

October 2022

Draft determination of Yorkshire Water's in-period outcome delivery incentives for 2021-22

Ofwat

About this document

This document provides our draft decision on the extent to which the price controls set by the Competition and Markets Authority (CMA) need to be adjusted to reflect Yorkshire Water's performance for the 2021-22 charging year, under [Part 3A of condition B](#) of the company's licence (Performance Measure Adjustments, referred to in this document as 'in-period' determinations).

The specific adjustments, and our reasons for these, are set out in this document and in our [Sector overview: Draft determinations of in-period outcome delivery incentives for 2021-22](#).

We also publish models related to our draft determinations on our [website](#).

We welcome your views by 21 October 2022. We will make our final determinations by 15 November 2022.

Background

At the 2019 price review (PR19), companies made performance commitments, or pledges, to their customers and stakeholders about the service levels they would meet to make progress towards their outcomes. Yorkshire Water's performance commitments for the 2020-25 period are set out in [PR19 final determinations: Yorkshire Water - Outcomes performance commitment appendix](#).¹

Each performance commitment (PC) has an outcome delivery incentive (ODI) that provides either financial or reputational consequences for companies of outperforming or underperforming their performance commitments. Many of the financial ODIs are paid during the 2020-25 price control-period. The reason for this is to bring payments closer in time to when customers experience a given level of performance. The remaining incentives are paid at the end of the period.

ODIs act as an incentive for companies to deliver their committed levels of performance, returning funding to customers for foregone benefits if they deliver less than is expected. Companies that go beyond and deliver greater benefits than expected to customers and the environment can receive outperformance payments.

Yorkshire Water reported its performance against these performance commitments in its annual performance report (APR) in July 2022. We have considered this information and, where necessary, further information from companies' answers to our queries. In our draft

¹ We take account of performance commitments as set out in the PR19 definitions adjusted, if relevant, in accordance with Annex 2 of the company's performance commitment appendix. Annex 2 provides for changes and corrections to be made to performance commitment definitions during the 2020-25 period in certain circumstances. An overview of changes and corrections made to companies' performance commitment appendices can be found at [PR19 Outcomes performance commitments: changes and corrections](#).

determination we set out relevant adjustments to the company's price controls, for one or more future years, in accordance with Part 3A of Condition B of each company's licence.

We will make our final determination by 15 November 2022. These will affect Yorkshire Water's customers' bills from the 2023-24 charging year.

In our [Sector overview Final determinations of in-period outcome delivery incentives for 2020-21](#) we deferred our determination of the value of companies' Per Capita Consumption (PCC) ODI payments for the 2020-21 to 2023-24 charging years to the end of the 2020-25 period. We set out this decision and the reasons for it in this [decision document](#) which we published after having considered stakeholder responses to our July 2021 consultation.

Executive summary

Having assessed Yorkshire Water's performance against its performance commitments in 2021-22, the ODI payments and performance are as reported by the company with the following exceptions:

- C-MeX and D-MeX – we are including a C-MeX underperformance payment of £0.014m and a D-MeX underperformance payment of £3.398m, based on the assessment of 2021-22 company performance; and
- Water quality compliance (CRI, or the compliance risk index) – we are intervening to reduce the company's underperformance payment by £0.086m to align with the latest data from the Drinking Water Inspectorate.

We are not intervening as the company's requested us to do, to exclude the impact of Storm Arwen from the company's water supply interruptions and significant water supply events PCs. We consider that it is not necessary to intervene to exclude the impacts of Storm Arwen from these PCs thereby leading to adjustments to the payments that ordinarily flow under the price control package in the CMA redetermination. Our decision means that the company's reported performance on its water supply interruption PC remains unchanged in our draft determination.

However, we are intervening to include the Tandem Way and High Bradfield events, that the company excluded from its performance on its significant water supply events PC. This is because we consider that companies need to bear appropriate risks and remain incentivised to deliver for their customers. Our intervention increases the company's underperformance on its significant water supply events PC by £0.530m to £7.950m for 2021-22.

See section 1 for details of our interventions and policy decisions.

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1. Results of our assessment

1.1 Interventions and policy decisions

Table 1.1 below sets out our view of the payments due for performance commitments on which we have intervened compared to the values reported by Yorkshire Water.

