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By email:
[REDACTED]

4 March 2025

Dear Mark,

Thank you for your letter of 30 August 2024 enclosing a copy of Environmental Standards Scotland's report "Storm overflows – an assessment of spills, their impact on the water environment and the effectiveness of legislation and policy" that was published on 4th September 2024. This letter responds to the recommendations which relate to the Scottish Government.

I should, firstly, like to put on record the Scottish Government's approach to investment in wastewater services and then turn to the specifics of the recommendations.

In accordance with the Water Industry (Scotland) Act 2002, it is for Scottish Ministers to direct the investment that Scottish Water must undertake in each regulatory period. These directions have sought to make progress in all aspects of the services provided by Scottish Water whilst ensuring the overall investment programme is deliverable for Scottish Water and affordable for its customers. This means that investment is phased and difficult choices must be made about which priorities to promote.

As the report acknowledges, the Urban Wastewater Treatment Directive dates back to 1991. This was transposed into Scots law by the Urban Wastewater Treatment (Scotland) Regulations 1994. This was a landmark piece of legislation designed to ensure that wastewater is collected from agglomerations of more than 2000 people and treated to specified standards before being discharged to the environment.

Investment has been progressed in a phased manner across Scotland recognising the staggered nature of deadlines within the Regulations. Since 2013, the deadline for when tertiary treatment had to be installed for wastewater treatment plants discharging to Sensitive Areas, investment has been directed at networks. The product of this investment is evident in the improvements in the quality of Scotland's surface waters with 87% now reaching good status.

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However I recognise that Scotland cannot become complacent. The impact of climate change and population growth are challenges that have consequences for wastewater services. The climate emergency presents us with a particular and related challenge which requires us to think differently about we drain rainwater in our towns and cities. I would encourage ESS to liaise with my officials over our proposals in relation to the recast UWWTD and also on rainwater drainage to ensure that your views are taken into account.

Turning now to the recommendations.

Recommendation 1

“The Scottish Government, Scottish Water and SEPA must make data in relation to waste water spills, compliance with licences and environmental pollution incidents available to the public to provide a comprehensive and accessible picture of the scale of spills from storm overflows. This should include reporting where and when discharges occur, their scale and the reasons for any discharges, as well as more details on when these result in pollution incidents covering the source, reasons and links to licence compliance.”

The Scottish Government fully supports the publication of information of spill data. The delivery of 1000 monitors by Scottish Water by the deadline of 31 December 2024 and the publication of the information on its website is a significant milestone. Scottish Water has plans to install a further 700 monitors in 2025. This information will not only help Scottish Water to improve the management of wastewater networks but will provide crucial evidence for the need for investment whether that be in upgrades to sewers or the delivery, at scale, or measures such as Blue-Green Infrastructure (roadside swales, raingardens, detention basins and ponds, etc) to better manage rainwater at source in urban spaces.

Recommendation 3

“The Scottish Government should as a matter of priority: (1) prepare and publish up to date, clear and specific guidance about the exceptional circumstances in which it is permissible for storm overflows to spill; (2) ensure this guidance takes into account predicted future climatic conditions (commissioning further research if required); and (3) provide up to date information on BTKNEEC requirements.”

Existing guidance, which is dated, reflects existing legislation and does not take account of the impacts of climate change in particular. As ESS will be aware, the European Union has agreed a recast of the Urban Wastewater Treatment Directive (UWWTD) which came into force on 1 January 2025. We are committed to aligning with European legislation where it is practicable and in the interests of Scotland. We are currently assessing the Directive with a view to understanding how to replace the Urban Wastewater Treatment (Scotland) Regulations 1994. As the recast UWWTD covers matters relating to the good operation of wastewater networks and the conditions under which they can spill, we intend to focus our energies on how best to apply the Directive in Scotland rather than update dated guidance.

I recognise that the good performance of wastewater networks and treatment is essential to public health and the environment and will continue to be a Ministerial priority in future

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investment periods. I welcome the support and scrutiny that ESS can provide in this area to help us to go further.

I would also like to take this opportunity to highlight that the overall investment programme is now being planned by Scottish Ministers for the next regulatory period which runs from 2027 to 2033. As part of the process to establish investment needs, extensive consultation with key stakeholders and consumers will be undertaken to ensure that the proposed investment programme delivers against a broad spectrum of regulatory and consumer requirements. Whilst changes can be accommodated during the regulatory period, it is important that the investment programme continues to command support from consumers who pay the charges.

I would value ESS' contribution to forthcoming consultations on investment priorities for 2027-33.



GILLIAN MARTIN

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