

[REDACTED]
Business and Finance Manager
foi@environmentalstandards.scot

[REDACTED]
[REDACTED]
Monday 31 August 2026

Dear [REDACTED],

Information Request – partial disclosure

ESS Reference: ESS.IR.043

I am writing in response to your email of 5 August 2026, requesting information under the Environmental Information (Scotland) Regulations 2004 (EIRs).

The information you requested in part 1 is as follows:

‘Further to my previous request (ESS.IR.037), and in accordance with the Freedom of Information Act, I would be grateful if you could comply with the following request:

Please provide a copy of all documents which discuss the guidance about the exceptional circumstances in which it is permissible for storm overflows to spill and the review into it since my last request (most recent dated document was 10th June).

Please include copies of all correspondence, documents, reports, minutes, letters and emails’

As the information you have requested is 'environmental information' for the purposes of the Environmental Information (Scotland) Regulations 2004 (EIRs), we are required to deal with your request under those Regulations. We are applying the exemption at section 39(2) of the

Environmental Standards Scotland Enquiries

enquiries@environmentalstandards.scot

Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD
0808 1964000

Freedom of Information (Scotland) Act 2002 (FOISA), so that we do not also have to deal with your request under FOISA.

This exemption is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption, because there is no public interest in dealing with the same request under two different regimes. This is essentially a technical point and has no material effect on the outcome of your request.

I can confirm that Environmental Standards Scotland holds some of the requested information, but that the organisation has chosen not to disclose some of that information at this stage. I enclose the information listed in the attached Schedule of Information.

Some of the requested information is held in documents which include information outwith the scope of your request. In these documents, only content regarding the remit you have outlined has been released.

The Environmental Information (Scotland) Regulations 2004 (the EIRs) allow(s) a Scottish public authority to withhold information in response to a request, where one or more exceptions listed in the EIRs apply(ies). In this case, ESS believes the following exceptions apply:

Regulation 11(2) of the EIR – personal data

An exception under regulation 11(2) of the EIRs (personal information) applies to some of the information requested because it is personal data of a third party and disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulation and in section 34(1) of the Data Protection Act 2018. This exception is not subject to the 'public interest test', so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exception.

Right to seek a review

If you are unhappy with this response to your request under EIRs, you may ask us to carry out an internal review of the response by writing to:

Environmental Standards Scotland Enquiries

enquiries@environmentalstandards.scot

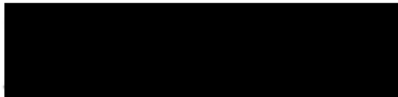
Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD
0808 1964000

Chief Executive Officer
Environmental Standards Scotland
Thistle House
91 Haymarket Terrace Edinburgh
EH12 5HD
Email foi@environmentalstandards.scot

Your review request should explain why you are dissatisfied with this response and should be made within 40 working days from the date when you received this letter. We will complete the review and tell you the result within 20 working days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your appeal rights is available on the Commissioner's website at: <https://www.foi.scot/appeal>

Yours sincerely



Business and Finance Manager
Environmental Standards Scotland

Environmental Standards Scotland Enquiries

enquiries@environmentalstandards.scot

Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD
0808 1964000

FOI 22 – Schedule of Information

Case Reference Number: ESS.IR.43

Doc no.	Title	Release – wholly or in part	Exemptions/ exceptions applied	Public interest test
1.	Correspondence between ESS and SG re Storm Overflows guidance	In part	Reg 11(2) Personal Information	Not subject to public interest test
2.	Internal correspondence about draft Board paper concerning CSO guidance	In part	Reg 11(2) Personal Information	Not subject to public interest test
3.	Internal correspondence about draft Board paper concerning CSO guidance	In part	Reg 11(2) Personal Information	Not subject to public interest test
4.	Internal correspondence about mention of ESS in relation to CSO guidance	In part	Reg 11(2) Personal Information	Not subject to public interest test
5.	Internal correspondence about ESS water work	In part	Reg 11(2) Personal Information	Not subject to public interest test
6.	Internal correspondence about CSO EIR release	In part	Reg 11(2) Personal Information	Not subject to public interest test
7.	Internal correspondence about draft Board paper concerning CSO guidance	In part	Reg 11(2) Personal Information	Not subject to public interest test
8.	Internal correspondence about new ESS representation	In part	Reg 11(2) Personal Information	Not subject to public interest test

9.	Internal correspondence about new ESS representation	In part	Reg 11(2) Personal Information	Not subject to public interest test
10.	Correspondence between ESS and SG re next steps for updating CSO guidance	In part	Reg 11(2) Personal Information	Not subject to public interest test
11.	Strategy and Analysis update to ESS Executive Team	In part	Reg 11(2) Personal Information Some information out of scope	Not subject to public interest test
12.	Internal Briefing Note- Suitability for Pre-Investigation – IESS.26.040	In part	Reg 11(2) Personal Information	Not subject to public interest test
13.	Internal Correspondence re sign off to move IESS.26.040 to pre-investigation	In part	Reg 11(2) Personal Information	Not subject to public interest test
14.	Correspondence between ESS and representee re IESS.040 - Acceptance for Pre-Investigation	In part	Reg 11(2) Personal Information	Not subject to public interest test
15.	Draft Board paper - Strategy and Analysis update - August 2026	In part	Reg 11(2) Personal Information Some information out of scope	Not subject to public interest test

From: [Mark Roberts](#)
To: 1
Cc: 1
Subject: RE: CSO Guidance
Date: 10 June 2026 16:52:00
Attachments: [image003.png](#)
[image001.png](#)

Thanks for sharing this. Definitely let me know what happens next especially in the context of the recently received representation.