Table 1.1: Summary of interventions

Performance commitment	Company's reported payments 2021-22 (£m)	Our draft decisions after interventions 2021-22 (£m)	Difference (£m)
Water quality compliance (CRI)	-3.470	-3.384	0.086
Significant water supply events	-7.420	-7.950	-0.530

In our draft determination we have made policy decisions on the following performance commitments:

Request for interventions for storm events

Background

Yorkshire Water requested that we intervene to exclude the impact of Storm Arwen from its common water supply interruptions PC and its bespoke significant water supply events PC. If excluded, this would reduce its underperformance payments for these PCs by £1.074m and £5.565m respectively.

On its water supply interruptions PC, the company considers that the storm amounted to an emergency under the Civil Contingencies Act 2004 and states that its customers were adversely impacted by the loss of power supply from Northern PowerGrid (NPg) and NPg's response throughout Storm Arwen. It says that the loss of power supply caused telemetry failures across the network and failures at sites without back-up generation. It states that the loss of water supply was due to loss of power supply which was not attributable to Yorkshire Water, and that the company did everything within its power to minimise the impact on its customers and restore water supply as soon as possible. The company provides extracts from an Ofgem report to evidence that the impact was caused by various deficiencies on the part of NPg.

For its significant water supply events PC, Yorkshire Water requested that 20 events associated with power outage during Storm Arwen be considered a single event on the basis that the PC definition says 'all notifications received downstream of the point of interruption, will be considered as one event'. In these circumstances, the company states it considers

NPg and the power failure experienced as the 'point of interruption', which caused a single, region-wide event. It also requested that we exclude two further events (at Crakehall to Kirkbridge and Cropton), where the company was unable to restore operation within 12 hours due to the severity of Storm Arwen. The company states that both sites were inaccessible and so attempts to restore supply were delayed or abandoned in view of safety and welfare concerns.

Separately, the company also excluded two further events (at Tandem Way and High Bradfield) from its 2021-2022 reported performance for the significant water supply events PC. These were not related to Storm Arwen but were events where Yorkshire Water says that it encountered difficulties obtaining permission for restoration work and access to unoccupied properties. The company states that it was "unable to restore water supply to customers without having a detrimental impact on overall customer service." Together, these exclusions reduced the company's underperformance payments by £0.530m.

Our assessment

We consider that the PCs and ODIs consulted on and set at PR19, and not amended in the CMA redetermination, were reasonable. As regards the treatment of events raised by the company, our PR19 methodology, confirmed in the PR19 final determinations (and not amended in the CMA redeterminations), was to include the impact of events such as extreme weather in reported performance. In general, PR19 performance commitments provide few exclusions because for adverse events, such as weather events, we want companies to be incentivised to minimise the impact on customers. These are precisely the events we want the sector to be resilient to. At PR19, we also stated the importance of companies having confidence that performance commitments will not change during the price control period. We said that if there is a potential for such change, this could lead to a disconnect between the cost/service package specified at the start of the period and what is delivered; potentially incentivise companies to focus on convincing Ofwat of the need for a change as opposed to focusing on delivering what matters to customers; and add complexity. The same concerns apply to the potential for creating exceptions during the period by excluding events.

Nevertheless, we have considered Yorkshire Water's performance in relation to each relevant PC and whether, in light of our duties and policy objectives, we should exercise our discretion to make changes to payments. Our assessment focused on whether interventions beyond those protections already built into the PR19 redetermination are necessary to ensure that the company bears the appropriate level of risk and remains incentivised to deliver for customers. We consider that the two events at Crakehall to Kirkbridge, and Cropton form part of the wider request to intervene for the impact of the storm. Our consideration included the following:

- We reviewed the PC definitions to understand the expectations in place for each PC.
 - The water supply interruptions PC, which incorporates the [reporting guidance for PR19 – Supply Interruptions, published on 27 March 2018](#) published on 27 March 2018,

states that the default position is that the water company manages the risk of supply interruptions and there are no exclusions. This measure covers planned and unplanned interruptions. The cause of the interruption is not relevant to the calculation of the reported figure. That is, asset failure caused by third parties would be treated the same as the failure of the company's assets and planned or unplanned interruptions are the same. However, the PC definition also states that companies may make a representation to Ofwat for an exception to be granted on the basis of a civil emergency under the Civil Contingencies Act 2004, where the supply interruption is not the cause of the emergency. We consider that the company provided insufficient evidence that relevant Category 1 responders treated Storm Arwen as an emergency. Local Resilience Forum meetings were held, but there is insufficient evidence that multi-agency response arrangements were activated beyond this and a major incident was not declared. Nevertheless, we went on to consider whether we should intervene to make changes to the company's ODI payments.

