prioritise providing wholesome drinking water to customers. However, we note that the principles behind the calculation include elements that can reflect aspects of resilience, such as the impact of an event in terms of the population affected and its duration. We could therefore consider how to use ERI as part of our proposed integrated monitoring framework for operational resilience, recently discussed in our [April discussion document](#). Considering this information as part of a holistic view of operational resilience could help to improve understanding of risks and support increased confidence in the ability of companies to provide resilient services.

## 6.6 Metering

Metering helps to reduce customers' use of water as well as helping companies to identify leakage.

### 6.6.1 Draft methodology proposal

We propose to focus on the end outcomes from increased metering such as reduced water demand. Where we allow additional expenditure for metering programmes, we may use PCDs to incentivise delivery.

### 6.6.2 Assessment

A number of stakeholders raised the importance of metering, especially noting the need for improvements to business customers' meters and suggesting replacement with smart meters (UKWRC, Business Stream, MOSL, Arquiva).

We consider that driving improvements by focusing on the outcomes of lower water demand and leakage will deliver the greatest benefits. This provides incentives for companies to not only deliver more metering, but also to ensure that it is the right

technology in the right place, as part of a holistic programme of work to deliver the greatest benefits. Just measuring the number of meters could lead to poor quality meters being delivered in an uncoordinated way. We therefore do not propose to have performance commitments for metering.

Where we allow additional expenditure for metering programmes, we may use PCDs to ensure companies deliver outcomes in future price control periods (see Appendix 9). We expect PCDs to apply to all enhancement schemes identified in WRMPs, unless otherwise covered by performance commitments.

## **6.7 Lead pipes**

The reduction of lead in water can lead to health benefits for customers.

### **6.7.1 Draft methodology proposal**

We consider that PCDs will be the appropriate way to track delivery of any enhancement expenditure granted for this purpose.

### **6.7.2 Assessment**

Due to the localised nature of future lead pipe replacement and the difficulty in identifying the overall benefits to customers, there is widespread agreement from stakeholders that this should not be a common performance commitment.

Specific programmes of pipe replacement may be proposed by companies to reduce lead in pipes. Where this is the case, we consider that PCDs will be the appropriate way to incentivise delivery.

## **6.8 Low water pressure**

Low water pressure was a bespoke performance commitment for eleven companies at PR19. The performance commitments measure the total number of properties in the company's area over the year that received, and are likely to continue to receive, a pressure or flow below the reference level of 15 metres per head. Maintaining the existing high standard of water pressure for customers remains important.

### 6.8.1 Draft methodology proposal

We will consider how we might incorporate information on low pressure as part of our proposed integrated monitoring framework for operational resilience, discussed in our [April discussion document](#).

### 6.8.2 Assessment

All respondents that provided a comment agreed that low water pressure should not be a common performance commitment for PR24.

Fewer than 7,000 properties were affected by low pressure by March 2020, which is less than 0.03% of properties.<sup>46</sup> We expect this will reduce further by 2025, assuming that companies meet their PR19 performance commitment levels. While we expect companies will continue to address this issue, for most companies it results in a net change of only a few properties each year. There is also a guaranteed service standard payment (GSS), direct to the customer, if there are low pressure incidents below the statutory standard.

While we do not propose a common performance commitment, if a company is delivering poor service, we expect the company to propose a bespoke performance commitment and we may impose one if it does not.

Affinity Water considered, in any case, that the current measure companies reported on Discover Water could be improved by measuring the average time that properties experience low pressure as opposed to properties at risk.

## 6.9 Embedded greenhouse gas emissions

Embedded greenhouse gas emissions must be addressed to ensure the UK government's and Welsh Government's end and interim targets on net zero emissions are met.<sup>47</sup>

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<sup>46</sup>[DiscoverWater](#) (accessed 2020)

<sup>47</sup> Ofwat, [Net zero principles position paper](#), January 2022.

### 6.9.1 Draft methodology proposal

For the UK government's and Welsh Government's net zero emissions targets to be achieved, all companies must make progress on managing and reporting of embedded greenhouse gas emissions. We encourage companies to consider whether a bespoke performance commitment could deliver significant benefits to its customers. For this to be the case companies need to be able to report on their embedded greenhouse gas emissions in a verifiable and robust manner. They will also need to provide information on emissions over time so that they can demonstrate that performance commitment levels in their business plans are stretching but achievable.