From: 1
Sent: 10 June 2026 16:47
To: Mark Roberts 1
Cc: 1
Subject: FW: CSO Guidance

For info as flagged

I will let you know what 1 comes back with

1

Click [here](#) to sign up to receive our email update for the latest news about ESS and our work.

1
Head of Strategy and Analysis
1
1

General Enquiries | enquiries@environmentalstandards.scot
0808 1964000 | www.environmentalstandards.scot
Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: 1
Sent: 10 June 2026 15:21
To: 1
1
1
Cc: 1
Subject: RE: CSO Guidance

Yes please 1. If you could get in touch with SEPA to ask when they will be able to update you and us.

I would like that to be this month if possible. It's now 12 months since the Cab Sec committed to looking at how much the current guidance can practically be updated in advance of any legislative reform and we are keen to have clarity on what is proposed – preferably by way of a written update that we can publish on our

website.

Our understanding of what guidance would be updated sounds as if it is different than your own. Whilst we accepted that the **whole** of the 1998 guidance may not need updating, this is the current guidance in operation in Scotland at present and our expectation was that, at least, elements of it would need to be updated or replaced to ensure that interpretation of the Directive and the 1994 Regulations reflects relevant case law etc.

If you could let us know when you expect clarification from SEPA that would be much appreciated

Regards

1

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1

Head of Strategy and Analysis

1

1

General Enquiries | enquiries@environmentalstandards.scot

0808 1964000 | www.environmentalstandards.scot

Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: 1

Sent: 10 June 2026 13:36

To: 1

Cc: 1

Subject: RE: CSO Guidance

Hi 1

I can get in touch with SEPA and see what they say on timeframes.

They are not looking at updating the 1998 guidance which is a Scottish Office publication. As we previously discussed we do not consider that updating that guidance is a proportionate way of meeting the outcome. As we also discussed when we met, lots has changed in the sector governance since 1998 and it is important that we respect the right roles and responsibilities. At that meeting SG undertook to look at alternative ways of meeting your outcome and that is what SEPA are helping us look at.

I will be in touch when we have more clarity on the options.

Regards

1

From: 1
Sent: 10 June 2026 13:29
To: 1
1
1
Cc: 1
Subject: RE: CSO Guidance

When do you expect to have that info from SEPA 1? Can we put a date in the diary within the next 2 weeks?

Have SEPA explicitly been asked to consider updating the 1998 guidance? Or only their own regulatory and operational guidance?

Thanks

1

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1
Head of Strategy and Analysis
1
1

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0808 1964000 | www.environmentalstandards.scot
Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: 1
Sent: 10 June 2026 13:24
To: 1
1
1
Cc: 1
Subject: RE: CSO Guidance

Hi 1

I do not yet have the intended scope of the work that SEPA propose. Once I have that I am happy to have a meeting to talk that through.

Regards

1

From: 1
Sent: 10 June 2026 13:14
To: 1
1
1
Cc: 1
Subject: RE: CSO Guidance

Hi 1

Thanks for the update. However, I don't think SEPA updating their guidance would adequately address recommendation 3 from our report.

The report was clear that we recommended that **the Scottish Government** should publish up to date guidance, clarifying the exceptional circumstances under which it is acceptable for CSOs to spill.

In turn, SEPA (and Scottish Water) will need to update their own regulatory and operational guidance and permitting regimes to reflect that updated guidance. That is why recommendation 4 separately states that SEPA should review and update **its** authorisation regimes and associated regulatory and operational guidance **to reflect the Scottish Government's revised guidance**.

Recommendations 3 and 4, and paragraph 7.9 of our report, are quite clear on this matter.

I therefore think it would be helpful to meet as a matter of urgency to discuss this and to clarify, as a minimum, the intended scope of the work that SEPA are considering, how that relates to the existing 1998 Scottish Government ("Scottish Office") guidance, and how recommendation 3 in our report is going to be delivered.

Regards

1

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1
Head of Strategy and Analysis

1

1

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0808 1964000 | www.environmentalstandards.scot
Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: 1
Sent: 09 June 2026 07:18

To: 1

Cc: 1

Subject: RE: CSO Guidance

Morning 1

I can give you an email update just now to save a meeting. We had a useful discussion with SEPA and WICS a couple of weeks ago. SEPA think they may be able to update their guidance to address this issue and have gone away to look at options.

Shall we meet once I have that information from SEPA?

Regards

1

From: 1
Sent: 08 June 2026 09:51

To: 1

Cc: 1

Subject: RE: CSO Guidance

Hello both,

Following up on the below now that the election has passed. Please could we have a meeting to discuss progress with this recommendation? Our intention is then to write to the Scottish Government to seek a formal update (as noted below) following on from the [Cabinet Secretary's letter](#) from last June.