- The significant water supply events PC measures the number of supply interruption events of 12 hours or longer. It explicitly includes supply interruption events irrespective of whether they are planned, unplanned or caused by a third party. It also specifically includes extreme events such as weather to ensure the resilience of the company's assets is measured. All properties within a shut off are to be reported regardless of status; empty properties and voids are included. We also note that the company proposed the bespoke significant water supply events PC itself, without either outperformance caps or underperformance collars. This means that the company did not consider it needed protection against underperformance, as part of its risk and return package. We note that the biggest financial impact from these events (£5.565m) is from this bespoke PC and that the company did not meet its PCL in 2020-21. Notwithstanding these points, we went on to consider whether we should intervene to make changes to the company's ODI payments.
- We do not consider that the 20 water supply events (caused by the loss of power as a result of Storm Arwen) represent a single event, because the point of interruption in this PC definition concerns instances of interruption to water supplies and not interruptions to power. Events downstream of an interruption to the supply of water from a single water treatment works can be classed as one event, but each interruption to supply (howsoever caused) at a different treatment works (as in this case) represents a separate significant water supply event.
- We consider that the events at Tandem Way and High Bradfield should be included in reported performance. Just because the circumstances of specific events are unfavourable, it does not follow that companies can exclude those events (in effect, set aside the PCs and their associated ODIs). As explained above, companies need to bear appropriate risks and remain incentivised to deliver for their customers. Creating exceptions in these circumstances would risk reducing the focus on delivery and the stretch of the PC over the remainder of the period, therefore we consider it is necessary to intervene here in light of our duties and policy objectives.

- We considered Yorkshire Water's performance against the PCs. While performance can vary, we note that the company's performance of 10 minutes and 38 seconds per property per year on its water supply interruptions PC is some way off triggering the collar of 16 minutes and 59 seconds per property per year for this PC. For the significant water supply events PC, the company reported underperformance payments of £7.420m in 2021-22 compared to underperformance payments of £1.325m in 2020-21. By its nature this bespoke PC cannot be easily compared to others and, as set out above, the PC was proposed without caps or collars.
- We considered Yorkshire Water's overall performance against all its PCs for 2021-22 (including C-MeX and D-MeX) The company reported a net underperformance of £11.525m and including C-MeX and D-MeX underperformance payments, this increased to £14.937m. We note that this is not out of step with the range, calculated at PR19, of out/underperformance payments that the company might reasonably be expected to incur during 2020-25 and the broad potential RoRE five year average range for ODIs set out in PR19 methodology of +/- 1 to +/- 3%. This is also the case, when we consider Yorkshire Water's overall performance across 2020-21 and 2021-22,
- We consider that loss of supply is one of the most serious water service failures, especially for vulnerable customers. The impact for customers of these service interruptions was severe. Yorkshire Water noted that 439 properties' interruptions were greater than 12 hours, with 129 properties suffering an interruption of greater than 48 hours but less than 72 hours. This is why the PCs are designed to apply strong incentives to companies to minimise any impact or lack of supply and to protect the environment. This includes low probability high impact events, with resilience being a key part of the PR19 process. We consider that excluding the impact of these events may weaken the company's incentives in relation to such events in the future and managing the impact on customers.
- We considered whether not intervening was likely to create unwanted incentives to invest so as to minimise risk in an inefficient way, which would not be in customers' interests. Companies are subject to both upside and downside risk from ODIs. And companies need to manage resilience through base expenditure and, where appropriate, can request enhancement expenditure to reduce risk. We set out our criteria for resilience enhancement expenditure in the PR24 draft methodology. As part of this, companies will need to undertake a systematic assessment of risks to identify potential schemes. For each scheme, they will then need to quantify the impact on risk of the proposed expenditure. Proposed options will need to be cost beneficial, best value and have customer support.

Our decision

Having reviewed the company's requests and supporting evidence, in light of the assessment described above, we consider that it is not necessary to intervene to exclude the impacts identified by the company thereby leading to adjustments to the payments that ordinarily

flow under the price control package in the CMA redetermination. Our decision ensures that the company bears the appropriate level of risk and remains incentivised to deliver for customers and the environment. As a result, the company's underperformance on its water supply interruptions PC remains unchanged at £5.536m. In addition, we are intervening to include the Tandem Way and High Bradfield events, that the company excluded, in the company's performance on its significant water supply events PC. Our intervention increases the company's underperformance on its significant water supply events PC by £0.530m to £7.950m for 2021-22.

