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

Ofwat

About this document

This document provides notice of our final determination on the extent to which the price controls set by the Competition and Markets Authority (CMA) redetermination, are 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: Final determinations of in-period outcome delivery incentives for 2021-22](#).

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

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 assessed the company's performance against its performance commitments and, in October 2022, consulted on our [draft determinations](#) for companies' in-period ODIs for 2021-22.

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](#).

In our final 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 the company's licence. The results of our assessment for 2021-22 will affect Yorkshire Water's customers' bills in the 2023-24 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 2021-22](#).

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 the [Consultation on changes to per capita consumption performance commitments – our decision on reporting performance and ODI timing](#) 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 performance commitments. We consider that it is not necessary to intervene to exclude the impacts of Storm Arwen from these performance commitments thereby leading to adjustments to the payments that ordinarily flow under the price control package in the CMA redetermination. We retain our draft determinations decision on the company's water supply interruptions performance commitment and reported performance remains unchanged from that submitted by the company.

We also retain our draft determinations decision on the company's bespoke significant water supply events performance commitment in that we have intervened to include the Tandem Way and High Bradfield events, that the company excluded from its reported performance.

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 performance commitment 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 determination after interventions 2021-22 (£m)	Our final determination after interventions 2021-22 (£m)	Difference between company view and our final determination (£m)
Water quality compliance (CRI)	-3.470	-3.384	-3.384	0.086
Significant water supply events	-7.420	-7.950	-7.950	-0.530

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

1.1.1 Water quality compliance (CRI)

Our draft determination

We intervened 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.

Stakeholders' responses

The company's response acknowledged and accepted our draft determination.

Consideration of responses and final determination

Having received only this stakeholder response, our final determination on the company's performance payment for this performance commitment remains unchanged from our draft determination, above.

1.1.2 Request for intervention for storm events

In this section, we set out:

- our position at draft determination;
- stakeholders' responses to our draft determination;
- our consideration of the points raised in those responses; and
- our final determination.

Our position at draft determination

Background

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

The impact for customers of these service interruptions was severe. Yorkshire Water said 439 properties experienced supply interruptions greater than 12 hours, with 129 properties experiencing an interruption of greater than 48 hours but less than 72 hours.

Specifically in relation to its water supply interruptions performance commitment, the company considered that the storm amounted to an emergency under the Civil Contingencies Act 2004 and stated that its customers were adversely impacted by the loss of power supply from Northern Powergrid (NPG) and NPG's response throughout Storm Arwen. It said that the loss of power supply caused telemetry failures across the network and failures at sites without back-up generation. It stated 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 provided 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 performance commitment, Yorkshire Water requested that 20 events associated with power outage during Storm Arwen be considered a single event on the basis that the performance commitment definition says 'all notifications received downstream of the point of interruption, will be considered as one event'. In these circumstances, the company stated it considered 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 stated 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 performance commitment. These were not related to Storm Arwen but were events where Yorkshire Water said that it encountered difficulties obtaining permission for restoration

work and access to unoccupied properties. The company stated 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 draft determination

Having reviewed the company's requests and supporting evidence (including evidence that showed the company's efforts to mitigate the impact on customers), we considered that it was not necessary to intervene on the company's common water supply interruptions PC 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. We said our proposed decision ensured that the company bore the appropriate level of risk and remained incentivised to deliver for customers and the environment.

With respect to the significant water supply events PC, having reviewed the company's requests and supporting evidence, we considered that:

- It was necessary to intervene with respect to the events at Tandem Way and High Bradfield to include these in the company's 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). 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 considered it was necessary to intervene here in light of our duties and policy objectives
- it was not necessary to intervene with respect to the 20 water supply events (caused by the loss of power as a result of Storm Arwen) which the company said should be treated as one event. This was 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.

Nevertheless, we went on to consider whether we should intervene to make changes to the company's ODI payments.

The effect of our draft decision was that the company's reported performance on its supply interruptions performance commitments was as follows:

- Water supply interruptions performance commitment – underperformance payments of £5.536m (no change from the company's reported performance); and

- Significant water supply events performance commitment – underperformance payments of £7.950m (an increase of £0.530m).