Regards,

1

From: 1
Sent: 25 March 2026 16:58

To: 1

Cc: 1

Subject: RE: CSO Guidance

Hello 1

Thank you for your reply and confirmation that there are ongoing discussions with SEPA and WICS. We are of course happy, in due course, to discuss how any potential proposals can address the specific elements of the recommendation.

We undertook regulatory mapping in support of [our storm overflows report](#) and have summarised this in narrative in the report itself, particularly in chapters 3 and 7. The Scottish Office issued guidance in 1998 for operators and regulators in support of the Urban Waste Water Treatment (Scotland) Regulations 1994, which informs SEPA's regulatory guidance and Scottish Water's operational guidance, which ESS also recommended should be updated in due course.

We will seek a formal update from the Scottish Government on this recommendation after the election to confirm the latest position and any further necessary steps in writing for the public record, as noted below.

Regards,

1

From: 1
Sent: 24 March 2026 07:30
To: 1
Cc: 1
Subject: RE: CSO Guidance

Morning 1

Thanks for your email and apologies for missing your deadline slightly. I have been catching up post leave.

I can confirm that discussions with SEPA and WICS are ongoing with a view identifying how we can most proportionately address the issue you raise without cutting across existing roles and responsibilities and regulatory frameworks. As you will appreciate this is a complex area and there are already a number of mechanisms in place that might in part address this or may be capable of amendment to address the issue you raise.

I was wondering if ESS had done any mapping of the regulatory landscape before reaching your initial conclusion that the SG guidance should be updated. If you have, that would be helpful to see to help inform our discussions.

I will keep you updated as matters progress.

Regards

1

From: 1
Sent: 11 March 2026 15:55
To: 1

Cc: 1 [REDACTED]

Subject: RE: CSO Guidance

Hello 1 [REDACTED]

I'm getting back in touch to follow up on the below. I note your out of office says you are on leave until 16 March so have continued to include 1 [REDACTED] in this email chain.

We would be grateful if the Scottish Government could set out progress on implementing ESS' recommendation on revising the outdated guidance on storm overflows, in line with the Cabinet Secretary's letter from 10 June.

As discussed, 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 the need for legislative change and the stage of the current parliamentary session. This means it could 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. It is our intention to confirm the latest position and any further necessary steps in writing for the public record.

We would be grateful for a response by 23 March.

Regards,

1 [REDACTED]

From: 1 [REDACTED]

Sent: 19 February 2026 13:17

To: 1 [REDACTED]

Cc: 1 [REDACTED]

Subject: RE: CSO Guidance

Thanks 1 [REDACTED]

Look forward to hearing more in due course. In the meantime, do let us know if it would be helpful to discuss further.

Regards,

1 [REDACTED]

From: 1 [REDACTED]

Sent: 19 February 2026 11:08

To: 1 [REDACTED]

[REDACTED]

Cc: 1 [REDACTED]

Subject: RE: CSO Guidance

Morning 1

I am picking this up as 1 is covering other priorities at the moment.

I can confirm that I am currently liaising with WICS and SEPA on the best way to approach your request so that we ensure the correct roles and responsibilities are adhered to. I will provide a further update once those discussion are complete.

Regards

1

From: 1
Sent: 19 February 2026 10:48
To: 1
Cc: 1
1
Subject: RE: CSO Guidance

Hello 1,

Hope all is well? When we met in January we agreed that you would aim to give ESS a further update on SG's plans regarding the guidance in mid February. Happy to discuss if helpful or for you to do so via email, whatever you prefer.

Regards,

1

From: 1
Sent: 12 January 2026 17:20
To: 1
Cc: 1
1
Subject: RE: CSO Guidance

Hi 1

1 would like to attend the meeting. Would it be possible to move the meeting until after 14:30 on 16th? Alternatively would 13:00 on 19th work for you?

Many thanks

1

From: 1
Sent: 22 December 2025 11:39
To: 1

Cc: 1 [REDACTED]

Subject: RE: CSO Guidance

Thanks 1 [REDACTED]

That would be good. Have stuck something in the diary for the 16th – let me know if that doesn't suit

Cheers

1 [REDACTED]

1 [REDACTED]
Head of Strategy & Analysis

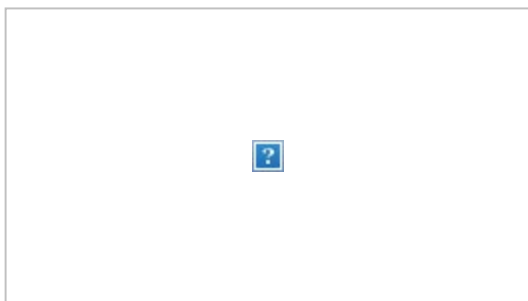
1 [REDACTED]

1 [REDACTED]

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0808 1964000 | www.environmentalstandards.scot

Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD



BSL users can contact us via an online BSL/English interpreter

From: 1 [REDACTED]

Sent: 19 December 2025 17:31

To: 1 [REDACTED]

Cc: 1 [REDACTED]

Subject: RE: CSO Guidance

Hi 1 [REDACTED]

Apologies for not getting back to you sooner.

Yes, let's plan a catch up for the New Year – I'll be back on the 12 Jan. We can cover the guidance but also what is coming up in Europe which may be of interest to you.

Have a lovely Christmas.