Water quality compliance (CRI)

We are intervening to reduce Yorkshire Water's underperformance payment in relation to its water quality compliance performance commitment by £0.086m to align with the latest Drinking Water Inspectorate (DWI) data, which was not available at the time Yorkshire Water submitted its data. Yorkshire Water reported a CRI of 4.83 but the latest DWI data shows that Yorkshire Water's CRI was 4.76.

We are also applying following amendments to the ODI performance model for the following PCs:

- Land conserved and enhanced; and
- Length of river improved

Land conserved and enhanced performance commitment and length of river improved performance commitment

We have made three corrections in the Yorkshire Water's ODI performance model and recorded these in the Ofwat_IPD22_actionsworksheet. Two of these corrections affect ODI payments. These are the land conserved and enhanced performance commitment and the length of river improved commitment. The company selected 'true' in row 36 of the PC_Company_input worksheet when it should have been false because the ODI for these PCs only applies in 2024-25. The financial impact of this correction is to change the sum of the cells shown in the Initial calculation of end of period revenue adjustment by price control from outperformance to underperformance. The impact of these corrections is £3.178m. This change is visible in cells C19:C25 of worksheet 3H but it makes no financial difference to this year's in-period ODI draft determinations.

We also have the following comments about Yorkshire Water's external sewer flooding PC:

External Sewer Flooding

For our draft determination we are including Yorkshire Water's outperformance payment of £17.625m for external sewer flooding performance. We engaged with the company on this performance commitment to better understand the drivers of outperformance, in particular to ensure that the changes relate to real improvements in performance and are not as a

result of process or methodology changes. There remains some additional evidence outstanding but subject to the company providing us with the reassurance we require, we are not intervening on this performance commitment.

1.2 C-MeX and D-MeX

On 21 September we published the relative performance of all companies. Our draft determination includes a C-MeX underperformance payment of £0.014m and a D-MeX underperformance payment of £3.398m, based on our assessment of 2021-22 company performance.

Further details on C-MeX and D-MeX can be found on the [Customer and Developer Services experience](#) pages of the Ofwat website and in the published C-MeX and D-MeX models

1.3 Payment deferrals and abatements

As set out in our [PR19 final determinations](#) and the [PR19 Reconciliation Rulebook: Guidance Document](#), companies can ask us to defer outperformance or underperformance payments, or abate outperformance payments on individual performance commitments. A deferral results in us delaying when the adjustment will be made to companies' revenue. An abatement results in no adjustment to the company's revenues in relation to the relevant performance commitment in the subsequent charging year.

Yorkshire Water did not request any payment deferrals or abatements. Based on our assessment of the company's performance, we do not consider any are required. As such, we do not apply any payment deferrals or abatements in our draft determinations.

2. Impact of 2020-21 in-period ODI assessment on price controls

2.1 Our draft determination

In this section we outline the financial impacts of our draft determinations.

Unless otherwise stated all values are £m in 2017-18 FYA CPIH prices.

Table 2.1: Draft determinations on adjustment to 2023-24 price controls as a result of performance against ODIs

This table sets out our draft determinations on the ODI payments to be applied to price controls in the 2023-24 charging year after accounting for:

- the in-period ODI payments for each company based on their performance in 2021-22;
- our draft determinations on these payments after any interventions; and
- our draft determination on C-MeX and D-MeX payments.

For further details on the interventions, deferrals, abatements and bespoke adjustments, see section 1.

This draft determination on the ODI payments to be applied for Yorkshire Water is also set out in the in-period adjustments model published on our website.

Price control	Company's reported ODI payments (£m)	Interventions (£m)	ODI payments deferred from 2020-21 (£m)	Ofwat DD deferrals (£m)	Ofwat DD abatements (£m)	Bespoke adjustments (£m)	C-MeX payments (£m)	D-MeX payments (£m)	Total ODI payments to be applied to customer bills in 2023-24 (£m)
Water resources	0.042	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.042
Water network plus	-16.442	-0.444	0.000	0.000	0.000	0.084	0.000	-2.077	-18.879
Wastewater network plus (WaSCs only)	2.627	0.000	0.000	0.000	0.000	0.099	0.000	-1.321	1.405
Bioresources (WaSCs only)	0.260	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.260
Residential retail	1.989	0.000	0.000	0.000	0.000	-0.030	-0.014	0.000	1.946
Total	-11.525	-0.444	0.000	0.000	0.000	0.154	-0.014	-3.398	-15.227

Table 2.2: Breakdown of bespoke adjustments

This table provides a breakdown of the bespoke adjustments included in our draft determinations.