Stakeholders' responses to our draft determination

We received two responses specifically related to Yorkshire Water's draft determination. Both of these are available on our [website](#).

Yorkshire Water

Yorkshire Water maintained its position from its original APR22 submission regarding this request for an intervention. We have considered the company's comments in response to our draft determination and summarise its position below:

Water supply interruptions performance commitment

The company stated that it disagrees with our draft decision not to intervene to exclude the impact of Storm Arwen. The company stated that it provided evidence to demonstrate that:

- it was impacted by the response to Storm Arwen by Northern PowerGrid (NPg);
- the loss of water supply was not attributable to Yorkshire Water, but as a consequence of a large-scale power loss from NPg; and
- it did everything in its power to minimise the impact on its customers and restore supplies as soon as possible.

As part our consultation process for developing the PR24 methodology, Northumbrian Water submitted a report by Frontier Economics (commissioned by Northumbrian Water, Yorkshire Water and South East Water) on managing extreme weather risk within regulatory frameworks². While this report focused on the development of our PR24 methodology, which we will conclude next month, and our in-period determination process must focus on the PR19 framework, we have considered the points to the extent they are relevant to this process.

Significant water supply events performance commitment

In relation to the bespoke significant water supply events performance commitment, Yorkshire Water did not provide specific new comments on our draft decision to not exclude

² Frontier Economics (commissioned by Northumbrian Water, South East Water and Yorkshire Water), '[Managing extreme weather event risk in the regulatory framework](#)', October 2022.

the 20 water supply events (caused by the loss of power as a result of Storm Arwen) but reiterated its view that it believed its position set out in its APR submission was correct.

The company disagreed with our decision to intervene to include the events at Tandem Way and High Bradfield in the company's reported performance. The company said it should not be financially penalised because customers opted not to be restored within a twelve-hour period. The company also stated that it is an unintended and perverse outcome to suggest that it should ignore a customer decision and instead intervene where a customer does not want it to, to avoid incurring underperformance payments. The company says it does not believe it is within the spirit of the performance commitment to include these two events within its reported performance.

CCW

The Consumer Council for Water (CCW) responded to our consultation. CCW agreed with our draft decision not to make exceptions for Northumbrian Water, South West Water, South East Water and Yorkshire Water where a combination of extreme weather events and third-party damage to company infrastructure contributed to failure.

CCW supported this view by saying companies should carry this risk, as they can also gain benefits if they experience a period of good weather leading to reduced pressure on their water and wastewater networks.

Consideration of stakeholders' responses to our draft determination

In addressing the points made by respondents to our draft determination, we consider it helpful to start by setting out the overall framework within which we make our in-period determinations. As such, in this section we set out:

- The overall regulatory framework within which we make our in-period determinations.
- The approach to civil emergencies.
- Assessing whether an intervention is required.

The overall framework

Our price reviews specify the costs that we allow companies to recover from their customers, and the service that we expect them to deliver for that. Our policy objectives under our price reviews are set by reference to our statutory duties³ and the UK and Welsh Governments' strategic priorities and objectives statements which we have to act in accordance with.

The outcomes framework

³ The general statutory duties for most of our work as an economic regulator are set out in the Water Industry Act 1991: <https://www.legislation.gov.uk/ukpga/1991/56/contents>

Within our price control regime, the outcomes framework holds companies to account for the level of service they provide. While this includes broad measures of customer satisfaction (C-Mex for households and D-Mex for developers), other performance commitments focus on more specific features of the underlying service, such as supply interruptions, and asset health measures to measure the operational resilience of companies' networks.

The determinations specify performance commitment measures and performance commitment levels that we expect companies to attain for several areas of service, based on the business plans that companies put forward. Performance commitments are linked to outcome delivery incentives (ODIs). If companies fall short of their performance commitment levels, they incur underperformance payments which are calculated using the specified ODI rate. This incentivises them to deliver the service levels expected of them. We also encourage companies to push themselves to provide even better service by providing outperformance payments where they go beyond the performance commitment level.

