Environmental Standards Scotland
Ìrean Àrainneachdail na h-Alba

[redacted]
Principal Operations Manager
foi@environmentalstandards.scot
0808 1964000

[redacted]@Parliament.scot

03 November 2026

Dear [redacted],

Information Request – partial disclosure

ESS Reference: ESS.IR.048

I am writing in response to your email of 6 October 2026, requesting information under the Freedom of Information (Scotland) Act 2002 (FOISA).

The information you requested is as follows:

‘Further to my previous request (ESS.IR.043), 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 12th August).

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

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 information falling within the scope of your request, but that we have chosen not to disclose some of that that information at this stage.

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.

The attached Schedule of information lists all the information we hold within the scope of your request, including documents which have been redacted to remove third party personal data.

Regulation 10(4)(e) of the EIR – internal communications

An exception under regulation 10(4)(e) of the EIRs (internal communications) applies to some of the information requested.

Regulation 10(4)(e) allows authorities to refuse to disclose internal communications. This is a class-based exception, meaning that there is no need to consider whether disclosure of the communication would cause harm before applying the exception. Provided the information is an internal communication, the exception will apply. This exception has been applied to all ESS' internal notes and emails within the scope of the request.

Public interest test

The exception in regulation 10(4)(e) is subject to the public interest test in section 2(1)(b) of regulation 10(1)(b) of the EIRs. This means that ESS can only withhold the information if the public interest in maintaining the exemption/exception outweighs the public interest in giving you the information. 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 exception. ESS has reviewed each piece of internal communication and made a distinct decision on whether the public interest lies in releasing the information. Some information has been released and some withheld on this basis. The attached schedule of information details the decision on each piece of information.

Outwith Scope

It is important to note that some of information you have requested is held in documents which include information outwith the scope of your request. In these documents, only content within the scope of your request has been released. The attached Schedule of information lists the specific documents which contain information outwith the scope of your request.

Wherever information has been removed, this is marked in the text, along with reference to the exception we are applying.

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:

Chief Executive Officer

Environmental Standards Scotland Enquiries
enquiries@environmentalstandards.scot
Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD
0808 1964000

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

[redacted]

[redacted]

Principal Operations Manager
Environmental Standards Scotland

FOI 22 – Schedule of Information

Case Reference Number: ESS.IR.48

Doc no.	Title	Release – wholly or in part	Exemptions/ exceptions applied	Public interest test
1.	Internal correspondence about CSO report	WITHHELD	Regulation 10(4)(e) – Internal Communication	In favour of maintaining exception
2.	Strategy and Analysis and Investigations October Board reports	In part	Some information out of scope Reg 11(2) Personal Information	Not subject to public interest test Not subject to public interest test
3.	Internal correspondence about Climate Action Committee session	In part	Some information out of scope Reg 11(2) Personal Information	Not subject to public interest test Not subject to public interest test

4.	Internal correspondence about publication of Scottish Government's letter responding to ESS' sewage report	In part	Regulation 10(4)(e) – Internal Communication Reg 11(2) Personal Information	In favour of release Not subject to public interest test
5.	Internal correspondence about CSO guidance and Elie Bay representation	WITHHELD	Regulation 10(4)(e) – Internal Communication	In favour of maintaining exception
6.	Internal correspondence about publication of SG's letter on CSO guidance	In part	Regulation 10(4)(e) – Internal Communication Reg 11(2) Personal Information	In favour of release Not subject to public interest test
7.	Internal correspondence about CSO guidance response	In part	Regulation 10(4)(e) – Internal Communication Reg 11(2) Personal Information	In favour of release Not subject to public interest test

8.	Internal update about defining exceptional circumstances	WITHHELD	Regulation 10(4)(e) – Internal Communication	In favour of maintaining exception
9.	Draft Board minutes	WITHHELD	Regulation 10(4)(e) – Internal Communication	In favour of maintaining exception
10.	Draft Executive Team minutes	WITHHELD	Regulation 10(4)(e) – Internal Communication	In favour of maintaining exception
11.	Strategy and Analysis Team Update for September 2026 Executive Team	In part	Some information out of scope Reg 11(2) Personal Information	Not subject to public interest test Not subject to public interest test
12.	Internal Correspondence re publication of ESS' response to Scottish Government on recommendation in CSO report	In part	Regulation 10(4)(e) – Internal Communication Reg 11(2) Personal Information	In favour of release Not subject to public interest test

13.	Internal correspondence about Scottish Government's response to CSO recommendations	WITHHELD	Regulation 10(4)(e) – Internal Communication	In favour of maintaining exception
14.	Correspondence between ESS and Scottish Government re CSO recommendations	In part	Regulation 10(4)(e) – Internal Communication Reg 11(2) Personal Information	In favour of release Not subject to public interest test
15.	Correspondence between ESS and Scottish Government re ESS Storm overflows report	In part	Regulation 10(4)(e) – Internal Communication Reg 11(2) Personal Information	In favour of release Not subject to public interest test
16.	Correspondence between ESS representee re Elie Bay	In part	Reg 11(2) Personal Information	Not subject to public interest test
17.	Internal correspondence about CSO and Investigation work	WITHHELD	Regulation 10(4)(e) – Internal Communication	In favour of maintaining exception

18.	Internal correspondence about Scottish Government's response to CSO recommendations	WITHHELD	Regulation 10(4)(e) – Internal Communication	In favour of maintaining exception
19.	Internal correspondence about relevant investigations	WITHHELD	Regulation 10(4)(e) – Internal Communication	In favour of maintaining exception
20.	Internal correspondence about Scottish Government's letter on CSO recommendations	In part	Regulation 10(4)(e) – Internal Communication Reg 11(2) Personal Information	In favour of release Not subject to public interest test
21.	Internal correspondence about CSO and Investigation work	WITHHELD	Regulation 10(4)(e) – Internal Communication	In favour of maintaining exception
22.	Correspondence between ESS and Scottish Government re CSO letter	In part	Reg 11(2) Personal Information	Not subject to public interest test
23.	Correspondence between ESS and Scottish Government re CSO letter	In part	Reg 11(2) Personal Information	Not subject to public interest test