Price control	Prior year restatements (£m)	Prior year C-Mex indexation (£m)	Prior year D-Mex indexation (£m)	Prior year total (£m)	Time value of money adjustment on prior year total (£m)	Green recovery (£m)	Total bespoke adjustments to be applied to customer bills in 2023-24 (£m)
Water resources	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Water network plus	0.000	0.000	0.082	0.082	0.003	0.000	0.084
Wastewater network plus (WaSCs only)	0.000	0.000	0.096	0.096	0.003	0.000	0.099
Bioresources (WaSCs only)	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Residential retail	0.000	-0.029	0.000	-0.029	-0.001	0.000	-0.030
Total	0.000	-0.029	0.178	0.149	0.005	0.000	0.154

The prior year C-Mex and prior year D-Mex values correct an error in how the C-Mex and D-Mex models applied indexation in 2020-21. Where applicable we adjust for the time value of money.

Table 2.3: Changes to price controls (draft determinations)

This table sets out the impact of our draft determinations on the company's price controls, as set out in the in-period adjustments model published on our website. See [Sector overview: Draft determinations of in-period outcome delivery incentives for 2021-22](#) for how we are applying adjustments for tax and inflation.

Price control		2021-22	2022-23	2023-24	2024-25
Water resources (K factors)	Previous determination	-1.94	1.85	1.73	1.83
	Revised	-1.94	1.85	1.82	1.75
Water network plus (K factors)	Previous determination	2.50	1.99	6.82	4.97
	Revised	2.50	1.99	0.17	11.37
Wastewater network plus (WaSCs only)	Previous determination	-3.94	1.25	-2.46	-0.70
	Revised	-3.94	1.25	-2.05	-1.08
Bioresources (WaSCs only)	Previous determination	73.037	73.640	73.880	74.308
	Revised	73.037	73.640	74.201	74.308
Residential retail (total revenue, TRt – £m, nominal prices)	Previous determination	69.842	69.002	72.235	73.455
	Revised	69.842	69.002	75.169	73.455

We have based Yorkshire Water's draft determination on the data and commentary provided to us by Yorkshire Water. Should any of this information be revised or restated in future years, we will take account of adjustments we have made to the relevant price control in relation to the performance commitment(s) in question in making future in-period determinations.

3. Responding to this consultation

We would welcome any comments on this document. Please email them to in-periodODIs@ofwat.gov.uk or post them to:

IPD2022 Consultation response
Ofwat
Centre City Tower
7 Hill Street
Birmingham B5 4UA

Or Ofwat, 11 Westferry Circus, Canary Wharf, London, E14 4HD if that is more appropriate.

The closing date for this consultation is **21 October 2022**. If you wish to discuss any aspect of this consultation, please contact the In-period ODI team by post or by email at in-periodODIs@ofwat.gov.uk

We intend to publish responses to this consultation on our website at www.ofwat.gov.uk. Subject to the following, by providing a response to this consultation you are deemed to consent to its publication.

If you think that any of the information in your response should not be disclosed (for example, because you consider it to be commercially sensitive), an automatic or generalised confidentiality disclaimer will not, of itself, be regarded as sufficient. You should identify specific information and explain in each case why it should not be disclosed and provide a redacted version of your response, which we will consider when deciding what information to publish. At a minimum, we would expect to publish the name of all organisations that provide a written response, even where there are legitimate reasons why the contents of those written responses remain confidential.

In relation to personal data, you have the right to object to our publication of the personal information that you disclose to us in submitting your response (for example, your name or contact details). If you do not want us to publish specific personal information that would enable you to be identified, our [privacy policy](#) explains the basis on which you can object to its processing and provides further information on how we process personal data.

In addition to our ability to disclose information pursuant to the Water Industry Act 1991, information provided in response to this draft determination, including personal data, may be published or disclosed in accordance with legislation on access to information – primarily the Freedom of Information Act 2000 (FoIA), the Environmental Information Regulations 2004 (EIR) and applicable data protection laws.

Please be aware that, under the FoIA and the EIR, there are statutory Codes of Practice which deal, among other things, with obligations of confidence. If we receive a request for

disclosure of information which you have asked us not to disclose, we will take full account of your explanation, but we cannot give an assurance that we can maintain confidentiality in all circumstances.

We will publish our final determinations by **15 November 2022**, after considering representations from all stakeholders.