1 [REDACTED]

From: 1 [REDACTED]

Sent: 08 December 2025 13:01

To: 1 [redacted]

Cc: 1 [redacted]

Subject: CSO Guidance

Hi 1 [redacted]

Just wondering if there is any update on progress with revising guidance on storm overflows following the Cab Sec's letter in June agreeing to take this forward?

Would it be worth organising a catch-up to talk through what's planned?

Thanks

1 [redacted]

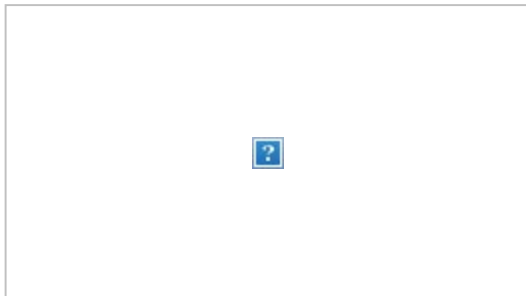
1 [redacted]
Head of Strategy & Analysis

1 [redacted]
[redacted]

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0808 1964000 | www.environmentalstandards.scot

Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD



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From: [Mark Roberts](#)
To: 1
Subject: RE: Draft Board Paper for August meeting
Date: 20 July 2026 09:56:00
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[image001.png](#)

Thanks 1 If you could get me papers by lunchtime on Thursday that would be helpful. I'll go through them in the afternoon.

1

From: 1
Sent: 16 July 2026 12:22
To: 1
1
1
1
Cc: Mark Roberts 1
Subject: RE: Draft Board Paper for August meeting

Hi All,

Thanks 1 for the below, that's great.

Just some of the dates below regarding final deadline for Board papers:

- Thursday 23 July (or before)- All papers to Mark for review
- Monday 27 July COP (or before) – All papers sent to Richard for review
- Thursday 30 July @2pm - deadline for any amendments needed and sent to me to pack
- Thursday 30 July COP (or before) – Board pack sent out

Hopefully that all makes sense and I've got that right, but any queries just let me know.

Kind Regards

1
Business Support Officer

1



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From: 1 [redacted]

Sent: 16 July 2026 10:47

To: Mark Roberts 1 [redacted]

Cc: 1 [redacted]

[redacted]

[redacted]

[redacted]

Subject: Draft Board Paper for August meeting

Morning Mark

With apologies for the delay, here's the link to my draft update paper for the August Board meeting - [Draft Board paper - Strategy analysis update - August 2026 details - Objective](#)

Grateful if you could let me know if you have any comments on this before it goes to Richard for review. As mentioned – I've put in some holding text about the SG review of the CSO guidance but will update this after we meet with them next week.

2 [redacted]

Let me know if you want to discuss at all

1 [redacted]

Click [here](#) to sign up to receive our email update for the latest news about ESS and our work.

1 [redacted]

Head of Strategy and Analysis

1 [redacted]

General Enquiries | enquiries@environmentalstandards.scot
0808 1964000 | www.environmentalstandards.scot

Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: [Mark Roberts](#)
To: 1 [REDACTED]
Cc: 1 [REDACTED]
Subject: RE: Draft Board Paper for August meeting
Date: 20 July 2026 13:34:00
Attachments: [image001.png](#)
[image002.png](#)

1 [REDACTED]

Many thanks for this. I'm happy with this pending the discussion with the SG and SEPA about storm overflow guidance 2 [REDACTED]
[REDACTED]

One thing I think I think it would be worth including that will (hopefully) be coming up over the next few months is the Scottish Government's new air quality strategy. Given our past interest in this, I would like us to be engaged with it.

Mark

From: 1 [REDACTED]
Sent: 16 July 2026 10:47
To: Mark Roberts 1 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
Subject: Draft Board Paper for August meeting

Morning Mark

With apologies for the delay, here's the link to my draft update paper for the August Board meeting - [Draft Board paper - Strategy analysis update - August 2026 details - Objective](#)

Grateful if you could let me know if you have any comments on this before it goes to Richard for review. As mentioned – I've put in some holding text about the SG review of the CSO guidance but will update this after we meet with them next week.

2 [REDACTED]
[REDACTED]

Let me know if you want to discuss at all

1 [REDACTED]

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1 [REDACTED]
Head of Strategy and Analysis

1 [REDACTED]
[REDACTED]

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0808 1964000 | www.environmentalstandards.scot

Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: 1
To: 1 Mark Roberts; 1
Subject: RE: Environmental Standards Scotland Mentions Alert
Date: 10 June 2026 09:13:49
Attachments: [image001.png](#)
[image003.png](#)
[image004.jpg](#)
[image005.png](#)