24.	Internal correspondence about sewage spills in news	In part	Regulation 10(4)(e) – Internal Communication Reg 11(2) Personal Information	In favour of release Not subject to public interest test
25.	Internal correspondence re publication of Scottish Government's letter on CSO recommendations	In part	Regulation 10(4)(e) – Internal Communication Reg 11(2) Personal Information	In favour of release Not subject to public interest test
26.	Internal correspondence re draft October Board paper	WITHHELD	Regulation 10(4)(e) – Internal Communication	In favour of maintaining exception
27.	Correspondence between ESS and Scottish Government re CSO letter	In part	Reg 11(2) Personal Information	Not subject to public interest test
28.	Internal correspondence re meeting with SEPA	In part	Reg 11(2) Personal Information	Not subject to public interest test

29.	Draft report assessing SG's response to ESS' storm overflow recommendations	WITHHELD	Regulation 10(4)(e) – Internal Communication	In favour of maintaining exception
30.	Internal correspondence re draft report assessing SG's response to ESS' storm overflow recommendations	WITHHELD	Regulation 10(4)(e) – Internal Communication	In favour of maintaining exception
31.	Internal correspondence re meeting with Scottish Government	WITHHELD	Regulation 10(4)(e) – Internal Communication	In favour of maintaining exception
32.	Internal correspondence re file links for CSO guidance	WITHHELD	Regulation 10(4)(e) – Internal Communication	In favour of maintaining exception

Paper J - Investigations and representations casework update

Investigations, Standards and Compliance casework update

Purpose

1. The purpose of this paper is to provide an update on:

    - [redacted]
    - active cases
    - cases received since last meeting
    - ongoing monitoring
    - [redacted]

2. The Board is asked to:

    - note the update

Background

3. At each Board meeting an update is provided on new representations, case work and ongoing monitoring. [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

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3 [redacted]

Key:
1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

Paper J - Investigations and representations casework update

3 [redacted]

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3 [redacted]

Key:
1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

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Key:

1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

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Key:
1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

Paper J - Investigations and representations casework update

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Key:
1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

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Paper J - Investigations and representations casework update

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Key:

1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

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Water

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Paper J - Investigations and representations casework update

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Key:
1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

3 [redacted]

IESS.26.040 – CSO discharge and network capacity (Elie Bay)

105. Representation received from a local community trust suggesting that the recorded frequency of spills from a combined sewer overflow is non-compliant with the requirements of the urban waste water treatment regulations and overarching directive. The representation provides analysis of spills compared against recorded rainfall data and suggests that spills regularly occur after no or very light rain and therefore fails to meet the 'exceptional circumstances' requirement.

106. Secondly, the representation suggests that the sewage system is at capacity (as acknowledged in previous planning responses) but this is now at risk of being over-turned and the representation questions the veracity of Scottish Water's approach to determining new connections.

Current status

107. The case has been allocated to 1 [redacted] and moved to pre-investigation. Since the last Board meeting, 1 [redacted] has issued two Section 23 letters (one to SEPA and another to Scottish Water) to gather information with a view to confirming if the CSOs in question are compliant with environmental law. 1 [redacted] has also undertaken a detailed legal review to identify relevant provisions and case law and has engaged constructively with the OEP, given their investigation into CSOs in England and leaning on lessons learnt through their investigation.

108. The issue surrounding network capacity overlaps with case IESS.24.034, therefore this particular issue has been combined into case 24.034.

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Key:
1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

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Key:

1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

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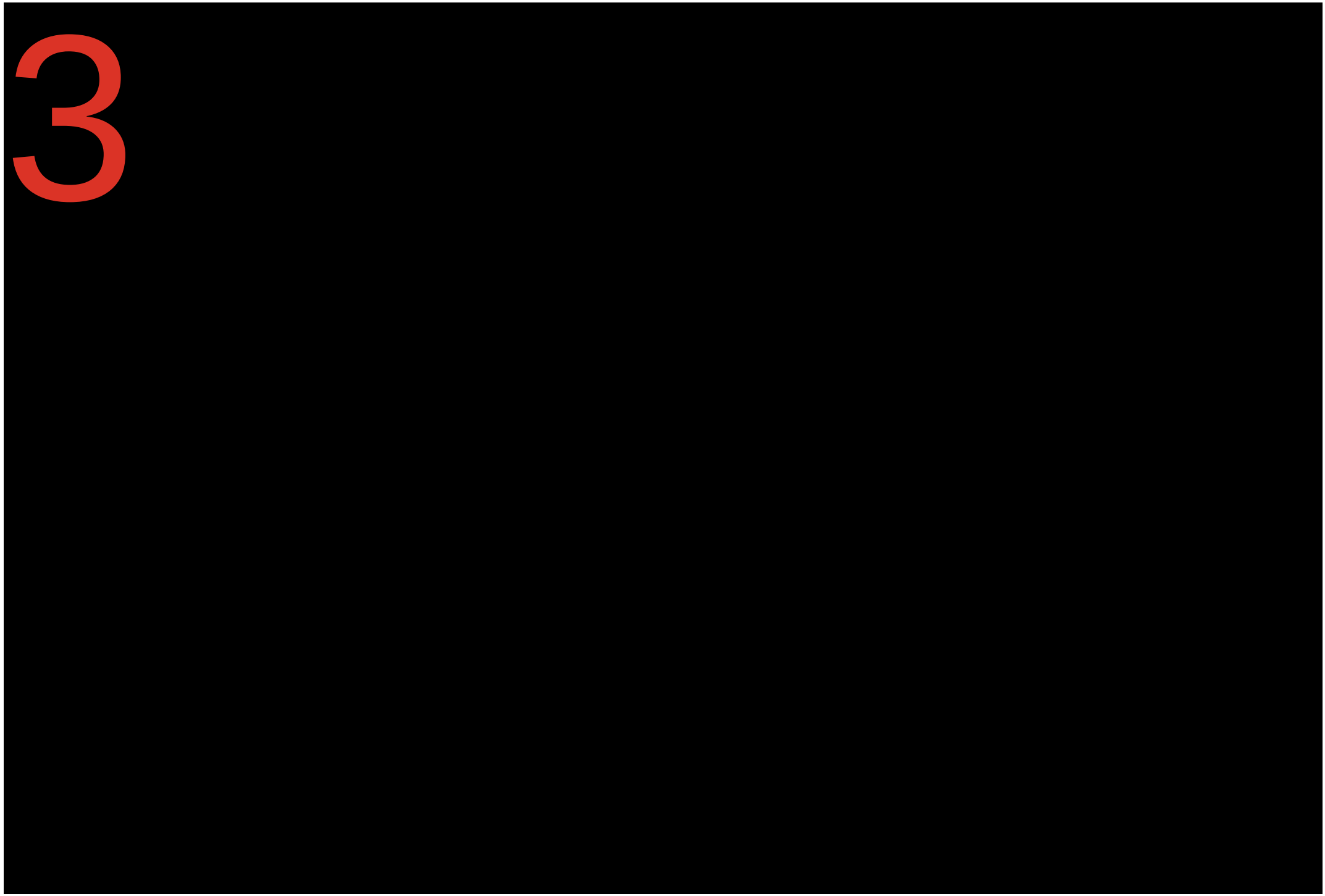
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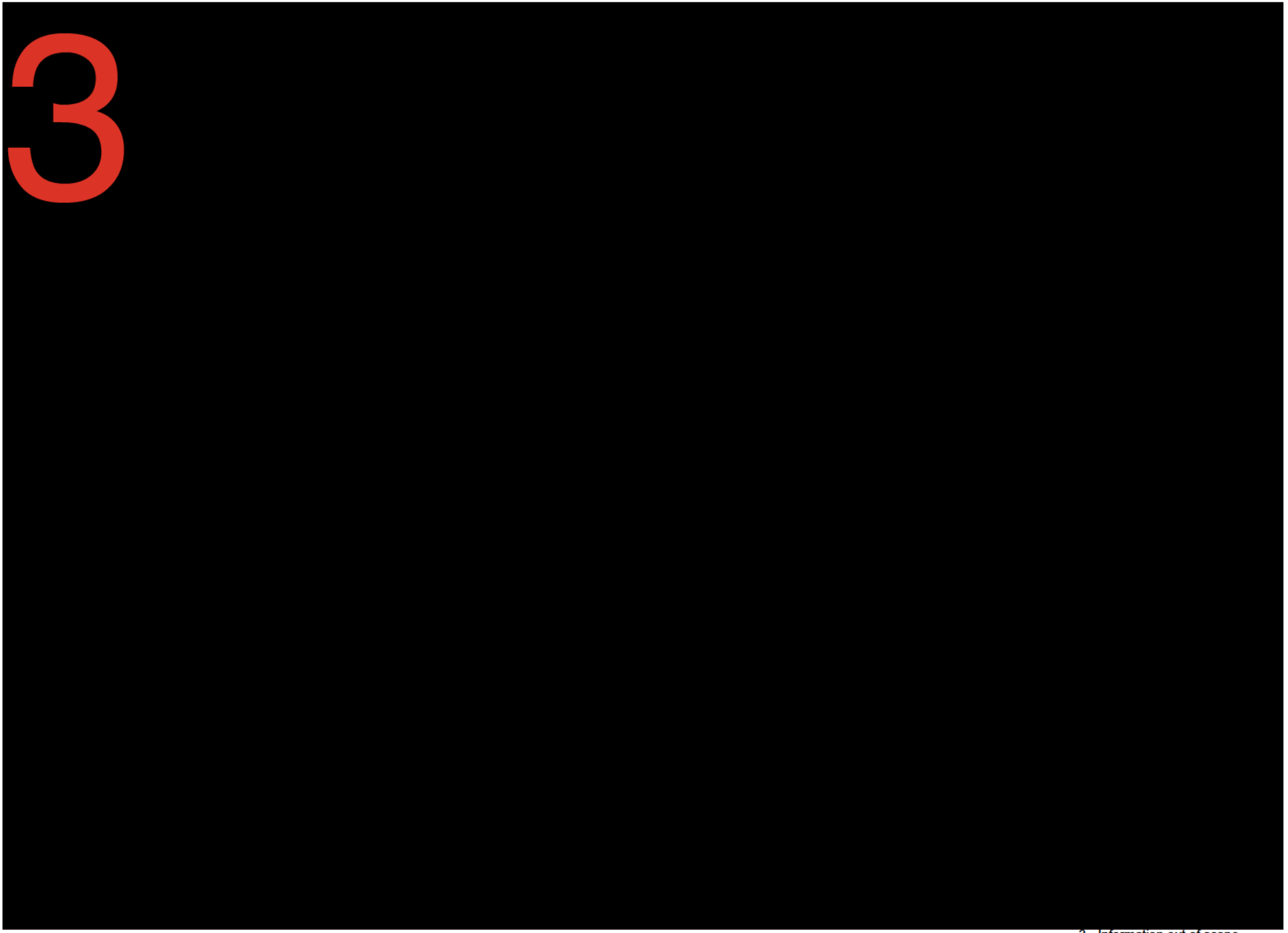
Key:

1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope



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1 - Regulation 11(2) - Personal data
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1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

Paper J - Investigations and representations casework update



Key:

1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope



Key:

1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

Paper J - Investigations and representations casework update



Key:

1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope


3

Board paper – Update on work of the Strategy and Analysis Department – October 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

3 [redacted]

[redacted]

Progress update on existing work

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

    a) **Storm Overflows:** 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 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 wrote to us on 4 September setting out how they intend to address the recommendation. We are currently assessing this response and will provide a verbal update to the Board at the October 2026 meeting on whether we feel any further action or escalation is necessary. In addition, we have met with SEPA and Scottish Water to discuss their progress and what further action is required to enable ESS to ‘close off’ the

recommendations. Both organisations are due to update ESS by the end of September 2026 on their progress to date. 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 following these updates.

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Paper K - Strategy and Analysis update

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Key:
1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

Paper K - Strategy and Analysis update

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Paper K - Strategy and Analysis update

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[redacted]

From: Richard Dixon
To: Mark Roberts; [redacted]
Subject: CAC session last week
Date: 07 September 2026 10:15:17

[redacted]

After the session Sanne Dijkstra-Downie (Lib Dem MSP Edinburgh Northern) came up and asked about the sewer overflows report with particular interest in the definition of exceptional circumstances. So she may be in touch, with me or directly, to follow up on this. [redacted]

Cheers, Richard

1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

From: [redacted]
To: Richard Dixon [redacted]; Marie Fallon [redacted]; Paul McAleavey [redacted]; MCALEAVEY Paul; Chris Spray (Staff); Laura Anderson; Annalisa Savaresi [redacted] Morag Sheppard
Cc: Mark Roberts; [redacted]
Subject: Combined Sewer Overflows Report - Scottish Government letter to ESS re: guidance recommendation
Date: 21 September 2026 12:38:00
Attachments: image001.png
image002.png

Hi All

At the last Board meeting I noted that we expected to receive a letter from Scottish Government setting out how they proposed to address the recommendation from our sewage report to prepare updated guidance on the circumstances in which CSOs are permitted to spill.