Where a company does not deliver the expected level of service this means customers are affected. A company's customers bear the impact of a reduction of service, in this case an interruption to supply, no matter what the cause or reason for that service failure.

Companies have a significant level of control over the delivery of the outcomes that we specify when defining performance commitments. However, in some cases external factors can also have an effect on the ability of companies to meet their performance commitment levels. Where appropriate, we maintain incentives on companies to mitigate the impact of external factors on customers through how they prepare and respond to such events. For example, in dry weather, mains may be more likely to burst and cut off supply to customers, but companies can reduce the likelihood of this happening through the way they monitor and maintain their assets, and if supply is cut off, they can mitigate the impact on customers by repairing the fault quickly.

Our 'base' expenditure allowance for maintaining the network allows for a level of resilience and has been sufficient for companies to maintain and improve performance and asset health metrics.^{4,5} If overall industry costs are higher than forecast then this will impact on the base allowances for the next period which are based in part on historical efficient expenditure. Good management is critical to delivering resilient services. Companies can also put in enhancement claims to improve resilience or service quality further, although they will have to demonstrate this is in customers' interests, and they will be held to account for higher service standards if it is allowed.

Our regime does not, therefore, aim or profess to insure companies against all risks outside of their control. Just like in a competitive market, there will be some risks that regulated companies bear the consequences of, even if the cause was not their fault. However, the flip side of the regime is that there are instances where companies benefit from improved

⁴ Ofwat, [PR24 draft methodology: Appendix 9: Setting expenditure allowances](#), chapter 3.

⁵ Ofwat, [Assessing base costs at PR24](#), chapter 5.

performance when the circumstances are more favourable and may gain outperformance payments as a result. For example, if there is a wet summer, per capita consumption, one of the performance commitments we measure, will be lower than normal, even without any company action, as people tend to water their garden less.

Our price review determinations recognise that companies bear risk, including some external risk, and so have a degree of variability in their returns that is outside of their control. What is important is that the upside and downside risks for an efficient company are broadly balanced so that it anticipates a "fair bet" on a forward-looking basis.

Although we consider companies should bear some risk, we limit the extent of this through a range of protection mechanisms.⁶ This includes cost sharing, which means that customers bear a portion of any company overspend (generally 50%). It also includes collars on ODI payments to protect companies against large underperformance payments on specific performance commitments, as well as caps to protect customers against unexpectedly high payments.⁷ Companies were able to propose caps and collars in their business plans at PR19, including on bespoke performance commitments.⁸

Companies were able to refer their final determinations to the Competition and Markets Authority (CMA) for redetermination. Yorkshire Water did this and received a redetermination by the CMA, which included a higher allowed return on capital in part to counterbalance perceived downward skew in companies' ODIs, recognising that some individual ODIs, including supply interruptions, may not be truly symmetrical. Once the determination has been set, we consider companies should bear the consequences of their price review packages to avoid later unbalancing the package in companies' favour and that they should not seek to reset that balance by seeking exclusions from individual aspects of it in a manner which was expressly not envisaged. We do not rule out the possibility of a circumstance arising where intervention is required in light of our statutory duties and policy objectives. Nevertheless, in light of our approach (which we consider to be consistent with the principles of best regulatory practice, in particular those of consistency and targeting intervention at cases where it is needed), we see this as being, in practice, a high bar for intervention in the application of the PC and ODI regime.

⁶ These include reconciliation mechanisms (such as inflation indexation of the cost of new debt, changes to tax rates and changes in customer numbers) protecting for circumstances that arise outside of management control; protections for changes in business rates, abstraction charges and wages; interim determination provision which allow price controls to be reopened in specific circumstances; along with the linked substantial effect provision which provide protection to both companies and customers where circumstances have a material adverse (or favourable) effect on a company.

⁷ At PR19, we set caps and collars on performance commitments which we considered were financially material and uncertain. If the performance commitments proposed by companies did not meet these criteria, we generally did not add caps or collars.