Yes – we do. We’ve also just asked SG officials for an update on progress

1

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1

Head of Strategy and Analysis

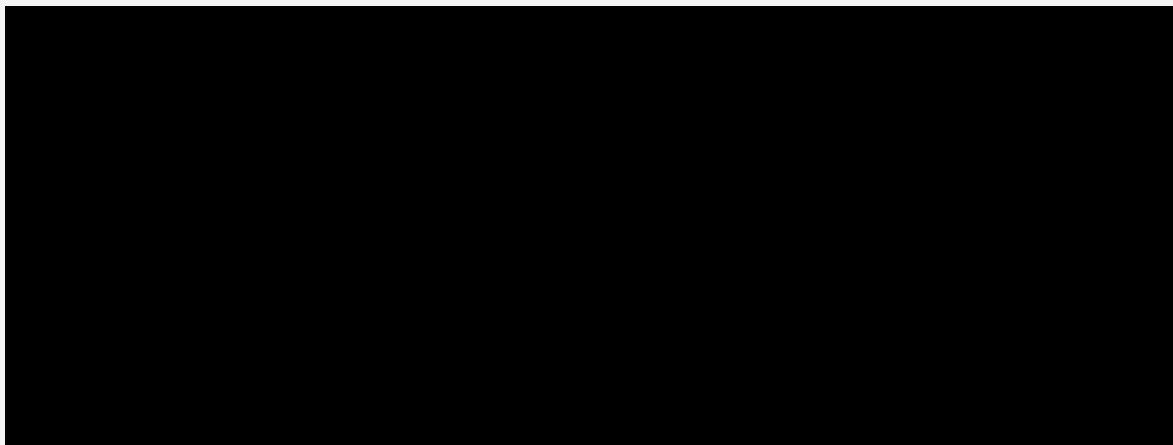
1

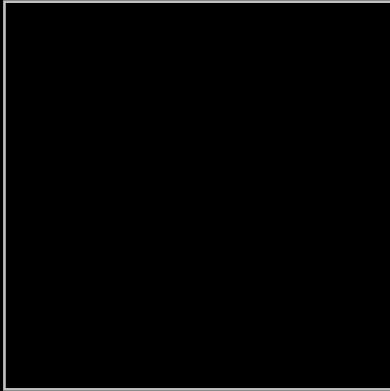
General Enquiries | enquiries@environmentalstandards.scot
0808 1964000 | www.environmentalstandards.scot
Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: 1
Sent: 09 June 2026 14:01
To: Mark Roberts 1
Subject: FW: Environmental Standards Scotland Mentions Alert

FYI. I think we also have an FOI on this subject too.

From: 1
Sent: 09 June 2026 11:54
To: 1
Subject: Environmental Standards Scotland Mentions Alert





Environmental Standards Scotland Mentions Alert

Gillian Martin [answered](#) Alex Cole-Hamilton's written question on plans to review and revise the guidance regarding the exceptional circumstances in which it is permissible for storm overflows to spill. **Environmental Standards Scotland** was mentioned.



From: [Mark Roberts](#)
To: 1 [REDACTED]
Subject: RE: Water work catch up
Date: 05 August 2026 17:31:00

Hello again everyone

Thanks again for the discussion last week on all the many strands of “water” work that we have underway. It was really valuable for me to get that overview of all the work and see where some of the key themes were. There are clearly overlaps and similarities across several pieces of work – questions about the effectiveness of SEPA’s monitoring regime being the most striking. I want us to be smart about how we proceed and how we engage with SEPA (and other public authorities) across all these given all the crossovers. Given that a range of case work was getting towards the end of pre-investigation and we should(?) have got confirmation from the SG about what it intends around the question of “exceptional” circumstances, I’d like us to meet again towards the end of September.

1 [REDACTED] could you arrange a meeting for all those on this email list to meet. Everyone maybe impossible, so as many as possible.

Thanks

Mark

From: Mark Roberts 1 [REDACTED]
Sent: 21 July 2026 18:03
To: 1 [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Subject: RE: Water work catch up

Dear All

1. We’re meeting next Monday to share and discuss ESS’ various “water” pieces of work. My goal is for everyone (and especially me) to:
 - get an overview of where all our various pieces of “water” work are
 - share what we think are going to be the potential conclusions and the anticipated timelines (if we know yet)

- make sure that we're not repeating work and actively look for connections between various pieces of work
- ensure that our conclusions/recommendations/messaging are consistent across multiple pieces of work

2. ² [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

4. In terms of follow-up from previous work, we:

- ² [REDACTED]
- are pursuing implementation of the outstanding recommendations contained within the [storm overflows report](#)

5. ² [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]

- ² [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

7. It would be great if I could get a quick summary for each of the pieces of work in terms of what we think are going to be the potential conclusions and the anticipated timelines (if we know yet). A couple of minutes on each is fine – you’ll all know the details. Then I’d like to get into the common themes across these (monitoring, effectiveness of licencing and what constitutes “exceptional”) spring immediately to mind.

Looking forward to the discussion.

Many thanks

Mark

-----Original Appointment-----

From: ¹ [REDACTED]

Sent: 24 June 2026 12:52

To: ¹ [REDACTED]

[REDACTED] Mark Roberts; ¹ [REDACTED]

Subject: Water work catch up

When: 27 July 2026 12:00-13:00 (UTC+00:00) Dublin, Edinburgh, Lisbon, London.

Where: Microsoft Teams Meeting

Afternoon everyone, at our last meeting, the ET agreed that we should all catch up again on the work we’re doing in the water space. I’ve checked the diaries and the holiday tracker and we all appear to be available on Monday 27 July.

Hopefully see you all then!

¹ [REDACTED]

Microsoft Teams meeting

¹ [REDACTED]

1



[Need help?](#) | [System reference](#)

Dial in by phone

1




SCOTS Connect - Please note - You must have the explicit permission of the organiser to record this meeting and its attendees, using any technology.