I wanted to update you that we received a letter on 4 September and this has now been published on our website (Letter---incoming---Scottish-Government-to-ESS---Storm-Overflow-Recommendations---20260909.pdf). We are currently assessing the SG's response and will provide a verbal update for you at the upcoming Board meeting on 2 October on whether we feel this addresses things satisfactorily. Please let me know if any queries in the meantime

Regards

[redacted]

Click **here** to sign up to receive our email update for the latest news about ESS and our work.

[redacted]
Head of Strategy and Analysis
[redacted]@environmentalstandards.scot
[redacted]

From: 1
To: 1
Cc: 1
Subject: CSO letter
Date: 09 September 2026 09:33:00
Attachments: image001.png
image002.png

Hi 1 ,

I just wanted to check if the letter that ESS received from SG on CSO guidance has been published on the website, so I can include it in the Board paper we're putting together?

Thanks,

1

1
Senior Policy Analyst
1 @environmentalstandards.scot

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

From: [redacted]
To: Richard Dixon [redacted]
Subject: CSO recommendation at Board meeting tomorrow
Date: 01 October 2026 13:54:00
Attachments: image001.png
image002.png

Hi Richard

Just to note that I'm planning to use a few slides to walk the Board through my thinking on the CSO guidance response at the meeting tomorrow.

[redacted] advised that the simplest way to manage it on the day is for me to join the teams meeting and share the slides when we get to that point.

Hope that all sounds OK. Happy to speak before the meeting if any queries

Regards

[redacted]

Click **here** to sign up to receive our email update for the latest news about ESS and our work.

[redacted]
Head of Strategy and Analysis
[redacted]@environmentalstandards.scot
[redacted]

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

Strategy and Analysis Team Update for 9 September 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. 3 [redacted]

Recommendations

4. The Executive Team is recommended to:

Key:
1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

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

1 [redacted]
Head of Strategy & Analysis
3 September 2026

Key:
1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

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

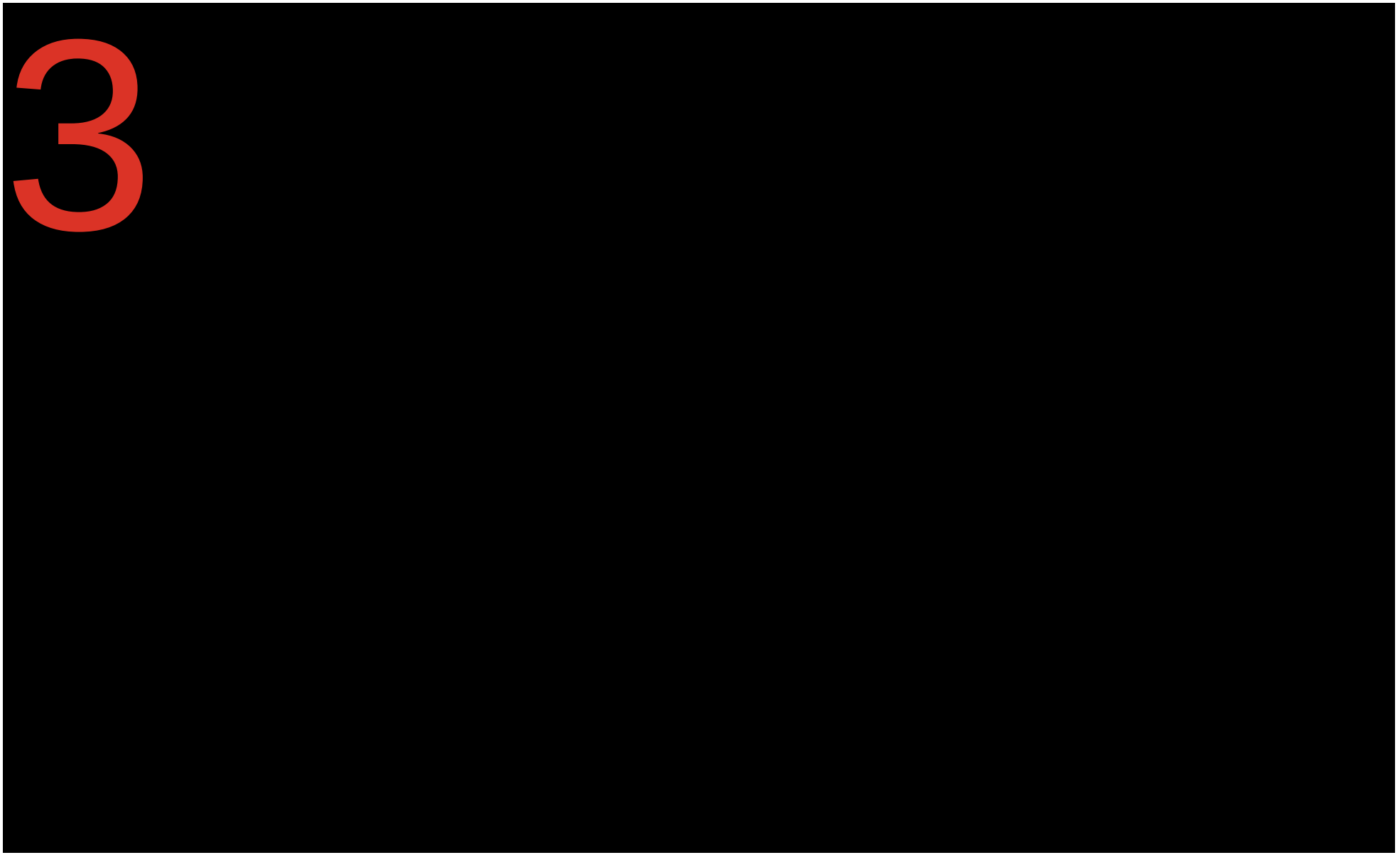
Task	Progress/Latest Update	Next Steps/Upcoming Milestones
Corporate and Organisational Support		
[redacted]		

