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# Final determination of Anglian Water's in-period outcome delivery incentives for 2022-23

Ofwat

## About this document

This document provides our final determination on the extent to which the price controls set by the Competition and Markets Authority (CMA) as adjusted by any subsequent interim determination of K (IDoK), are to be adjusted to reflect Anglian Water's performance for the 2022-23 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: Final determinations of in-period outcome delivery incentives for 2022-23](#).

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

## Background

At the 2019 price review (PR19), companies made pledges to their customers and stakeholders about the service levels they would meet to make progress towards stated outcomes (performance commitments). Companies' performance commitments form a key part of the service package that they are expected to deliver. Anglian Water's performance commitments for the 2020-25 period are set out in [PR19 final determinations: Anglian Water - Outcomes performance commitment appendix](#).<sup>1</sup>

Each performance commitment 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 to incentivise them to keep up this outperformance.

Anglian Water reported its performance against these performance commitments in its annual performance report (APR) in July 2023. We assessed the company's performance against its performance commitments and, in September 2023, consulted on our [draft](#)

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<sup>1</sup> We take account of performance commitments as set out in this appendix, adjusted, if relevant, in accordance with Annex 2 of the 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](#).

[determinations](#) for companies' in-period ODIs for 2022-23. We have carefully considered the [responses](#) we received relating to our draft determinations.

Our final determination sets out relevant adjustments to the company's price controls, for one or more future years. The results of our assessment for 2022-23 will affect Anglian Water's customers' bills in the 2024-25 Charging Year.

Further details regarding the responses we received, our final determinations and the adjustments that we have made are presented in sections 1 and 2, and in [Sector overview: Final determinations of in-period outcome delivery incentives for 2022-23](#).

In our [Sector overview Final determinations of in-period outcome delivery incentives for 2020-21](#) we deferred our determination of the value of companies' ODI payments for usage of water per person (known as Per Capita Consumption) 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 Anglian Water's performance against its performance commitments in 2022-23, 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 £0.262m and no D-MeX payment as Anglian Water is the median performing company; and
- interventions on the following performance commitment:
  - Abstraction incentive mechanism (AIM) – £0.011m increase in underperformance payments to rectify a calculation error in the company's submission.

In our in-period adjustments model, we include a bespoke adjustment of £0.005m, which we adjust for the time value of money, to correct for a minor typographical error in our model relating to the underperformance incentive rate for internal sewer flooding in year 2021-22.

In its 2022-23 APR, the company requested that a 0% tax rate is applied to its ODI payments. In our draft determination, we retained a tax rate of 19% because the evidence submitted by the company did not convince us that a different tax rate should be applied at this time. In our final determination, we are intervening to apply a 0% tax rate, after accounting for the funding the company has received through its PR19 wholesale tax allowance. This is because we consider this is appropriate based on additional evidence submitted by the company on its tax losses and arguments regarding bill smoothing. This intervention will increase the company's revenue allowance by £2.711m in 2024-25. See section 1 for the results of our assessment.

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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 Anglian Water.

**Table 1.1: Summary of interventions**

Performance commitment	Company's reported payments 2022-23 (£m)	Our draft determination after interventions 2022-23 (£m)	Our final determination after interventions 2022-23 (£m)	Difference between company view and our final determination (£m)
Abstraction Incentive mechanism (AIM)	-0.052	-0.063	-0.063	-0.011

In our final determination we are intervening on the following performance commitment:

### 1.1.1 Abstraction incentive mechanism

#### Our draft determination

In our draft determination, we intervened to increase Anglian Water's underperformance payment in relation to its abstraction incentive mechanism performance commitment from £0.052m to £0.063m which is an increase of £0.011m. This is because the company had incorrectly calculated the outperformance payment for Marham Ground Water which is one of four sites incentivised in the performance commitment definition. Anglian Water reported an outperformance payment for Marham Ground Water of £11,340. However, the outperformance payment should have been £1,134 which increased the total underperformance payment for this performance commitment.

#### Stakeholders' responses

We did not receive any specific comments on this issue.

#### Consideration of responses and final determination

Having received no stakeholder responses on this matter, our final determination on the company's performance payment for this performance commitment is as stated in our draft determination, above.

We apply the following adjustments in the in-period adjustments model:

## 1.1.2 Internal sewer flooding

### Our draft determination

In our draft determination, we included a bespoke adjustment of £0.005m, which we adjusted for the time value of money, to correct for a minor typographical error in our in-period adjustments model relating to the underperformance incentive rate for internal sewer flooding in year 2021-22. Anglian Water contacted us on 17<sup>th</sup> May 2023 to highlight this error. We said this will be repaid to customers.