### 6.9.2 Assessment

Many respondents considered that there should not be a common performance commitment for embedded greenhouse gas emissions at PR24, recognising the variation in maturity of the definition, measurement techniques and reporting methodologies (Thames Water, Affinity Water, Northumbrian Water, Wessex Water, United Utilities, South East Water, Severn Trent Water, Portsmouth Water, Dŵr Cymru, SES Water, Anglian Water). We agree that it is not currently feasible to introduce a common performance commitment which we could be confident all companies would report consistently by the start of the 2025-30 period.

However, for the UK government's and Welsh Government's net zero emissions targets to be achieved, companies need to make progress in managing and reporting their embedded greenhouse gas emissions. We expect all companies to report information on an annual basis in their annual performance reports in the 2025-30 period, with a view to enabling the adoption of a common performance commitment for this measure at PR29. Although most water companies are not yet able to consistently report on their embedded emissions, they should still demonstrate that they are taking meaningful action to reduce their embedded emissions, including when justifying related investment decisions.<sup>48</sup> As we set out in our [net zero principles position paper](#), the industry must address both sources of emissions in parallel to achieve net zero emissions by 2050.

Where companies are able to make more rapid progress on tackling and reporting on their embedded emissions, in a verifiable and robust manner, we encourage such

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<sup>48</sup> Ofwat, Consultation on regulatory reporting for 2021-22 – Responses document, October, 2021.

companies to consider whether a bespoke performance commitment could deliver significant benefits to its customers.

## 6.10 Environmental programmes

Companies must deliver the water industry national environment programme (WINEP) in England and national environment programme (NEP) in Wales. At PR19, most water companies had bespoke performance commitments that track the number of schemes that are delivered. There are a range of price review tools that we propose to use to encourage the successful delivery of the WINEP and NEP.

### 6.10.1 Draft methodology proposal

The price review will provide the funding necessary to deliver the WINEP and NEP. We propose to use common performance commitments for river water quality, bathing water quality, storm overflows, biodiversity and operational greenhouse gas emissions to provide incentives that focus on the outcomes that the programmes deliver, instead of just delivery of specific asset improvements. We explain in Appendix 9 how we intend to use PCDs to protect customers where we allow expenditure to deliver specific projects that are not covered by performance commitments.

The [WINEP methodology](#) sets out that the Environment Agency may allow WINEP actions that are not linked to a specific output, but instead describe a water company's contribution to a higher level goal or outcome, such as the company's contribution to the 25 Year Environment Plan. Where appropriate these could be measured by bespoke performance commitments, if not already covered by common performance commitments. The Welsh Government also has a strategic objective to adopt an outcomes-based approach. Natural Resources Wales said that it is supportive and that it is consistent with the Welsh requirement to achieve the Sustainable Management of Natural Resources (SMNR). We will also consider if this necessitates any bespoke performance commitments.

### 6.10.2 Assessment

As explained in Section 2.1, we consider that performance commitments should reflect key outcomes. Where there is investment that are not covered by these performance commitments, we consider that PCDs are the best price review tool to push companies to deliver these environmental improvements and protect customers from non-delivery.

South Staffs Water and Affinity Water agreed with our view that customers may be better protected from non-investment through the use of PCDs.

## 6.11 Abstraction incentive mechanism (AIM)

The abstraction incentive mechanism (AIM) encourages water companies to reduce the environmental impact of abstracting water at environmentally sensitive sites when water is scarce.

### 6.11.1 Draft methodology proposal

The price review will provide the funding necessary to deliver the WINEP and NEP, including actions to address chalk streams

Companies should propose a bespoke AIM performance commitment where they can show it is likely to deliver benefits. Where the benefits are unclear companies could instead report publicly on its progress on AIM without it being set as a performance commitment.

### 6.11.2 Assessment

Amongst those that responded on this there was agreement that this measure should not be a common performance commitment. We agree that AIM is not appropriate for a common performance commitment, as the mechanism requires detailed information for each site that is included and therefore the definition is not likely to be the same for each company.

At PR19 we expected all companies to have AIM as a bespoke performance commitment. We are not proposing to have this requirement for PR24. In its response to our [November discussion document](#) the Environment Agency told us that it considered the environmental benefits from companies having AIM performance commitments are unclear. It said that "Experience with abstraction reduction in sensitive systems such as chalk streams tells us that switching abstractions off completely is likely to be far more effective than making large percentage abstraction reductions; thus, the benefit of small abstraction reductions is questionable". As we are unable to be clear of the benefits of AIM performance commitments, we will not require that companies have a bespoke AIM performance commitment at PR24.