Key:

1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

3

Analysis		
Sewage	- Analysis of latest SW and SEPA responses and information on spills, EPIs and UIDs underway - Met with SG about proposed approach to updating guidance and commented on draft letter from SG setting out approach. Final reply expected 4 September 2026 - Meeting with SEPA to discuss latest update held on 22 July - Met with Scottish Water on 12 August 2026 to discuss latest update and what is required to close off recommendations	- Provide advice to Board on SG proposed approach to updating guidance – including options for escalation if necessary - Next updates from SEPA and Scottish Water due by end of September 2026



Key:

1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

3

Horizon Scanning – highlights from current activity

3

Key:

1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

3

Systems and Processes

3

Key:

1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope



Key:

1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

From: 1
To: 1
Cc: Mark Roberts; 1
Subject: For publication on website - letter to SG re: response to ESS Storm Overflow Report
Date: 09 October 2026 11:19:00
Attachments: Letter Outgoing - Head of Strategy and Analysis to Scottish Government - sewer overflow recommendation - October 2026.docx
image002.png
image004.png
image001.png
image005.png

Hi 1 and 1

Please see attached letter that I've sent today to Scottish Government about their response to the recommendation in our CSO report. I'd be grateful if you could arrange for a redacted copy of this to be published on our website when possible please.

Could you let me know when it's published as I'd like to send a link to the Board for info

Many thanks and let me know if any queries

Cheers

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 @environmentalstandards.scot
1

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

From: 1
Sent: 09 October 2026 11:16
To: 1 @gov.scot>
Cc: 1 @environmentalstandards.scot>; 1 @gov.scot>; 1 @gov.scot>; 1 @scottishwater.co.uk>; 1 @scottishwater.co.uk>; 1 @sepa.org.uk>; 1 @sepa.org.uk>; 1 @wics.scot>; 1 @environmentalstandards.scot>; 1 @environmentalstandards.scot>
Subject: RE: SG response to ESS Storm Overflow Report

Hi [redacted]

Thank you for your letter. As discussed earlier in the week I attach a letter setting out ESS' reply – including the additional action, information or assurance that we would need to be able to accept your proposed response to the recommendation. As detailed in the letter I'd be grateful if you could let us have a response **by close on 13 November 2026** please.

Let me know if any queries about the contents of the letter and, as previously, please let me know if you would like me to look over a draft of your response to see if there are any elements of that where we'd seek clarification before you send it.

As with previous correspondence on the report we will publish a copy of this letter on our website.

Regards

[redacted]

Click **here** to sign up to receive our email update for the latest news about ESS and our work.

[redacted]
Head of Strategy and Analysis
[redacted]@environmentalstandards.scot
[redacted]

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

From: [redacted]@gov.scot>
Sent: 03 September 2026 16:42
To: [redacted]@environmentalstandards.scot>
Cc: [redacted]@environmentalstandards.scot>; [redacted]@gov.scot>; [redacted]@gov.scot>; [redacted]@scottishwater.co.uk>; [redacted]@scottishwater.co.uk>; [redacted]@sepa.org.uk>; [redacted]@sepa.org.uk>; [redacted]@wics.scot>
Subject: SG response to ESS Storm Overflow Report

Afternoon [redacted]

Thank you once again for the helpful dialogue on this matter.

As promised I have attached our response to the recommendation that relates to the

Scottish Government.

I am copying this to Scottish Water, SEPA and WICS for awareness.

Regards

1

1
Deputy Director Water Industry and Corporate Operations | Directorate for Energy and Climate Change

-



1
Head of Strategy and Analysis
Environmental Standards Scotland
Ìrean Àrainneachdail na h-Alba

1 @environmentalstandards.scot

ENVIRONMENTAL
Standards Scotland
Ìrean Àrainneachdail na h-Alba

1
Deputy Director for Water Industry and Corporate Operations
The Scottish Government
St Andrew's House
Regent Road
Edinburgh
EH1 3DG
1 @gov.scot

9 October 2026

Dear 1 ,

Storm Overflows - an assessment of spills, their impact on the water environment and the effectiveness of legislation and policy – September 2024

Thank you for your letter of 3 September 2026 setting out the Scottish Government's proposed response to Recommendation 3 from ESS' above report. I am grateful for the clarification of the Scottish Government's position on this matter. However, ESS does not consider that the actions outlined in your letter will adequately address concerns about the effectiveness of the approach to implementation of environmental law that were set out in our report.

Consequently, I am writing to set out ESS' assessment of your proposed approach and the additional action, information or assurance that we would require to enable us to accept the Scottish Government's proposed approach to addressing this recommendation.

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.

Taking each of the three elements of the recommendation in turn:

(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

As we have previously discussed, ESS is content, in principle, for the 1998 Scottish Office guidance to be withdrawn, as long as it is satisfactorily replaced. Were Scottish Ministers to make a clear statement withdrawing the 1998 guidance and setting out where SEPA, Scottish Water and others should look to for guidance (either already in existence or to be updated or published) that provides clarity on the circumstances in which it is permissible for storm overflows to spill ESS could accept that. However, we do not consider that the existing EASR guidance issued by SEPA adequately defines the “normal local climatic conditions” in which waste water systems are expected to perform sufficiently, nor the exceptional circumstances in which overflows are permitted to spill.

ESS does accept that, as noted in your letter, case law has clarified that spills will need to be considered on a case by case basis and that this will, in effect, require a two-stage verification process. ESS accepts that, in practice, SEPA is the appropriate organisation to ensure compliance with the law through its enforcement of the Environmental Authorisations (Scotland) Regulations 2018 (as amended) (the EASR regulations). However, SEPA’s operational guidance needs to be informed by a clear definition of the circumstances in which storm overflows may be permitted to spill. As noted in paragraph 7.7 of our report, ESS considers that both the 1998 guidance and SEPA’s guidance do not make it clear that discharges should only occur in exceptional circumstances.

ESS notes that, currently, the EASR guidance (WAT-G-058) sets out the failure criteria for an intermittent discharge. However, none of the failure criteria make reference to spilling in

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"normal local climatic conditions". The criteria do refer to operating "in dry weather conditions" but, as we have discussed, this is not the same as operating in 'normal' conditions and it is clear that overflows should not be spilling in dry weather.

