

15 May 2025

Statement on the Scottish Government, Scottish Water and SEPA's response to Environmental Standards Scotland's report 'Storm Overflows - An assessment of spills, their impact on the water environment and the effectiveness of legislation and policy'

1. Background

1.1. In September 2024, Environmental Standards Scotland published its report on 'Storm Overflows - An assessment of spills, their impact on the water environment and the effectiveness of legislation and policy'. The report finds that action needs to be taken to improve monitoring, regulatory guidance and the operation of storm overflows in Scotland. The report set out that:

- there is no comprehensive, publicly available information on the scale and environmental impact of spills from storm overflows in Scotland
- where there is data, it is clear that some sites spill much more frequently than should be expected, some of them hundreds of times a year. ESS' analysis of Scottish Water data reported to SEPA shows that in 2023, 49% of the 142 storm overflows and emergency overflows spilled over 50 times, 32% over 100 times and four spilled more than 500 times. As an example, one Combined Sewer Overflow (CSO) at the Meadowhead treatment works in North Ayrshire spilled wastewater 365 times on 124 different days in 2023
- current Scottish guidance is outdated and it is not sufficiently clear that spills from storm overflows should only occur in exceptional circumstances. This limits

the effective implementation and application of the Urban Waste Water Treatment (Scotland) Regulations 1994

- the system of identifying, reporting, classifying and addressing environmental pollution incidents (EPIs) is one of the key ways of protecting the environment from pollution from storm overflows. ESS has therefore begun investigatory work on the legislation governing EPIs and the responsibilities of the Scottish Environment Protection Agency (SEPA) and Scottish Water

1.2. The Scottish Government, Scottish Water and SEPA have responded to ESS' recommendations. A copy of the Scottish Government's response can be found [here](#), Scottish Water's response can be found [here](#) and a copy of SEPA's response can be found [here](#). This statement sets out ESS' view on the responses from the Scottish Government, Scottish Water and SEPA and the action that it intends to take to monitor implementation. ESS is also currently considering a number of representations in this area.

1.3. A detailed summary of ESS' position and next steps on each recommendation is included below. In summary, ESS will:

- seek an update by 1 September 2025 from Scottish Water and SEPA on relevant progress (recommendations 1, 5 and 6)
- write to Scottish Water to request further details on their activity relevant to recommendation 2
- write to the Scottish Government to request that they reconsider their position on guidance (recommendation 3)
- continue to monitor implementation and engage with relevant public bodies

2. Response to recommendations

2.1. ESS welcomes the constructive dialogue that has taken place with the Scottish Government, Scottish Water and SEPA since publication of ESS' report. ESS' view on the responses to each recommendation is set out below.

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.

2.2. ESS notes the progress that has been made by Scottish Water against their Improving Urban Waters Routemap commitment to install 1000 new overflow Event Duration Monitors (EDMs) in 2024. ESS will track the ongoing commitment to install a further 700 EDMs in 2025. We will also seek an update by 1 September 2025 from Scottish Water on their consideration of how best to publish data to identify where environmental pollution incidents (EPIs) are associated with overflow discharge locations.

2.3. ESS notes the development of SEPA's new approach to compliance assessment, the Environmental Performance Assessment Scheme (EPAS), and that this scheme will record both compliance information related to discharges and link pollution incidents to licence compliance. We welcome the engagement to date from SEPA on EPAS and the

commitment to update ESS on progress on providing increased information to the public by 1 September 2025.

2.4. ESS welcomes the Scottish Government's full support for the publication of information on spill data. We will continue to engage with the Scottish Government, Scottish Water and SEPA on this topic.

Recommendation 2: Scottish Water must complete installation of, and publish all data from, the more comprehensive network of monitors set out in its 'Improving Urban Waters Routemap'. It should conduct and publish the results of targeted monitoring to assess the accuracy of predicted spill rates from its hydraulic modelling and in response to locations where environmental pollution incidents have occurred. In addition, monitors should be installed at all locations where storm overflows have been assessed as unsatisfactory and it should ensure that monitors are installed and operational wherever required by licence.

2.5. ESS notes the progress that has been made by Scottish Water to install 1000 new overflow Event Duration Monitors (EDMs) in 2024 and the development of the overflow map in December 2024. This is a helpful additional source of information for the public and ESS welcomes the commitment to continue to quality assure and expand the dataset regularly with new EDMs.