Where companies can show that an AIM bespoke performance commitment is likely to deliver benefits, it should propose one. Where the benefits are unclear companies could instead report publicly on its progress on AIM without it being set as a performance commitment. In either case we would expect companies to have clear plans on how it will evaluate the environmental benefits from its approach.

We explain in Appendix 9 how we will use PCDs to protect customers where we allow costs to deliver specific projects, such as improvement to chalk streams, that are not covered by performance commitments.

## 6.12 Catchment management

Companies work with farmers and other landowners to manage land in a way that protects water quality, especially where a risk has been identified to raw water quality. Catchment management has a range of benefits including increasing biodiversity and reducing greenhouse gas emissions.

### 6.12.1 Draft methodology proposal

We do not consider it appropriate to have a common performance commitment focused on catchment management. We consider that the introduction of common performance commitments for operational greenhouse gas emissions and biodiversity means that there are already incentives for companies to move away from end of pipe solutions and instead work with stakeholders to manage problems at source. Catchment management as well as other nature-based solutions will also be supported by our emphasis on best value and by taking account of wider environmental and social benefits when assessing enhancement schemes as part of the WINEP and NEP (see Appendix 9). It will also be supported by a move towards a more outcomes-based approach for the WINEP and NEP.

### 6.12.2 Assessment

South West Water, the Environment Agency and South East Water propose to include catchment management as a common performance commitment, believing that both it and biodiversity are necessary to drive innovation of nature-based solutions. However, the drive to reduce operational greenhouse gas emissions through a common performance commitment, and a biodiversity common performance commitment, means that there are already incentives for companies to move away from end-of-pipe solutions and instead work with stakeholders to manage problems at source. We

consider that the inclusion of catchment management as a common performance commitment would duplicate incentives. This is also the view of United Utilities, Affinity Water, CCW, and South Staffs Water.

Nature- and catchment-based solutions, should be used where they are effective solutions, which will depend on local circumstances. As set out in Section 2.1, we propose to take an outcomes approach where possible. We consider setting incentives on the benefits these schemes provide, rather than the number of schemes, will push companies to use these approaches where it can deliver benefits.

Catchment management as well as other nature-based solutions will also be supported by our emphasis on best value and taking account of wider environmental and social benefits when assessing enhancement schemes as part of the WINEP and NEP. It will also be supported by a more outcomes-based approach for the WINEP and NEP.

South West Water, Severn Trent Water and Affinity Water propose retaining bespoke performance commitments for catchment management. We consider companies would need to demonstrate that a bespoke performance commitment would be necessary to deliver significant benefits that would otherwise not be delivered. We consider this is unlikely given the introduction of the new common performance commitments.

## 6.13 Bioresources

This measure relates to the safe disposal of bioresources, also known as sewage sludge. It is based on a metric formerly reported to the Environment Agency and Natural Resources Wales as part of the Environmental Performance Assessment (EPA).

Most water and wastewater companies included the metric as a bespoke performance commitment at PR19. Sludge was previously considered a waste product; however, it is now being seen increasingly as a valuable resource.

It is used in two main ways:

- conversion to renewable energy as part of the treatment process; and
- the solid products being spread to land as fertiliser as part of the disposal process.

We want companies to maximise the value of this resource, while making sure that their activities do not harm the environment.

### **6.13.1 Draft methodology proposal**

We consider environmental regulators including a metric relating to the safe disposal of bioresources in the EPA will provide sufficient incentive for companies in this area.

If we become aware of a specific risk that a company may not deliver 100% compliance, we could introduce a bespoke performance commitment for that company. Regardless of what performance commitments we specify, companies must deliver their legal obligations and we will follow our approach to enforcement where companies fall short.

### **6.13.2 Assessment**

Only four respondents directly addressed bioresources. The Environment Agency asked for a drive within PR24 to help improve the resilience of the supply chain to agriculture. Yorkshire Water supported this view, identifying compliance with the Industrial Emissions Directive as an area of uncertainty, but one that has the potential to drive investment. This uncertainty within the regulatory framework was the reason that United Utilities said it did not support a common performance commitment for bioresources, as it said there could be significant changes in the way sludge treatment and disposal is managed. CCW said it considered that this was an activity that falls under the EPA and therefore does not require a separate performance commitment.