[Org help](#) | [Privacy and security](#)

From: [Mark Roberts](#)
To: 1 [redacted]
Cc: 1 [redacted]
Subject: Storm overflows: EIR release
Date: 21 July 2026 14:41:00
Attachments: [image001.png](#)

1 [redacted]

In advance of your conversations with SG and SEPA tomorrow, note that [this](#) has been released via EIR. Most of the material is the existing guidance but there's some exchanges between SG, SEPA and WICS that are useful context.

Mark

Mark Roberts
Chief Executive

1 [redacted]



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0808 1964000 | www.environmentalstandards.scot
Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

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From: 1
To: 1
Subject: FW: Draft Board Paper for August meeting
Date: 16 July 2026 14:51:44
Attachments: [image001.png](#)
[image003.png](#)
[image004.png](#)
[image002.png](#)
[image006.png](#)

Hi All

While I remember – I'm going to be off for whole of week commencing 27th July – which is when the papers for the next Board meeting will be finalised (see below).

I've drafted a paper (and will update this at end of next week to reflect our meeting with SG officials on 22nd to discuss revision of CSO guidance) but can I ask you to be on hand to pick up any final editing if Richard has any comments or amendments on the draft after he sees it on the 27/28th?

Many thanks

1

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1

Head of Strategy and Analysis

1

1

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Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: 1
Sent: 16 July 2026 12:22
To: 1
1
1
>
Cc: Mark Roberts 1
Subject: RE: Draft Board Paper for August meeting

Hi All,

Thanks 1 for the below, that's great.

Just some of the dates below regarding final deadline for Board papers:

- Thursday 23 July (or before)- All papers to Mark for review

- Monday 27 July COP (or before) – All papers sent to ¹ [REDACTED] for review
- Thursday 30 July @2pm - deadline for any amendments needed and sent to me to pack
 - Thursday 30 July COP (or before) – Board pack sent out

Hopefully that all makes sense and I've got that right, but any queries just let me know.

Kind Regards

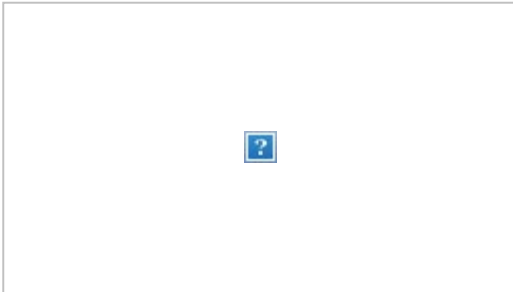
¹ [REDACTED]
Business Support Officer

¹ [REDACTED]
[REDACTED]



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BSL users can contact us via an online BSL/English interpreter

From: ¹ [REDACTED]

Sent: 16 July 2026 10:47

To: Mark Roberts ¹ [REDACTED]

Cc: ¹ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Subject: Draft Board Paper for August meeting

Morning Mark

With apologies for the delay, here's the link to my draft update paper for the August Board meeting - [Draft Board paper - Strategy analysis update - August 2026 details - Objective](#)

Grateful if you could let me know if you have any comments on this before it goes to Richard for review. As mentioned – I've put in some holding text about the SG review of the CSO guidance but will update this after we meet with them next week.

2



Let me know if you want to discuss at all

1



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1

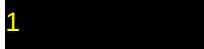


Head of Strategy and Analysis

1



1



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Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: 1
To: 1
Cc: 1
Subject: RE: Exceptional circumstances- CSOs
Date: 12 August 2026 14:46:21
Attachments: [image001.png](#)
[image003.png](#)
[image004.png](#)

Hi 1, hope all's well with you and yours. It would be brilliant to catch up with you on this and pick your brains a bit. I can set out the context when we meet.

I've copied in 1 (our Principal Investigations Officer), who you met when you were up in Edinburgh.

I'll get back to you with some meeting options.

Thanks again

1

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1
Head of Investigations, Standards and Compliance

1
1

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Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: 1
Sent: 12 August 2026 14:42
To: 1
Subject: Exceptional circumstances- CSOs

OFFICIAL

Hi 1

1 mentioned that you may want to discuss exceptional circumstances relating to CSOs. I'd be happy to discuss as we carried out a significant amount of work on the definition and how it would be interpreted for our CSO investigation.

I'm available for most of the next two days, and after that I'll be in and out over the following week. Feel free to send over a meeting invite and I'll find some time.

Kind regards,

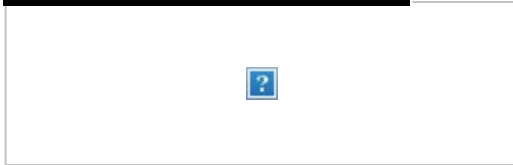
1

1 [REDACTED]

Principal Complaints and Investigations Manager | Office for Environmental Protection

1 [REDACTED]

1 [REDACTED]



www.theoep.org.uk

OFFICIAL

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From: 1
To: 1
Cc: 1
Subject: RE: Meeting follow-up
Date: 03 August 2026 13:17:00
Attachments: [image001.png](#)
[image002.png](#)
[image004.png](#)

Hi 1

Thanks for your email confirming next steps.

Yes – happy to accept 4 September as a date to get a formal letter from you. And as discussed when we met – happy to look at a draft before that to check whether we've any queries on what's proposed so that we can try to avoid a back and forth in September. Also happy to have another chat in advance of submitting something if that helps

Regards

1

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1

Head of Strategy and Analysis

1

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Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: 1
Sent: 24 July 2026 15:11
To: 1
Cc: 1
Subject: RE: Meeting follow-up

Hi 1

Many thanks to you also for a constructive discussion.