### Stakeholders' responses

We did not receive any specific comments on this issue.

### Consideration of responses and final determination

Having received no stakeholder responses on this matter, our final determination on the company's performance payment for this performance commitment is as stated in our draft determination, above.

## 1.1.3 Tax

### Our draft determination

In its 2022-23 APR, Anglian Water submitted information to support its view that it does not expect to pay corporation tax within the 2020-25 period. As a result, the company included a 0% tax rate in its in-period adjustments model for the remaining years of the 2020-25 period. This is the first year that the company has requested a 0% tax rate on its ODI payments.

In our 2022-23 in-period ODI draft determination, we retained a tax rate of 19% because the evidence submitted by the company did not convince us that a different tax rate should be applied at this time. We said that the company also confirmed that it is surrendering tax losses to group companies and receiving tax credits. As these tax losses have a value if other group companies are able to use them, we considered it was possible that the company could benefit within the 2020-25 period from the additional tax losses. We said we would be in a better position to consider whether such an adjustment to tax is appropriate as part of our decisions for the 2024 price review (PR24) determinations, when we would have information on the value of tax losses surrendered by the company over 2020-25 and the company's proposed opening tax loss balance at PR24.

## Stakeholders' responses

In its [consultation response](#), Anglian Water stated that it disagreed with our proposed treatment of the marginal tax rate applied to penalties. It stated:

"In the draft determination Ofwat has retained a tax rate of 19% despite the detailed evidence initially provided to Ofwat in order to support our view that our marginal tax rate should be zero for the in-period determination for 2022-23. In view of our already submitted evidence along with the below considerations, we maintain our said view and would like to stress its importance going forward for both Anglian and our customers.

Alongside our 2022-23 APR, we submitted detailed information to support our view that our marginal tax rate for the rest of the AMP will be zero. This included forecast tax computations and forecast capital allowances for the rest of the AMP. Also, in responding to an APR query (ANH-APR-IP-007) we provided the necessary additional information requested including updated forecast tax computations that reinforce the basis for our submission on the in-period payments.

After reviewing the determinations published for other companies regarding the marginal rate of tax for performance payments, and Ofwat's draft determination of our own submission for 2022-23, we are not clear why our case has been rejected while other companies' apparently similar claims have been accepted. Therefore, it is not clear what criteria are being applied by yourselves to determine the marginal rate of tax."

Anglian Water also stated, "We do not support Ofwat's rationale that surrendered tax losses should impact the decision on application of a marginal tax rate. We therefore consider that there should be equivalent treatment of the Anglian case for a zero-marginal tax rate for ODI penalties to other companies where Ofwat has accepted, and applied, a zero marginal tax rate. This should be independent of the PR24 process."

The company also argued that making the appropriate tax adjustment now rather than at PR24 is in customers' favour as it provides better bill smoothing across the remainder of 2020-25 period and into the 2025-30 period.

## Consideration of responses and final determination

Since the publication of our draft determination, the company has submitted additional information as part of its consultation response. This shows that it is very unlikely that the company would be able to benefit from the additional tax losses generated by the underperformance payments within the 2020-25 period. In the event that the company does benefit, we will take this into account when making our PR24 determinations. In addition, we have received the company's business plan for 2025-30 and we note there are bill smoothing benefits associated with accepting this adjustment now, rather than to implement it through PR24.

Having considered Anglian Water's response on this matter, we are intervening to adjust the assumed tax rate included in the in-period modelling to 0%. Consistent with the approach we applied for Southern Water and Dwr Cymru in the 2021-22 in period determinations, we take account of the impact on prior years as well as adjusting for 2022-23. The adjustment is -£2.740m for 2020-21 and £2.836m for 2021-22, reflecting the size of the net out and underperformance payments in those years. The adjustment for 2022-23 is £7.452m. We also note that Anglian Water received an allowance for tax at PR19 of £4.837m. Consequently, we apply a one-off deduction equivalent to this allowance. Given that the company is stating it is not paying tax and we are intervening now to adjust tax rates to reflect this issue, we consider it is in customers' interests to adjust for the tax allowance.

Overall, this means that, as per Table 1.2, revenue will be £2.711m higher in 2024-25 compared to our draft determination. However, due to the way the modelling is applied in the final determination, we include a bespoke adjustment of -£4.741m (the aggregate of the 2020-21 and 2021-22 adjustments plus the adjustment for the PR19 tax allowance, the £7.452m adjustment is automatically accounted for in the calculated revenue adjustment). We will also apply the adjusted tax rate of 0% to its future ODI payments in 2023-24 and 2024-25.