Water companies must ensure that they can safely dispose of bioresources and have adequate resilience, including the ability to store bioresources if they are not able to dispose of it due to factors such as weather. Until 2018, water companies reported a sludge metric as part of the EPA, but the Environment Agency and Natural Resources Wales suspended reporting to review how they assess and report performance consistently across the water companies on this activity in the future.

We understand that the environmental regulators are likely to reintroduce a satisfactory sludge use or disposal metric for the EPA during the 2020-25 period. We understand that latest information suggests that the majority of companies will be likely to report 100% compliance. We therefore propose to not have a common performance commitment for the safe disposal of bioresources. We consider environmental regulators including this in the EPA will provide sufficient focus for companies.

If we become aware of specific risks that a company may not deliver 100% compliance, we could introduce a bespoke performance commitment for that company. Regardless of what performance commitments we specify, companies must deliver their legal

obligations and we will follow our approach to enforcement where companies fall short.<sup>49</sup>

## 6.14 Environmental Performance Assessment (EPA)

This is an overall assessment of six metrics that set out how the water and wastewater companies comply with specific obligations that environmental regulators enforce. Performance against these six metrics is an important indicator of how companies may be performing more generally against their duty to deal effectually with the contents of sewers under section 94 of the Water Industry Act (including Regulations 4 and 5 of the Urban Waste Water (England and Wales) Regulations 1994)<sup>50</sup>.

The six metrics are:

- Total pollution incidents (proposed common performance commitment for PR24).
- Serious pollution incidents (proposed common performance commitment for PR24).
- Discharge permit compliance (proposed common performance commitment for PR24).
- Self-reporting of pollution incidents.
- Environment Programme (WINEP/NEP) scheme delivery.
- Supply Demand Balance Index (SDBI).

The resulting assessment is a rating between one and four stars. EPA metrics are set by the Environment Agency and Natural Resources Wales. They are yet to decide all the metrics that will be used for reporting for the 2026 calendar year and beyond.

### 6.14.1 Draft methodology proposal

We are encouraging companies to make progress on issues through individual performance commitments on pollution incidents, serious pollution incidents and discharge permit compliance.

In addition, we propose to support improvements in the supply demand balance through performance commitment(s) on water demand (see Section 4.3) and PCDs on

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<sup>49</sup> [Ofwat's approach to enforcement](#), January 2017

<sup>50</sup> ['Water Industry Act 1991'](#), UK Public General Acts, section 94,

funded water supply options. In Section 6.10, we set out how we will hold companies to account for delivering WINEP and NEP schemes.

### **6.14.2 Assessment**

We consider putting incentives on key elements of the EPA is more effective than attaching incentives to the aggregate EPA score, which could blunt incentives to improve a metric that would be unlikely to result in a change in the company's overall star rating.

We also considered including the EPA in addition to the other common performance commitments. However, we consider the metrics that we are proposing will account for a significant amount of the EPA classification and including the EPA in addition to these would duplicate incentives.

In addition to using the three individual metrics as individual performance commitments, we support improvements in the supply-demand balance through performance commitment(s) relating to water demand and PCDs on funded water supply options. We explain in Appendix 9 how we will use PCDs to protect customers where we allow costs to deliver specific projects that are not covered by performance commitments. These will also cover the WINEP and NEP programmes as well when not covered by specific performance commitments.

Some stakeholders supported including the EPA as a common performance commitment, considering it would simplify reporting (Yorkshire Water) and lead to better alignment with other regulators (Severn Trent Water, CCW). In particular, the Environment Agency said it would welcome including the EPA alongside existing performance commitments. Other respondents agreed with our assessment that the EPA as a common performance commitment would introduce duplication with existing performance commitments (South West Water, Anglian Water, United Utilities, Northumbrian Water, Thames Water, Welsh Water) and were it to replace the existing measures, their impact would be reduced (Hafren Dyfrdwy, Severn Trent Water and Wessex Water). In addition, some mentioned that changes to EPA rating thresholds and the potential introduction of new metrics part way through the five-year price control period could affect the price control framework as it could change the requirements on companies (South West Water, United Utilities, Thames Water).

## 6.15 Drought resilience

PR19 included a non-financial drought resilience performance commitment designed to help prevent turning off the supply to customer taps in serious droughts. It measures the percentage of the customer population at risk of experiencing severe restrictions in a 1-in-200 year drought, on average, over 25 years.