⁸ We set a cap and collar on Yorkshire Water's common water supply interruptions performance commitment, because we considered it to be financially material. Yorkshire Water's bespoke significant water supply events performance commitment does not have caps or collars.

Impact on wider framework

We also consider how the ODI regime interacts with the wider regime, including investor returns and incentives to invest.

For example, in considering the package as a whole, we consider whether our outcomes regime may create unwanted incentives to invest so as to minimise risk in an inefficient way, which would not be in customers' interests. This applies both to the package as set and to our judgement about any interventions put forward by companies in period, as reflected in our draft determinations. In our draft determinations, we said we did not think our proposed decision would give rise to issues in this respect and we remain of that view.

In relation to certain supply interruptions, the package set at PR19 reflects the possibility of an intervention only in relation to the impact of a qualifying emergency. Even in cases where a company evidences that there has been a qualifying emergency (our approach to which is discussed below), a decision on whether to intervene has to be taken in light of what the PC definition says, and consistently with our stated policy objectives and statutory duties. Our decision in this final determination on whether or not to intervene reflects that. Accordingly, by reference to the position we set out at PR19, we do not consider that the approach we have taken leads to companies bearing any more risk than assumed at PR19 or creates any broader consequences which distort the wider regime. Therefore investors will not require a higher allowed return at PR24 with respect to this.

Further, we do not consider that our decision in this final determination will otherwise affect companies' incentives to invest at PR24. As now, companies will be funded to meet a level of resilience through base expenditure. We will also consider companies' requests for additional expenditure to enhance resilience during our price review process. We set out our proposed approach to assessing these requests as part of the PR24 draft methodology.⁹ Our criteria include a clear and systematic risk assessment process that shows the investment is a priority. Investments must address specific relevant hazards, and investments should be cost beneficial, and represent 'best value'. We would not expect to make enhancement allowances to be resilient to very rare events. Enhancement investments that prevent very rare occurrences are only likely to be value for money where customers place a very high value on the service.

Companies will therefore not be 100% resilient and may not meet their performance commitment levels in all cases. However, that does not necessarily imply customers should bear the risks of such events occurring under our outcome incentive package, although this package should be balanced in the round. Companies may incur underperformance payments due to events outside of their control, as under PR19 final determinations and reporting guidance. We link ODI incentives to customer valuations at a price review – so companies will only be incentivised to invest efficiently, i.e. where the likely change in ODI

⁹ Ofwat, [PR24 draft methodology: Appendix 9: Setting expenditure allowances](#), p62-63.

payments, which reflects customers' valuations of improving service, outweigh any associated incremental costs of the investment.

PC definitions and the approach to civil emergencies

In our PR19 methodology and subsequent PR19 final determinations we said that in relation to adverse events, such as weather events, we wanted companies to be incentivised to minimise the impact on customers. We said these are precisely the events we want the sector to be resilient to.

Water supply interruptions PC definition

The company's water supply interruptions performance commitment incorporates the [Reporting guidance for PR19 – Supply Interruptions](#). The reporting guidance states:

"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.

*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."*¹⁰

As can be seen from the text set out above, there is no automatic or unqualified exclusion from the supply interruptions ODI underperformance payments in the reporting guidance. On the contrary, the sentence concerning a civil emergency explains that companies "may make a representation to Ofwat for an exception to be granted"; in other words, that Ofwat will consider making an exception in the event of a qualifying emergency, should the company make a representation to us to do so.

That is not to say that the sentence concerning a qualifying emergency in the reporting guidance is irrelevant or pointless: it sets out that if such an event has occurred Ofwat should (upon receipt of a representation from the company) consider the matter further. However, the reporting guidance is not mandating the outcome of that consideration: Ofwat may consider that, despite suffering an impact on its performance as a result of a qualifying emergency, the company should nevertheless incur an underperformance payment. Nor does the reporting guidance specify any particular criteria which Ofwat should consider in deciding whether to make an exception.