2.6. ESS notes that Scottish Water aim to have completed installation of EDMs where already required by licence by the end of March 2025. It is positive that EDMs cover the significant majority of locations assessed as being unsatisfactory, however as stated in the recommendation, it is ESS' view that EDMs should be installed at all locations where storm overflows have been assessed as unsatisfactory. Scottish Water's

proposal to develop plans to integrate live overflow event information with hydraulic modelling tools through the intelligent wastewater network (WWIN) is positive.

2.7. ESS will write to Scottish Water to request further details on the installation of EDMs at all locations where storm overflows have been assessed as unsatisfactory and to provide clarity on the anticipated timeline for developments through the intelligent wastewater network (WWIN).

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.

2.8. ESS notes the Scottish Government's commitment to assessing the recast Urban Waste Water Treatment Directive (UWWTD) which came into force in the European Union on 1 January 2025. However, this is likely to take a significant amount of time to implement given that it would require legislative change and it is the final year of this parliamentary term. This means it is likely to be 2027 at the earliest before any new legislation comes into force. In ESS' view, this leaves an unacceptable lack of clarity on the exceptional circumstances in which it is permissible for storm overflows to spill, as it could be several years before updated legislation is in place and any associated guidance is issued.

2.9. ESS will write to the Scottish Government to request that this position is reconsidered as a matter of urgency, to take account of the need to provide clarity on this issue. ESS will ask the Scottish Government to set out its proposed next steps.

Recommendation 4: SEPA should review and update its authorisation regimes and associated regulatory and operational guidance to reflect the Scottish Government’s revised guidance and ensure that it remains up-to-date, publicly available and is in line with best practice.

2.10. ESS notes that SEPA welcomes ESS’ recommendation for the Scottish Government to publish updated guidance about the exceptional circumstances in which it is permissible for storm overflows to spill (recommendation 3). ESS will continue to monitor developments following further engagement with the Scottish Government.

Recommendation 5: Scottish Water and SEPA should more routinely assess available rainfall, flow and spill event data to identify all instances of overflows which appear to spill in dry weather and prioritise these for investigation and improvement as soon as possible.

2.11. ESS notes that through SEPA’s water classification scheme and as part of the strategic review of charges 2021-2027, SEPA identified 60 catchments in which Scottish Water has been required to undertake studies where CSOs which spill in dry weather have been identified. We note that SEPA is currently reviewing Scottish Water’s analysis to identify high priority CSOs and is developing analytical tools to better consider the relationship between rainfall and spill data. We welcome SEPA’s commitment to undertake further work on this topic and provide a more detailed outline of work underway to ESS by 1 September 2025.

2.12. ESS welcomes Scottish Water’s commitment to develop a definition of dry weather operation for overflows with SEPA. ESS recognises that catchment response to rainfall can be complex. A clear, public statement on how infrastructure should

operate in these circumstances is helpful and will support compliance, monitoring and investment.

2.13. ESS notes Scottish Water's commitment to develop the capability to identify 'chronic' dry weather spills and link overflow events and rainfall data through the intelligent wastewater network (WWIN). ESS will seek a further update from Scottish Water on activity relevant to this recommendation by 1 September 2025.

Recommendation 6: Scottish Water should publish a comprehensive and accessible plan for all proposed improvement work specifying: (1) the locations of all these storm overflows; (2) the timetable when improvement work will take place; and (3) if the timetable for work has not been finalised, specify when a decision on whether to proceed will be made.

2.14. ESS notes that as part of Scottish Water's Improving Urban Waters Roadmap there is a published list of 108 high priority assets that have been identified for improvement and a supporting methodology. It is positive that information is also provided on Scottish Water's overflow map. However, while there is an indication across these sources of the priority of investment and the reason for investment, there is currently no timetable provided for when investment work will take place.

2.15. While ESS recognises that future investment decisions will be informed by the Strategic Review of Charges 2027-2033, it believes that it is important that clarity is provided to the public on the timetable for making decisions on when future investment in addressing high priority assets will be made. ESS will therefore seek a further update from Scottish Water on activity relevant to this recommendation by 1 September 2025. We will also continue to engage with the Scottish Government and Scottish Water on this topic.