As promised I am setting out the steps that SG will now undertake to form a position on your request, taking into account the new EASR guidance that was published last summer:

- SG will review the EASR guidance with SEPA and form a position on whether it meets your request.
- SG will liaise with SEPA and SW about withdrawing the current SG guidance.

- SG will agree a position with Ministers.
- SG will write to ESS in draft with that position for further discussion.

You have requested we complete these steps by the end of August to allow you time to consider our response before the 2 October board. Given upcoming leave and that it is recess I wonder if a deadline of September 4th may be acceptable?

Regards

1

From: 1
Sent: 23 July 2026 17:21
To: 1
Cc: 1
Subject: Meeting follow-up

Hi 1

Thanks for meeting with us yesterday. I thought the meeting was helpful in clarifying for us all the next steps in terms of your response to the recommendation in our CSO report.

As agreed I'd be grateful if you could send us an email setting out your intended next steps in this regard (i.e. to write to us setting out your proposed approach to addressing the recommendation). As noted, we've a Board meeting on 7 August at which I'll be asked for an update, so if I could have your email before, say, 5 August that would be helpful.

Following that, it would be helpful, if possible, if we could aim to have formal, written notification of how you plan to address the recommendation by the end of August so that we have time to consider these before our subsequent Board meeting on 2 October.

I'm on leave after today until 31 July but 1 is around if you have any queries on this in the meantime

Regards

1

Click [here](#) to sign up to receive our email update for the latest news about ESS and our work.

1
Head of Strategy and Analysis

1

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Strategy and Analysis Team Update for 15 July 2026 Executive Team

Purpose

1. The purpose of this paper is to provide Executive Team with an update on the work of the Strategy and Analysis team
2. The Executive Team is recommended to:
 - note the update on progress of work by the team, next steps and upcoming milestones

Background

3. This paper provides an update on the progress of work by the Strategy and Analysis team since 3 June 2026, as well as forthcoming work and milestones. Annex 1 is organised by the four main areas of work that the team undertake, namely:
 - Corporate and organisational support (including the review of the Strategy and our contribution to Government and public authority consultations and Parliamentary scrutiny of legislation)
 - Analysis (including progress on the analytical priorities identified in the Strategy and support for the ISC team)
 - Horizon scanning (including work across all three functions of the team to keep abreast of developments in policy, regulation, legislation, science and environmental data)
 - Systems and processes (including all work to develop and implement the procedures and tools required for us to fulfil our role)

Recommendations

4. The Executive Team is recommended to:

- note the update on progress of work by the team, next steps and upcoming milestones

1

Head of Strategy & Analysis

10 July 2026

Annex 1 – Progress report for Strategy & Analysis team to Executive Team meeting

Task	Progress/Latest Update	Next Steps/Upcoming Milestones
Corporate and Organisational Support		
2 [REDACTED]	[REDACTED]	[REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
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[REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]

2 [REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]
Analysis		
Sewage	- Analysis of latest SW and SEPA responses and information on spills, EPIs and UIDs underway - Meeting with SEPA scheduled for 22 July - Meeting with SG about proposed approach to updating guidance scheduled for 22 July	- Meet with Scottish Water to discuss latest update - Prepare and issue response to SW and SEPA - Determine approach to follow-up on SG guidance - consulting with Board about escalation if necessary
2 [REDACTED]	[REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]
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Horizon Scanning – highlights from current activity		
2 [REDACTED]	[REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]
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Systems and Processes		

[illegible]

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ENVIRONMENTAL Standards Scotland

Ìrean Àrainneachdail na h-Alba

Environmental Standards Scotland

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23 June 2026

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3.2. The Scottish Office published supporting guidance in 1998 which states that the “Directive acknowledges the impracticality of constructing collection systems and treatment works such as to treat all waste water during situations such as heavy rainfall”. As found in [ESS’ storm overflows report](#) there is no indication in the guidance material of how exceptional the rainfall event must be to allow the storm overflow to spill.

3.3. The representation sets out that the failure within the guidance to adequately define when it is permissible for a CSO to spill has driven ineffective regulation (including authorisation conditions) by SEPA.

2 [REDACTED]
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2 [REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]

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Have any alternate remedies been identified?	Potentially – Recommendation 3 of ESS’ storm overflows report called for 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. Relatedly recommendation 4 called for SEPA to 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. Therefore, the successfully delivery of these recommendations may resolve the issues raised within the representation.

5.2. Given the above, it is concluded the case is within our remit.

6. Preliminary assessment of the representation to ESS investigation criteria

6.1. The table below provides a summary of the representation against ESS’s criteria for investigation.

2	

	2 [REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
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2 [REDACTED]

7. Assessment and conclusion

7.1. The case meets ESS' remit and significance criteria and therefore it is proposed that the case be moved to pre-investigation. This is principally to allow for an assessment of the crossover with the storm overflows report recommendations and discussion on the feasibility of delivery of them. It is noted that these recommendations remain outstanding, despite being made over 21 months ago. It therefore has to be established if the issues raised within this representation can be successfully and timeously resolved through delivery and implementation of the 2024 overflows report recommendations. As such, it will be necessary to ensure that any revised guidance (if / when prepared) satisfactorily addresses the issues raised.