¹⁰ In this determination, we refer to a civil emergency under the Civil Contingencies Act 2004, where the supply interruption is not the cause of the emergency as a "qualifying emergency".

In relation to the company's common water supply interruptions performance commitment, we remain of the view that the company has provided insufficient evidence to demonstrate 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 in Yorkshire and Humber.

Significant water supply events PC definition

The company's bespoke significant water supply events PC expressly states that "extreme events such as weather will be included in the performance commitment, to ensure the resilience of the company's assets is measured."

In its APR submission, the company requested that 20 events associated with power outage during Storm Arwen be considered a single event on the basis that the performance commitment definition says "all notifications received downstream of the point of interruption, will be considered as one event". It said in its APR that in these circumstances, it considered NPg and the power failure experienced as the 'point of interruption', which caused a single, region-wide event. Our final determination position and reasoning on this is as stated in our draft determination; that these 20 events should be treated as 20 separate events rather than a single event. This is because the point of interruption in this PC definition concerns instances of interruption to water supplies and not interruptions to power.

In its APR submission the company excluded the Tandem Way and High Bradfield events from its reported performance on this 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. Together, these exclusions reduced the company's underperformance payments by £0.530m. In our draft determination we intervened to add these events back into the company's performance. We said that 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). We said companies need to bear appropriate risks and remain incentivised to deliver the outcomes set out in their performance commitments for their customers. We said that 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 considered it was necessary to intervene here in light of our duties and policy objectives.

In the company's response, it said that by intervening to include the Tandem Way and High Bradfield events, we are creating unintended or perverse outcomes. We do not agree with this. Companies must balance providing water supply to customers, which they value highly, with potential impacts on customer service as part of responding to incentives when making their operational or investment decisions. We consider introducing exceptions that are not defined in performance commitments would undermine the regulatory framework and not be in the interests of customers. As we stated in our draft determinations, creating exceptions in

these circumstances would risk reducing the company's focus on delivery. As we say above, the purpose of the outcomes regime in this instance is to incentivise the company's performance in relation to water supply interruptions and that covers events that are within and outside of a company's control.

Storm Arwen and the water supply interruptions and significant water supply events PCs

Notwithstanding the lack of a qualifying emergency and despite there not being a basis for an exception in relation to extreme weather events in its significant water supply events PC definition, we have nevertheless gone on to consider whether we should intervene to exclude the impact on ODI payments of Storm Arwen from these performance commitments, in light of our duties and policy objectives, exercising our discretion to depart from the outcomes that would ordinarily flow from operation of the ODI regime.

Our approach to assessing whether an intervention is required

Although not necessarily determinative in this case, wider factors we take into account when considering our duties include the factors set out above concerning how the overall outcomes framework is intended to operate. They also include the fact that the PR19 final determination comprised a package over a five-year period and that some events over that period will in any given year benefit companies while others will not. We are also mindful of the natural information asymmetry between companies and regulators that favour companies in identifying circumstances that have a negative financial impact on them, but makes it harder to identify circumstances which provide fortuitous benefits. These benefits can arise for example in the event of favourable weather conditions making it easier to achieve outperformance against the performance commitment levels as set at the previous price control. If we did not take such possibilities into account it could lead to one-off adjustments that asymmetrically favour companies.

This is why we consider it appropriate to assess overall risk in the PR19 package, as well as the severity and the impact on ODI payments of individual events.¹¹ This is in line with our PR19 determinations (as redetermined by the CMA) which set out the overall level of risk we would expect a company to face over the 2020-25 period. For example, if an efficient company, with notional levels of gearing, faced an individual event outside its control that risked its ability to finance its functions, that might well, depending on all the relevant circumstances, be a situation in which we considered it appropriate to intervene.