Furthermore, the EASR guidance (both WAT-G-058 and WAT-G-065) refer back to the 1998 guidance in a number of places. Were the 1998 guidance to be withdrawn these references would therefore become obsolete and the EASR guidance would, as a minimum, need to be updated to reflect this and replace those references.

Therefore, in order to accept the Scottish Government's proposed response to this element of the recommendation ESS would require Scottish Ministers to commit to the following:

i) Agreeing to make a clear statement setting out how "normal local climatic conditions (taking account of seasonal variation)" and/or "exceptional circumstances" are to be interpreted and, hence, how SEPA are to assess whether the conditions in which overflows spill may be considered permissible. This could be accomplished by issuing new guidance or by reference to existing or updated guidance. However, this guidance must adequately define the exceptional circumstances in which storm overflows might be permitted to spill;

ii) Agreeing to make a clear statement confirming that the 1998 guidance will be withdrawn and clarifying how references to that guidance (e.g. in the EASR guidance) will be replaced;

iii) A clear timetable for when this work will be completed.

2) Ensure this guidance takes into account predicted future climatic conditions (commissioning further research if required)

ESS welcomes confirmation that SEPA have adopted the guidance contained in the Urban Pollution Manual (UPM) for sewer modelling and that this make allowances for climate change for new and upgraded sewer systems. ESS also notes that your response acknowledges that future climate change is not taken account for in existing systems and

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that further work will be required to consider how this might be achieved, as part of work to align with the recast Urban Waste Water Treatment Directive.

ESS is happy, in principle, to accept the Scottish Government's response to this element of the recommendation if Scottish Ministers are able to commit to the following clarifications/ assurances:

i) Inclusion of a clear statement in the updated guidance (as per the above response to element (1) of the recommendation) setting out how SEPA should refer to the UPM when undertaking sewer modelling and designing new or upgraded sewer systems;

ii) A clear timescale for completion of work to align with the recast Directive. ESS accepts that if primary legislation is required to do so this will be dependent upon Parliamentary scheduling. Nevertheless, ESS would, as a minimum, require confirmation of when the Scottish Government expects to consult on revised legislation and to introduce draft legislation to the Scottish Parliament.

3) Provide up to date information on BTKNEEC requirements

ESS welcomes clarification that the Water Industry Investment Group considers BTKNEEC as part of its oversight of the investment programme and that, consequently, whether improvements to unsatisfactory overflows are feasible and value for money is part of their decision making process. ESS accepts that the Investment Group is a suitable forum for considering BTKNEEC for overflows that have been identified as failing, including spilling in "normal climatic conditions".

As you will be aware, we have been working with Scottish Water on their response to recommendation 6 from our report ("*Scottish Water should publish a comprehensive and accessible plan for all proposed improvement work* …") to ensure that information about which overflows are scheduled to be improved (and by when) is transparent. ESS is broadly content with the progress made in respect of this recommendation and has recently engaged with Scottish Water to clarify what additional action it would require for this recommendation to be considered completed. Given the clarification of how BTKNEEC is considered as part

of the Investment Group's decisions ESS considers that the proposed response to this element of recommendation 3 should be aligned with Scottish Water's response to recommendation 6 to make it clear to the public how this happens in practice and, where relevant, which overflows it has been decided not to invest in because it is not considered to be technically feasible or value for money.

ESS is therefore happy to accept in principle the proposed response to this element of the recommendation if Scottish Ministers are able to commit to the following clarifications/ assurances:

i) Inclusion of a clear statement in the updated guidance (as per the above response to element (1) of the recommendation) setting out how and when BTKNEEC is taken into consideration by the Water Industry Investment Group and what, if any, guidance should be referred to when interpreting this element of the legislation;

ii) Confirmation that how BTKNEEC is considered as part of individual investment decisions taken at the Investment Group will be required to be publicly and transparently reported (e.g. through direction from Scottish Ministers to Scottish Water and WICS).

I hope that this response if helpful in setting out ESS' position on your proposed approach to delivering against the recommendation from our storm overflows report and what additional action, information or assurance ESS would need to be able to accept the Scottish Government's proposed approach.

As required by the Continuity Act, ESS is committed to trying to secure agreement with public authorities on the remedial action necessary to address concerns that it has raised concerning the effective implementation of environmental law. However, it is now two years since our report was published and the ESS Board have asked me to stress to you their determination to bring this matter to a resolution as soon as possible. I would therefore be grateful if you could respond to this letter by 13 November 2026 confirming whether the Scottish Government is able to commit to the additional actions and assurances that I have outlined.

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This will enable us to consider your response and to provide an update to the ESS Board at their meeting on 4 December 2026. If you are unable to commit to these additional actions then ESS will consider whether to use our formal enforcement powers to secure the necessary remedial action.

Yours sincerely,

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Head of Strategy and Analysis

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0808 1964000

From: 1
To: 1
Subject: FW: Meeting follow-up
Date: 08 September 2026 08:58:28
Attachments: draft response - 1 - ESS - 26 August 2026.docx
image001.png
image002.png
image004.png

This is their draft reply for reference. Only useful to see what has been strengthened. I'll share 1 reply to this too.

From: 1 @gov.scot>
Sent: 26 August 2026 08:21
To: 1 @environmentalstandards.scot>
Cc: 1 @environmentalstandards.scot>
Subject: RE: Meeting follow-up

Morning 1 and 1

Thank you for the offer of looking at a draft letter on the matter of updating the SG Wastewater Guidance.

I attach our draft letter and I would be grateful for any feedback before I submit this in final form.