**Table 1.2: Breakdown of tax adjustments**

	Adjustment (£m)
Adjustment for tax on 2020-21 ODI payments	-2.740
Adjustment for tax on 2021-22 ODI payments	2.836
Adjustment for tax allowance at PR19	-4.837
Bespoke adjustment included in model (see table 2.3) <sup>2</sup>	-4.741
Impact incorporated into FD modelling for 2022-23	7.452
Net position 2020-23 including impact incorporated into 2022-23	2.711

#### 1.1.4 Pollution Incidents

##### Our draft determination

In its 2022-23 APR, Anglian Water states that it is voluntarily reporting potential dry weather spills retrospectively identified using Event Duration Monitor (EDM) data and, since this is not standard practice across the industry, the inclusion of these in the total number of pollution incidents means that the reporting methodology for this performance commitment is not consistent across companies. The Environment Agency undertook a review to ensure that guidance was being followed and that there was a level playing field between companies. The review concluded that guidance was being followed in the vast majority of cases but did identify a small number of Anglian Water incidents which were being reported differently to other companies. These remained classified by the Environment Agency as incidents and /or

<sup>2</sup> Table 2.3 also includes the small bespoke adjustment of £0.005m for internal sewer flooding discussed in section 1.1.2.



permit breaches but were not included in the Environmental Performance Assessment (EPA) to ensure fair comparison across companies. This did not affect the company's pollution incident or overall EPA rating.

Consequently, for the purpose of calculating the company's performance, in our draft determination we used the number of pollution incidents for which the company is responsible, as determined by the Environment Agency.

We said that if in the future additional pollution incidents are identified that should have been reported, we may adjust performance payments accordingly.

## **Stakeholders' responses**

We did not receive any specific comments on this issue.

## **Consideration of responses and final determination**

Having received no stakeholder responses on this matter, our final determination on the company's performance payment for this performance commitment is as stated in our draft determination, above.

We have the following comments relating to the unplanned outage performance commitment:

### **1.1.5 Unplanned outage**

#### **Our draft determination**

We did not intervene or comment on this matter in our draft determination; nor did we receive any stakeholder comments on it.

#### **Our final determination**

In our [Sector overview: Final determinations of in-period outcome delivery incentives for 2022-23](#), we highlight matters identified by our review of company submissions for the unplanned outage performance commitment. In light of these matters, companies should review their approach to peak week production capacity (PWPC) against the common methodology in the PR19 reporting guidance to ensure that they are acting in compliance. Should Anglian Water's unplanned outage performance information be revised or restated in future, we expect the company to clearly identify any reasons for the restatement and quantify the impact of any changes to data and/or assumptions on reported unplanned outage. We will take account of adjustments we have made to the relevant price control relating to the company's unplanned outage performance in making future determinations.

## 1.2 C-Mex and D-Mex

### Our draft determination

On 26 September 2023, we published the relative performance of all companies. Our draft determination included a C-MeX underperformance payment of £0.262m and no D-MeX payment as Anglian Water is the median performing company, based on our assessment of 2022-23 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.

### Stakeholders' responses

We did not receive any specific comments on this issue.

### Consideration of responses and final determination

Having received no stakeholder responses on this matter, our final determination on the company's performance payment for these performance commitments is as stated in our draft determination, above.

## 1.3 Payment deferrals and abatements

As set out in the [PR19 Reconciliation Rulebook: Guidance Document](#), companies can ask us to defer outperformance or underperformance payments, or abate outperformance payments. 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.

Anglian 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 final determination.

## 2. Impact of 2022-23 in-period ODI assessment on price controls

### 2.1 Our final determination

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

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

Table 2.1 below sets out the change between our draft and final determinations.

**Table 2.1: Change between draft and final determination on total ODI payments to be applied to customer bills in 2024-25**

Price control	Draft determination on total ODI payments to be applied to customer bills in 2024-25 (£m)	Change between draft and final determination on total ODI payments to be applied to customer bills in 2024-25 (£m)	Final determination on total ODI payments to be applied to customer bills in 2024-25 (£m)
Water resources	0.273	-0.704	-0.430
Water network plus	-16.858	0.208	-16.651
Wastewater network plus (WaSCs only)	-6.689	-2.442	-9.131
Bioresources (WaSCs only)	0.000	-0.837	-0.837
Residential retail	0.917	-1.053	-0.136
<b>Total</b>	<b>-22.357</b>	<b>-4.828</b>	<b>-27.185</b>

Note: This table does not include the impact of adjusting the modelled tax rate to 0% for Anglian Water in the in-period adjustment model as it is pre-tax. The impact of the adjusted tax rate on 2022-23 revenue is shown in line 5 of table 1.2. This is captured directly in the K factors we determine once the ODI payments and bespoke adjustments are taken into account (see table 2.4 below). On a like for like basis, Anglian Water's allowed modelled revenue in 2024-25 will be £6.246m (nominal prices) higher than in the draft determination. Further details of the impact are set out in the in-period adjustments model published on our website.