Our final determination

Having reviewed the company's requests and supporting evidence we consider it is clear that the sentence concerning a qualifying emergency in the reporting guidance does not confer

¹¹ When we made our draft determinations, we compared the size of the requested reduction in the underperformance payment against the size of the company's regulatory equity. Comparisons of this sort are normal practice in the water sector and in other regulated sectors.

an automatic exclusion of the impact of Storm Arwen on Yorkshire Water's supply interruptions performance commitment. We also explain that, in light of the additional information it provided, the company has still not demonstrated that there was a qualifying emergency. Nor is there a basis for an exception in relation to extreme weather events in the company's significant water supply events PC definition. Nevertheless, we have considered whether we should intervene by reference to our statutory duties and policy objectives.

Our price review set out the range of ODI payments that we expect companies to experience over the 2020-25 period, taking account of caps, collars and other relevant factors. In the PR19 methodology, we expected returns from ODIs¹² would generally be between $\pm 1\%$ and $\pm 3\%$ return on regulatory equity (RoRE).¹³ ¹⁴ At the time of setting the PR19 package, we estimated companies' ODI risk range, and checked it fell within this range. For Yorkshire Water, we estimated a range of -2.46% to $+2.95\%$.¹⁵

Yorkshire Water attributes £6.639m of underperformance payments to the financial impact of the storm across its two performance commitments. This is equivalent to -0.24% ¹⁶ return on notional regulatory equity (of £2,733m in 2021-22 in 2017-18 prices) at an appointee level for a single year. Even this would be well within the estimated range for the five year period. In any event, though, because we assess and allocate risk over a five-year period, this would lead to a one-off impact on the company's return on notional regulatory equity of -0.05% , before accounting for any other performance across the period.

Overall, we considered whether there was anything else by reference to our statutory duties and wider policy objectives, in particular the financial impact of the ODI payments, that required us to intervene. However, the financial impact of the ODI payments does not appear sufficiently significant as to require us to intervene and we have concluded in all the circumstances that we do not need to do so. Consequently, we have decided not to exclude the financial impact of the storm event from the ODI payments.

Finally, in relation to:

- the company's request to consider 20 events associated with power outage during Storm Arwen as a single event within its bespoke significant water supply events performance commitment¹⁷ – given that there has been no further substantive points

¹² The expected returns for ODIs excludes expected returns for C-MeX and D-MeX.

¹³ RoRE represents the return to shareholders as a proportion of the equity component of the regulatory capital value (RCV), calculated by reference to the notional capital structure. It is a well-established regulatory tool to provide insight on a normalised basis of the return that companies can earn.

¹⁴ The lower limit of the company-level range reflected levels above which we would expect companies to be 90% of the time (the package P10) and the upper limit reflected where we expected companies to perform below 90% of the time (the package P90).

¹⁵ [PR19 final determinations: Yorkshire Water final determination](#), Ofwat, December 2019, page 67.

¹⁶ We assess return on regulatory equity at a company level, consistent with the risk ranges in the company's final determinations and to reflect the level of equity invested in the regulated business. In any case, we have been satisfied about the materiality of the event at an appointee level.

¹⁷ There is no civil emergency provision in the definition of Yorkshire Water's bespoke significant water supply events PC and so consideration of whether a qualifying emergency has occurred is not relevant to this issue.

raised on our draft determination, having carefully reconsidered the company's submissions, we retain our draft determination decision not to intervene.

- Having received no further substantive information from the company in relation to the exclusion of events at Tandem Way and High Bradfield, we maintain our draft determination decision to intervene to include these events in the company's performance on its significant water supply events performance commitment.

1.1.3 Land conserved and enhanced performance and length of river improved PCs

Our draft determination

We made three corrections in the Yorkshire Water's ODI performance model and recorded these in the Ofwat_IPD22_actions worksheet. Two of these corrections affected 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 was 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 was £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.

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 remains unchanged from our draft determination, above.

1.1.4 External sewer flooding

Our draft determination

For our draft determination we included 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 remained some additional evidence

outstanding but subject to the company providing us with the reassurance we required, we said we would not intervene on this performance commitment.

Stakeholders' responses

The company said that it had returned responses to all requests for information in relation to our external sewer flooding performance measure which confirmed its position.

Consideration of responses and final determination

Having received only this stakeholder response, our final determination on the company's performance payment for this performance commitment remains unchanged from our draft determination, above.