Regards

1

From: 1 @environmentalstandards.scot>
Sent: 03 August 2026 13:18
To: 1 @gov.scot>
Cc: 1 @environmentalstandards.scot>
Subject: RE: Meeting follow-up

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

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

From: 1 @gov.scot>
Sent: 24 July 2026 15:11
To: 1 @environmentalstandards.scot>
Cc: 1 @environmentalstandards.scot>
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 @environmentalstandards.scot>

Sent: 23 July 2026 17:21
To: 1 @gov.scot>
Cc: 1 @environmentalstandards.scot>
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

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1
Head of Strategy and Analysis
1 @environmentalstandards.scot
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Storm Overflow - an assessment of spills, their impact on the water environment and the effectiveness of legislation and policy, August 2024

I refer to the above report and the recommendation contained therein that "*...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...*"

On 10 June 2025, the then Cabinet Secretary for Net Zero and Energy responded to the recommendation:

"*...As my officials have explained, the current legislation is out of date and we are exploring policy options to rectify that situation. However in recognition of the ESS request my* ***officials will look at how much the current guidance can practically be updated*** *in advance of any legislative reform. Officials will discuss this further with ESS as work progresses.....*"

I am grateful for the various discussions that we have held on the matter to assist the Scottish Government in reaching a concluded position.

As we have discussed, we have investigated the potential to update the current Scottish Government guidance in advance of any legislative reform to align with the recast Urban Wastewater Treatment Directive. Our investigation has established that the guidance was put in place to assist the three former regional water authorities at that time in their new obligations when the requirements of the Urban Wastewater Treatment (Scotland) Regulations 1994 came into force.

Those Regulations represented a series of significant step changes in the standards of treatment of wastewater. It also came at a time when SEPA had only recently been established under the Environment Act 1995. The guidance was therefore produced to help manage the transition to the new regime and the establishment of the new regulator.

The guidance is non statutory, runs to 128 pages and dates back to 1998. It is drafted in the name of the Secretary of State and pre-dates devolution in 1999 and the UK leaving the European Union in 2020. Given that the document is out of date in many respects, it would require significant revision to bring it up to date. The SG guidance is not published it being guidance for *dischargers and regulators*. It is only used by Scottish Water and SEPA for limited aspects of practical implementation, given its age.

Through our discussions I understand that you accept our position that updating this guidance would not be a proportionate use of public money. We have therefore explored other, more proportionate means of addressing the recommendations you have made. In doing so it is our strong view that responsibility for guidance should now sit with SEPA as the well-established regulator. In order to better recognise roles and

responsibilities, as we discussed, we also favour withdrawing the 1998 guidance and will consider the implications of that with Scottish Water and SEPA which is responsible for enforcement of the Environmental Authorisations (Scotland) Regulations 2018 (as amended) (EASR).

Since your report and recommendation, in August 2025 SEPA published new guidance for sewer overflows and sewage treatment under EASR. We have reviewed that guidance with SEPA and the Scottish Government are satisfied that it addresses your recommendations as set out in Annex A.

Clearly this guidance also has the benefit of a statutory basis and is widely available.

We consider the EASR guidance in conjunction with SEPA's regulatory experience, to provide a robust framework for assessing the acceptability of CSO spills. If on considering the EASR guidance and this letter you consider that there remains a gap for the Scottish Ministers to fill please do not hesitate to contact me.

Annex A: relevant extracts of EASR guidance

ESS Recommendation	EASR 2025 position
(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.	**Case law and general approach to regulation of spills** As we have discussed the UWWTD does not refer to "*exceptional circumstances*" The judgement in 2012 EU (Case C-301/10) does use the term but goes on to describe it more specifically: "*...I propose is a two-stage verification process, in relation both to collecting systems and to treatment plants. During the first stage, it must be established whether the discharges can be regarded as an* ***exceptional*** *event, or,* ***more accurately****, as an element in the operation of the collecting system or treatment plant which is* ***not 'normal'****. During the second stage, if the first stage has revealed that the events resulting in the discharge of untreated water into the environment were not exceptional, it must be established whether the BTKNEEC clause applies...*" The judgement also states that "*...I believe, however, that, in reality, the only reasonable way of interpreting the obligations under the Directive is to carry out* ***a full analysis of the circumstances in each individual case****, combining, in a single assessment, verification of the extraordinary nature of the event and the projected cost of constructing collecting systems and treatment plants capable of preventing any overflow even in such extraordinary situations. In other words, I consider that the concept of 'unusually heavy rainfall' is not static but may vary in the light of other factors...* We consider that the EASR guidance recognises the complexity of defining "*not normal*" noted in the judgement and transparently sets out how SEPA will consider what is an acceptable spill relating to a range of parameters. The combination of the clarity of the EASR guidance and SEPA's experienced regulatory judgement form a robust methodology for determining what is and is not "*normal*". The 1998 also recognises the role of SEPA in making a determination on acceptability, stating: "*...This Annex and its detailed supporting notes at Appendices H2 and H3 set down in general terms, the minimum requirements which are to be met to ensure compliance with the Regulations. For the purpose*

	of protecting the water environment SEPA may, in certain circumstances, require more stringent standards to be met than those specified in the notes. In view of the local nature of such circumstances it is not appropriate to cover these in this paper or in the notes. Rather they are for consideration at the local level between SEPA and the sewerage authorities…" **EASR relevant extracts** Looking at the specific safeguards in the 2025 EASR guidance: The EASR guidance (*WAT-G-058: EASR Guidance: Sewer overflows*) continues to refer to the SG Guidance of 1998 in terms of permitting existing CSOs or EOs (section 3.2), noting the six failure criteria of an intermittent discharge that: • Causes significant visual or aesthetic impact due to solids or fungus or has a history of justified public complaint. • Causes or makes a significant contribution to a deterioration in chemical or biological status. • Causes or makes a significant contribution to a failure to comply with Bathing Water Quality Standards for identified bathing waters and/or Shellfish Waters. • Operates in dry weather conditions. • Operates in breach of permit conditions provided that they are still appropriate; and/or • Causes a breach of water quality standards (EQS) or other EU Directive requirements. Many of these definitions are now more clearly specified in the EASR guidance. **Consideration of range of factors** In the guidance, acceptability is also based on the significance of the discharge (low, medium, high), available dilution, population served, and compliance demonstrated through Formula A, 99th-percentile assessments, or FIS modelling as appropriate. It is a rounded assessment that recognises that as dilution decreases and risk to the water environment increases, discharges become of medium or high significance and need progressively more detailed catchment modelling and water quality impact assessment.