2 [REDACTED]

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[REDACTED]

From: 1
Subject: RE: Sign-off sought for Move to Pre-Investigation - IESS.26.040
Date: 25 June 2026 08:52:02
Attachments: [image001.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

2

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1

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1
Head of Investigations, Standards and Compliance

1
1

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Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: 1
Sent: 24 June 2026 15:56
To: 1
Subject: RE: Sign-off sought for Move to Pre-Investigation - IESS.26.040

Hi 1,

Many thanks for reviewing and for the helpful comments, will be sure to update the briefing to include them. Some immediate thoughts for our consideration as case progresses:

Re. point 1 – It is perhaps something for us to consider, but as I understand SEPA's current approach to licensing is driven by the 1998 guidance...i.e. the 1998 guidance gives no definition / clear expectation of when a CSO can spill, and this looseness / lack of definition has crept into SEPA's approach to licensing....i.e. all roads lead back to the guidance and overlap with the extant recommendation.

2

[Redacted]

[Redacted]

2

Thanks,

1

From: 1

Sent: 24 June 2026 10:58

To: 1

2

3. The CSO report states: *ESS finds that the Scottish Government should publish up-to-date guidance to provide clarity on the exceptional conditions under which it is permissible for storm overflows to spill. In particular, it should be clear that allowing untreated waste water to be discharged regularly, or during normal rainfall, would amount to a breach of the 1994 Regulations, unless it can be demonstrated that BTKNEEC applies.* What I'm wondering is whether, based on the above highlighted sentence, we are already some way to being able to say there is a non-compliance here?

2

1

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1

Head of Investigations, Standards and Compliance

1

1

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Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: 1
Sent: 23 June 2026 15:01
To: 1
Subject: Sign-off sought for Move to Pre-Investigation - IESS.26.040

Hi 1

I have sifted the recent representation received on sewage spills in Elie Bay. The suitability for pre-investigation briefing can be accessed here:

[20260623 - Internal Briefing Note- Suitability for Pre-Investigation - IESS.26.040 \(A56695747\)](#)

I propose that the case be moved to pre-investigation to allow for an assessment to be made of the crossover with the recommendations made by the analytical overflows report and discussion on the feasibility of delivery of them. I consider that the issues raised within the representation **could** be resolved by delivery of these recommendations, however it first important to establish that these recommendations can be successfully and timeously delivered.

As ever, if you are in agreement, would be grateful if you could sign-off move to pre-investigation. Would also welcome any comments or suggestions.

In terms of timescales, deadline for notifying rep contact is 7th of July, so will require sign-off before you go on leave.

Thanks,

1

1

Principal Investigations Officer

1

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Board paper – S&A – August 2026

Purpose

1. To provide an update on the progress of work undertaken by the Strategy and Analysis team since the last meeting and a summary of upcoming milestones and deliverables.
2. The Board is asked to:
 - note the update on progress of work by the team and upcoming milestones

Progress update on existing work

3. Key highlights and progress on work conducted since the May Board meeting include:

2 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

- b) We continue to monitor the implementation of the recommendations from our Storm Overflows analytical report by SG, SEPA, and Scottish Water, including the commitment by Scottish Ministers to prepare up to date guidance on the circumstances in which it is permissible for storm overflows to spill. This remains a high profile issue politically and publicly and both ESS and SG have responded to freedom of information requests on the correspondence around this topic. We met with SG officials on 22 July 2026 to ask about progress on their commitment to update the guidance. Following this SG have agreed to write to us setting out how they intend to address the recommendation. ESS will then be in a position to

consider whether this meets our expectations and we will update the Board at the October 2026 meeting on whether we feel any further escalation is necessary. In addition, we have met with SEPA and are due to meet Scottish Water to discuss progress against recommendations and what further action is required to enable ESS to 'close off' the recommendations. Some of the actions are likely to continue to be open for some time due to their complexity and the iterative nature of improvements, however it is likely that we will be able to close some recommendations in the autumn.

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Upcoming milestones

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Voluntary application of the code of practice for statistics

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Assessing and Evidencing ESS' Impact

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Consideration of the Public Sector Equality Duty

8. Not applicable.

Impact/Theory of Change

9. Not applicable.

Communications approach

10. Not applicable.

Legal considerations

11. Legal advice has not been sought on this paper.

12. ESS' statutory duties have been taken into consideration:

Duty/legislative ask	Required	Status
----------------------	----------	--------

Public Sector Equality Duty	No	Not applicable – EQIA is considered on a project by project basis
Consumer Duty	No – not a strategic decision	N/A
Strategic Environmental Assessment	No – not a qualifying project	N/A
Island Communities Impact Assessment	No – ESS not on schedule	
UNCRC duties	No	Not applicable
Business and regulatory impact assess	No	Not applicable
Data protection impact assessment	No – no high-risk data processing to take place	N/A

Risks, mitigations and opportunities

13. Not applicable.

Recommendations

14. The Board is recommended to:

- note the update on progress of work by the team and upcoming milestones

1 [REDACTED] and 1 [REDACTED]

Strategy and Analysis

30th July 2026