

## Ofwat Consultation on CSO Performance Commitment May 2023

### Summary

We welcome the opportunity to provide brief comments on the CSO Performance Commitment for PR24. The harm caused to our rivers by storm overflows is a serious concern for environmental NGOs and we want to see serious action taken by water companies to eliminate harmful discharges from CSOs. We provide our responses to the questions below, but we do have concerns that the proposals currently leave loopholes that could be exploited by water companies in reporting on this issue.

We also remain concerned that this is still a primarily England-focused response to the problem and, in particular, does not address the specific means of penalising Wales' biggest water company for underperformance. The consultation states that 'Companies that underperform against their targets incur underperformance payments, which reduce the amount of funds that companies can recover from their customers each year through bills. This should reduce the amount of money that is available for companies to distribute to their shareholders.' We would like a clear explanation of how this applies to Welsh Water, which does not have shareholders.

- 1. Do you agree with our proposals to set a performance commitment based on average spills, with financial consequences for companies that do not meet their targets?**

Having taken into consideration the evidence currently available to Ofwat to monitor the performance of storm overflows, we accept that a performance commitment based on average spills is currently the only available measure. However, we would like acknowledgement that, in Wales, a different approach has been recommended that aims to build evidence of environmental harm by measuring upstream and downstream of CSOs. We expect this evidence base to be developed by 2027. All efforts should be taken to encourage this approach, and develop the metric, because

we do not believe that average spills data will give a sufficient picture of the harm done by CSOs, given that event duration monitors do not monitor volume and content of spills or take account of the environment that they are spilling into. Average spill data is also too easily subject to manipulation by water companies.

Given that Welsh Water, a company with no shareholders, covers the majority of Wales, we are concerned that financial penalties still refer to shareholder reward. What equivalent deterrent will be available to incentivise Welsh Water?

**2. Do you agree with our proposed approach to unmonitored storm overflows?**

WEL members agree with Ofwat's approach to incentivise monitoring of storm overflows. However, we would recommend a target which is set as an average based on each water company's operational performance, rather than a flat rate of 50 spills. This would be more appropriate as it would reflect geography, topography and weather patterns on each water company.

We are concerned that Ofwat has not considered validation of EDM data sufficiently. Evidence shows that in numerous cases EDM data is recording but is poor quality or inaccurate, so a simple measure of how often the EDM is operating will not give a clear enough picture. We suggest that a measure based upon specific performance of the monitor would be more appropriate, reflecting whether the data collected has been verified and is classified as valid for its purpose. For regulatory purposes, EDM data should be considered alongside other water company monitoring, in particular full flow to treatment monitors and wastewater treatment monitors, to gather a true picture of performance.

**3. Do you agree with our proposed approach to mid-period changes?**

We agree with this approach, but we are concerned that allowing closed sewer overflows to continue to be counted within the metrics could skew averages and provide a more positive picture of water company performance than is the case. We note the concern that not allowing closed storm overflows to be included in the metric could cause water companies to decide not to close these assets. We would

suggest that Ofwat should find other ways of incentivising this to ensure that reporting under this performance commitment does not prevent the right actions from being taken.

#### **4. Do you agree with our proposed approach to emergency overflows?**

We note that Welsh Water currently reports all overflows, including storm, emergency and unpermitted. This is not the case with other water companies, which makes direct comparisons between companies invalid and has led to inaccurate comparisons. Whilst water companies await permitting by regulators, we believe that all spills should be recorded and monitored. Therefore, unpermitted assets should be included in returns.

Currently, emergency overflows are not clearly defined, and we don't feel there is consistency in the definition of how an emergency overflow should be operated across water companies. You state in your letter, for example, that emergency overflows are currently not monitored fully and then conclude that they spill less than once a year on average. We do not think the evidence bears this out. Welsh Water has implemented EDM across all overflow types, including emergency overflows. In 2022, this shows that 'emergency' overflows in Wales operated a total of 1939 times, for a duration of 19,608 hours. This is an average of 15.76 times a year on Welsh Water's dataset. If other water companies are yet to fully implement monitoring of emergency overflows, we are very concerned that Ofwat is underestimating the impact of 'emergency' overflows. There is no evidence to determine whether water companies in England are operating emergency overflows in the same way.

We would like to see an investigation into the operation of emergency overflows, to determine whether these assets are in fact 'emergency' or should be re-classified as storm. There are some Welsh Water sites operating for over a third of the year (during a dry year). Given Ofwat's description of this performance commitment, we would therefore expect this to be recorded as an underperformance in the annual report for 2022.

Wales Environment Link (WEL) is a network of environmental, countryside and heritage Non-Governmental Organisations in Wales. WEL is a respected intermediary body connecting the government and the environmental NGO sector. Our vision is a thriving Welsh environment for future generations.

This paper represents the consensus view of a group of WEL members working in this specialist area. Members may also produce information individually in order to raise more detailed issues that are important to their particular organisation.



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