### 6.15.1 Draft methodology proposal

We expect companies to make progress in efficiently planning and delivering on current and future resilience levels. We will review companies' draft water resources management plans (WRMPs) in autumn 2022 on this basis and provide feedback that we expect to be addressed for the business plan submissions. We will also use the WRMP annual review process to support tracking company delivery of positive supply-demand balances against increasing levels of drought resilience.

### 6.15.2 Assessment

The current PR19 performance commitment for drought resilience relies on company modelling. While we expect companies to carry out their modelling in line with industry good practice, we are aware of issues around comparing companies' performance. This is, in part, due to variation in the approaches and assumptions used by companies. For instance, the conclusion of the Outcomes Working Group in April 2021<sup>51</sup> highlighted doubts that all companies used similar assumptions to calculate the drought resilience performance commitment.

Addressing these issues could require complex and onerous reporting requirements. We consider that there is benefit in the continued reporting of such information, but do not consider this measure to be appropriate for financial incentives. Anglian Water and Severn Trent Water agreed with this assessment in their responses to the April discussion document<sup>52</sup>, as well as with our proposal to continue to monitor this measure.

Since PR19, the drought resilience levels that companies plan to in their water resources management plans has moved to a 1-in-500 year event. The water resources

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<sup>51</sup> Ofwat, ['Capacity and resilience over the long term – meeting summary'](#), Outcomes Working Group, April 2021.

<sup>52</sup> Ofwat, ['Operational resilience discussion paper'](#), April 2022.

planning guidelines for WRMP24 require companies (and regional groups) to plan so that systems are resilient to a 1-in-500 year chance of failure caused by drought. Companies should aim to achieve this level of resilience by 2039, with flexibility in timescales where costs are exceptionally high locally in comparison to benefits resulting in companies presenting a delivery by 2050 scenario. As companies are now planning to meet this more resilient level of service, it is unlikely that many companies will report any risks to the 1-in-200 year level during 2025-30. We expect companies to make progress in efficiently planning and delivering on current and future resilience levels. We will review company draft WRMPs in autumn 2022 on this basis and provide feedback that we expect to be addressed for the business plan submissions. We will also use the WRMP annual review process to support tracking company delivery of positive supply-demand balances against increasing levels of drought resilience.

## 6.16 Sewer flooding in a storm

PR19 included a non-financial performance commitment for sewer flooding in a storm. It is measured as the percentage of the region's population at risk from internal hydraulic flooding from a 1 in 50-year storm, based on modelled predictions.

### 6.16.1 Draft methodology proposal

We propose that sewer flooding in a storm is monitored through wider operational resilience monitoring.

### 6.16.2 Assessment

There are several issues with the PR19 performance commitment which make it unsuitable for a financial incentive. As with drought resilience, it relies on company modelling with the accompanying issues around consistency in assumptions and approaches. It is also likely that changes in outturn performance for the performance commitment often reflect greater understanding by companies of the risk, rather than a reduction in the level of risk faced by customers. For example, we have seen improvements in the number of people at risk from flooding in a storm suggested by the metric, but the overwhelming majority of that improvement was due to a change in company understanding. Customers remain at a similar level of risk.

We consider that sewer flooding in a storm can be more effectively monitored through wider operational resilience monitoring, and we welcome the suggestions of a Water UK group as to how to improve this measure. Stakeholders have been supportive of this

view during our engagement with them. We will continue to review proposals over the 2025-30 period as the wider measures we monitor develop.

## 7. Consultation questions

### Customers receiving excellent service every day

1. Do you have further views on whether the proposals laid out for C-MeX are appropriate?
2. Do you agree that C-MeX needs to adapt to provide better service to vulnerable and worse served customers?
3. What are your views on our proposal to introduce a single, combined common performance commitment ('BR-MeX') capturing the experience of both end business customers and retailers as intermediate customers?
4. Do you consider evidence suggests that the current water supply interruptions performance commitment is inhibiting innovation? If so please provide it.

### Environmental

5. Do you agree with our proposed definition for the biodiversity performance commitment?
6. Do you agree with our proposal to have separate operational greenhouse gas emissions performance commitments for water and wastewater, which are based on a normalised measure?
7. Do you agree with our proposal that the performance commitment on serious pollution incidents should only apply to water and wastewater companies?
8. Do you agree we should focus the bathing water performance commitment on the outcome that customers have received and should continue to develop an alternative definition to do this?
9. Do you agree with our proposal for the river water quality performance commitment to measure the reduction of phosphorus entering rivers?

**Ofwat (The Water Services Regulation Authority)  
is a non-ministerial government department.  
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