1.1.5 Change request relating to developer services revenue

Stakeholders' responses

The company highlighted a change request it submitted to us for review. The company asked to understand our position on it to enable us to make amendments to our revenue.

Consideration of responses and final determination

We acknowledge receipt of this request but, given that it does not affect our 2021-22 ODI final determinations, we have written to the company separately setting out our views.

1.2 C-Mex and D-Mex

Our draft determination

On 21 September we published the relative performance of all companies. Our draft determination included a C-MeX under performance payment of £0.014m and a D-MeX under performance 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.

Stakeholders' responses

Yorkshire Water told us it thought our draft determinations include an incorrect revenue sum to calculate the penalty associated with D-MeX. The company told us why this was the case and provided what it considers to be the correct figure for 3D.5 of £11.802m.

Also, another company identified a minor technical inconsistency between the reporting of C-MeX scores in the reconciliation model and the expectation in the [RAG 4.10 guidance](#), which states that scores should be rounded to 2 decimal places.

Consideration of responses and final determination

Having considered stakeholders' responses on this matter, our final determination on the company's performance payment for this performance commitment remains unchanged from our draft determination above. This is because our draft determination D-Mex model uses the correct figure of £11.802m.

Also, to ensure the C-MeX reconciliation model operates consistently with RAG 4.10 and the [PR19 Reconciliation rulebook](#) guidance, we have updated the model to round the input scores to 2 decimal places. This has no impact on the payment values calculated by the model for Yorkshire Water and our draft determination remains unchanged for this PC.

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 final determinations.

2. Impact of 2021-22 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: Change between draft and final determination on total ODI payments to be applied to customer bills in 2023-24 (£m)

This table sets out the change between our draft and final determinations.

Price control	Draft determination on total ODI payments to be applied to customer bills in 2023-24 (£m)	Change between draft and final determination (£m)	Final determination on total ODI payments to be applied to customer bills in 2023-24 (£m)
Water resources	0.042	0.000	0.042
Water network plus	-18.879	0.000	-18.879
Wastewater network plus (WaSCs only)	1.405	0.000	1.405
Bioresources (WaSCs only)	0.260	0.000	0.260
Residential retail	1.946	0.000	1.946
Total	-15.227	0.000	-15.227

Table 2.2: Final determination on adjustment to 2023-24 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 2023-24 charging year after accounting for:

- the in-period ODI payments for each company based on their performance in 2021-22;
- our final determination on these payments after any interventions;
- bespoke adjustments, including prior year restatements, where relevant; and
- our final determination on C-MeX and D-MeX payments.

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

This final 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.

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

Price control	Company's reported ODI payments (£m)	Ofwat FD interventions (£m)	ODI payments deferred from 2020-21 (£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 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 2.3: Breakdown of bespoke adjustments

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

Price control	Prior year restatements (£m)	Prior year C-Mex indexation (£m)	Prior year D-Mex indexation (£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
Water network plus	0.000	0.000	0.082	0.003	0.000	0.084
Wastewater network plus (WaSCs only)	0.000	0.000	0.096	0.003	0.000	0.099
Bioresources (WaSCs only)	0.000	0.000	0.000	0.000	0.000	0.000
Residential retail	0.000	-0.029	0.000	-0.001	0.000	-0.030
Total	0.000	-0.029	0.178	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 2.4: 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 2021-22](#) 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	-1.94	1.85	1.73	1.83
	Revised	-1.94	1.85	1.83	1.75
Water network plus (K factors)	Previous determination	2.50	1.99	6.82	4.97
	Revised	2.50	1.99	-0.36	11.92
Wastewater network plus (WaSCs only)	Previous determination	-3.94	1.25	-2.46	-0.70
	Revised	-3.94	1.25	-2.01	-1.11
Bioresources (WaSCs only)	Previous determination	73.037	73.640	73.880	74.308
	Revised	73.037	73.640	74.226	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	75.404	73.455

We have based Yorkshire Water's final 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.

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