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By email

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Rt Hon Stephen Crabb
Chair Welsh Affairs Committee
House of Commons
London
SW1A 0AA

07 February 2024

Dear Mr Crabb,

Thank you for your letter dated 14 December 2023 which followed my appearance before the Welsh Affairs Committee on 22 November. We apologise for the slight delay in responding. Your letter asked for more details in four areas, which I respond to in turn, below.

- 1. In March you told the Committee at Q69 that while sewage discharges were now being measured, there was work to do to better understand the impacts of those discharges, for example on rivers. What changes are being made to improve the monitoring of the impact of discharges?**

The installation of EDMs on CSOs will provide much greater understanding of the frequency and potential environmental impact of discharges across companies' networks. EDM installation began in Wales in 2012, with Dŵr Cymru now having monitors on 99.5% of storm overflows and Hafren Dyfrdwy having 100% coverage. We acknowledge that the average spills measure does not fully capture harm to the environment. We note that the number of spills from a storm overflow should correlate with environmental harm to some degree, in part because of the 12/24 measurement method. This method partially reflects the duration of spills, by counting each spill that lasts longer than 12 hours as more than one spill (with each additional 24-hour period counted as one additional spill). Other performance commitments, such as for serious and total pollution incidents, should provide additional incentives on companies to prevent harmful discharges. As companies understand and better monitor the ecological impact of storm overflows, we can consider improvements to the performance commitment in future price reviews.

As part of our ambitious agenda for the sector's response to storm overflows at PR24, we are introducing a common performance commitment to specifically incentivise companies to reduce harm from storm overflow discharges, using an average number of spills measure based on EDM data. We have told companies that if a storm overflow is unmonitored or has a

malfunctioning monitor, we will assume it has spilled one hundred times a year. Companies that do not meet their target will incur a financial penalty.

In England, new legislation will require sewage treatment works and storm overflows to have water quality monitors installed by 2030. These monitors will identify not only when water quality impacted but also properly attribute this to either water company assets or to other issues, such as agricultural run-off. This will allow us to better understand the impact of sewage discharges. While no such legislative requirement has yet been made by the Welsh Government, this highlights the potential for the sector to go further to improve water quality monitoring.

2. Following Peter Hammond's work, would Ofwat endorse working in more structured ways with voluntary bodies and concerned users of waterways in collecting data, and requiring water companies to do so?

We attach considerable importance to ongoing and widening dialogue with stakeholders, including voluntary bodies, and we would encourage water companies to engage constructively with interested stakeholders on these issues. We welcome the work of Professor Hammond and others in helping to air and analyse the impacts of water companies on the environment. We view this as complementary to the formal regulatory data gathering and monitoring which includes data requests to companies directly and engagement with the environmental regulator, Natural Resources Wales. When making draft determinations on our Outcome Delivery Incentives (ODI) for company performance commitments we consult with stakeholders, who have opportunity to make representations including empirical (data) evidence. More generally, should any stakeholder have concerns about company compliance with obligations we are responsible for enforcing, we will review any evidence provided to us and decide whether regulatory action is needed.

Our 2023 publication, 'Open data in the water industry: making the change,' makes it clear that companies must take immediate action and make accelerated progress on open data. Based on our wider engagement with stakeholders, we are calling for companies to develop data feedback loops with voluntary groups and data users, to help identify priority datasets and improve quality of data release. We also expect companies to open more datasets and to create and publish an industry roadmap. Additionally, we are developing a licence condition that would require water companies to deliver the outcomes and expectations we are seeking. We expect to see improved maturity by the end of 2024.

3. How does Ofwat expect the performance rating process to lead to an improvement in Dŵr Cymru's performance? Over what time period does Ofwat expect Dŵr Cymru's performance to improve? What are the milestones along the route to improved performance?

Ofwat's water company performance report (WCPR) groups companies into three categories (leading, average, and lagging behind) based on how they have performed against certain performance commitment levels. The categorisations are published and receive considerable attention, which helps to provide stakeholder pressure on companies to improve performance. This is in addition to the underperformance payments that companies incur when they fail to meet their performance commitment levels.

In our 2022-23 WCPR, Dŵr Cymru was categorised as 'lagging behind.' We required Dŵr Cymru to publish a service commitment plan, outlining when and how customers will receive the service they expect and deserve. Dŵr Cymru published its service commitment plan on 30 November 2023, which contains milestones for performance improvement. Alongside Ofwat's Chair and Senior Director of Sector Performance, I have met with Dŵr Cymru to discuss its performance and improvement activities. We require Dŵr Cymru to provide regular updates on its progress towards delivering the improvement actions it has identified. This allows us to monitor its progress to ensure it is taking the necessary actions to improve. We are scheduled to meet with Dŵr Cymru again, in February, following submission of their first quarterly progress update.

Commencing this year, all companies are also required to report some performance commitment level (PCL) outturn information to us quarterly. We use this to derive insights and target our engagement with companies. The quarterly evaluation of the service commitment plans and the performance commitment outturn information are key components of our ability to assess whether the company's milestones for improvement have been reached.

The categorisation of companies is a useful mechanism to effect change. In this year's WCPR (2022-23), two companies previously categorised as lagging behind (in the 2021-22 WCPR) demonstrated sufficient performance improvement to move up to the average category. We continue to monitor these 'average' companies to ensure improvements are sustained.

4. Is Dŵr Cymru's status as a not-for-profit company relevant to the improvement in performance of its sewerage assets?

All water companies must act in accordance with their legal obligations including their general statutory duties under section 37 of the Water Industry Act 1991 (the general water supply duty) and section 94 (the general duty to provide and maintain a sewerage system) and are subject to broadly equivalent licence conditions. We regulate on a broadly consistent basis, taking account of relevant differences in company characteristics and the regulatory framework in Wales.

We observe varying performance across different ownership structures in the sector. It is not obvious there are links between Dŵr Cymru's not for dividend status and their wastewater performance, but we are mindful of both the absence of equity investors scrutiny of company performance as well as potential for direct benefits to customers from using returns to fund social tariffs. We will continue to consider how we can regulate to help Dŵr Cymru customers gain maximum benefits from the not for dividend model.

I hope that this has answered your queries and demonstrates Ofwat's commitment to driving improvements in Dŵr Cymru's performance to ensure higher quality services for customers and stronger environmental protection. Thank you for your ongoing interest and concern.

Yours sincerely,

David Black
Chief Executive, Ofwat