**Table 2.2: Final determination on adjustment to 2024-25 price controls as a result of performance against ODIs**

This table sets out our final determination on the ODI payments to be applied to price controls in the 2024-25 charging year after accounting for:

- the in-period ODI payments for each company based on their performance in 2022-23;
- our final determination on these payments after any interventions;
- our final determinations on 2022-23 deferrals and abatements;
- bespoke adjustments, including prior year restatements, where relevant; and
- our final determination on C-MeX and D-MeX payments.

For further details, see section 1.

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

Final determination of Anglian Water's in-period outcome delivery incentives for 2022-23

Price control	Company's reported ODI payments (£m)	Ofwat FD ODI payments (£m)	ODI payments deferred from 2021-22 (£m)	Ofwat FD deferrals (£m)	Ofwat FD abatements (£m)	Bespoke FD adjustments (£m)	C-MeX FD payments (£m)	D-MeX FD payments (£m)	Final determination on total ODI payments to be applied to customer bills in 2024-25 (£m)
Water resources	0.284	0.273	0.000	0.000	0.000	-0.704	0.000	0.000	-0.430
Water network plus	-16.858	-16.858	0.000	0.000	0.000	0.208	0.000	0.000	-16.651
Wastewater network plus (WaSCs only)	-6.695	-6.695	0.000	0.000	0.000	-2.436	0.000	0.000	-9.131
Bioresources (WaSCs only)	0.000	0.000	0.000	0.000	0.000	-0.837	0.000	0.000	-0.837
Residential retail	1.179	1.179	0.000	0.000	0.000	-1.053	-0.262	0.000	-0.136
<b>Total</b>	<b>-22.090</b>	<b>-22.100</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>-4.822</b>	<b>-0.262</b>	<b>0.000</b>	<b>-27.185</b>

**Table 2.3: Breakdown of bespoke adjustments**

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

Price control	Prior year restatements (£m)	Time value of money adjustment on prior year total (£m)	Green economic recovery (£m)	Total bespoke adjustments to be applied to customer bills in 2024-25 (£m)
Water resources	-0.695	-0.008	0.000	-0.704
Water network plus	0.192	0.016	0.000	0.208
Wastewater network plus (WaSCs only)	-2.394	-0.043	0.000	-2.436
Bioresources (WaSCs only)	-0.837	0.000	0.000	-0.837
Residential retail	-1.001	-0.051	0.000	-1.053
<b>Total</b>	<b>-4.736</b>	<b>-0.086</b>	<b>0.000</b>	<b>-4.822</b>

**Table 2.4: Changes to price controls (final determinations)**

This table sets out the impact of our final determination on the company's price controls, as set out in the in-period adjustments model published on our website. See [Sector overview: Final determinations of in-period outcome delivery incentives for 2022-23](#) for how we apply adjustments for tax and inflation.

Price control		2021-22	2022-23	2023-24	2024-25
Water resources (K factors)	Previous determination	-1.56	3.72	1.72	2.63
	Revised	-1.56	3.72	1.72	1.80
Water network plus (K factors)	Previous determination	3.22	5.87	2.62	6.20
	Revised	3.22	5.87	2.62	2.36
Wastewater network plus (K factors)	Previous determination	0.12	4.86	3.29	8.06
	Revised	0.12	4.86	3.29	6.47
Bioresources (unadjusted revenue, Urt - £m, 2017-18 FYA CPIH prices)	Previous determination	93.953	96.661	97.503	100.793
	Revised	93.953	96.661	97.503	99.956
Residential retail (total revenue, TRt - £m, nominal prices)	Previous determination	89.437	94.811	95.455	95.257
	Revised	89.437	94.811	95.455	95.083

We have based Anglian Water's final determination on the data and commentary provided to us by Anglian Water. Should any of this information be revised or restated, we may take

account of this, and previous price control adjustments relating to company performance, when making future determinations.

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