	Monitoring of pass forward flow Importantly the guidance (*WAT-G-065: Permit Activity: Municipal Sewage Treatment Works*) requires monitoring of pass forward flows to be able to test whether thresholds for certain flow limits are being exceeded. Flow limits are generally calculated based on a number of factors including dry weather flow (DWF). In relation to dry weather flows specifically section 3.2.2 Background, notes: "*...Some Sewage Treatment Works [STW] permits may still define DWF in the permit Interpretation of Terms as:* • *'the average daily flow to or from the STW during a week without rain (excluding a week which includes public or local holidays), following a week during which the rainfall did not exceed 0.25mm on any one day. For sewage with a large industrial component, dry weather flow should be based on the flows during five working days if production is limited to that period'...* *There are various problems with this traditional definition such as the infrequency of qualifying periods of DWF, large variability and difficulties in obtaining local reliable rainfall data...* *A 2006 research project sponsored by UK Water Industry Research recommended using the Q80 DWF definition [given below], rather than the traditional rainfall related definition. The Q80 definition closely matched the rainfall related definition and does not suffer from the problems outlined above...* *This approach also means that Scotland is consistent with that taken by the Environment Agency...* *Flow/overflow compliance is assessed by comparing the 80%ile exceeded flow limit against the measured 90% exceeded flow. The UK Water Industry Research project referred to in section 3.2.2 showed that if this measured Q90 is above the discharge permit limit, we can be 95% confident that the discharge has truly exceeded the permit DWF limit..."*

	Definition of dry day In specifying the design flow to full treatment , a dry day is defined in the guidance as: "*...a day when rainfall does not exceed 0.25mm. However, the first day after it has rained should be removed from the calculation. Where it can be demonstrated that it takes more than one day for rainfall to reach the STW, this second day can be discounted also. Also discount days when there has been significant snow melt and the day after as the flows measured may contain significant runoff or snow melt from the previous day. Infiltration for all the remaining days should be calculated...* *The analysis must normally use data from at least 12 consecutive months, with ideally flow data over several years being used...*" Taking all of the above into account, we are satisfied that the EASR guidance provides a more rounded and measurable methodology for testing acceptability of spills. The role of SEPA as an experienced regulator is vital in the process and the EASR supports SEPA in exercising its role.
(2) ensure this guidance takes into account predicted future climatic conditions (commissioning further research if required); and	SEPA have adopted the guidance contained in the Urban Pollution Manual (UPM) for sewer modelling. That guidance makes allowances for climate change for new and upgraded sewer systems. We accept that future climate change is not taken account for in existing systems. We will consider that as part of work to align with the recast directive. However in the meantime as assets become due for renewal or replacement the UPM standards will apply.
(3) provide up to date information on BTKNEEC requirements..."	*The 2012 judgement stated: "...The BTKNEEC clause in fact requires, always and in any event, a comprehensive assessment of all the circumstances of each specific case and must necessarily be adjusted to take account of those circumstances...* *During this stage, the burden of proof— which, during the first stage, is shared in the usual way between the Commission and the Member State— falls entirely upon the latter. It is for the Member State to prove that securing an improved level of collection or treatment of the water would be technologically*

	impossible, or would involve costs that are wholly disproportionate as compared with the resultant benefits for the environment.…" The EASR guidance states that "*…If investment is required, the CSO should be identified in the agreed investment programme. …"* In Scotland the investment programme is managed through formal sector governance. It is the role of Scottish Water to propose projects for investment in its business plan and to evidence those. That plan is used to agree a regulatory settlement for the 6 year period by the Water Industry Commission for Scotland (WICS) as economic regulator. In undertaking this process, WICS and Scottish Water take advice from both SEPA and the Drinking Water Quality Regulator on risk areas and compliance concerns. Scottish Water's plan for the 2027-2033 period can be found here: Delivery & Business Plans - Scottish Water The programme also recognises that the need for investment must be able to flex during the 6 year period to respond to emerging pressures or risks such as regulatory non-compliance. The investment group (WICS, SW, SG, DWQR, SEPA and Consumer Scotland) meets quarterly to review investment projects and performance.. Scottish Water may add or remove projects from the programme due to new pressures or opportunities but they must make those decisions transparent to the investment group. It is through this mechanism that any new CSO investment would be considered with Scottish Water providing the business case and feasibility work and WICS and SEPA considering that evidence. In the event Scottish Water felt a necessary investment was not feasible or value for money, both SEPA as regulator and the investment group with a wider economic remit would be fully sighted on that evidence and able to form a view. The investment group is in the process of moving from an SG Chair to a WICS Chair. The previous papers can be found here: Water Industry Investment Group - gov.scot and the latest and future papers can be found on the WICS website here: Water Industry Investment Group | WICS

ESS.IR.048
Item 14
Attachment

Key:

1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

Directorate for Energy and Climate Change

Scottish Government
Riaghaltas na h-Alba
gov.scot

E: [redacted]@gov.scot

Emailed to:

[redacted]
Environmental Standards Scotland
Thistle House
91 Haymarket Terrace
Edinburgh
EH12 5HD

03 September 2026

Dear [redacted],

Storm Overflow - an assessment of spills, their impact on the water environment and the effectiveness of legislation and policy, August 2024

I refer to the above report and the recommendation contained therein that "…*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*…"

On 10 June 2025, the then Cabinet Secretary for Net Zero and Energy responded to the recommendation:

"…*As my officials have explained, the current legislation is out of date and we are exploring policy options to rectify that situation. However in recognition of the ESS request my* ***officials will look at how much the current guidance can practically be updated*** *in advance of any legislative reform. Officials will discuss this further with ESS as work progresses*……"

I am grateful for the various discussions that we have held on the matter to assist the Scottish Government in reaching a concluded position.

As we have discussed, we have investigated the potential to update the current Scottish Government guidance in advance of any legislative reform to align with the recast Urban Wastewater Treatment Directive. Our investigation has established that the guidance was put in place to assist the three former regional water authorities at

that time in their new obligations when the requirements of the Urban Wastewater Treatment (Scotland) Regulations 1994 came into force.

Those Regulations represented a series of significant step changes in the standards of treatment of wastewater. It also came at a time when SEPA had only recently been established under the Environment Act 1995. The guidance was therefore produced to help manage the transition to the new regime and the establishment of the new regulator.

The guidance is non statutory, runs to 128 pages and dates back to 1998. It is drafted in the name of the Secretary of State and pre-dates devolution in 1999 and the UK leaving the European Union in 2020. Given that the document is out of date in many respects, it would require significant revision to bring it up to date. The SG guidance is not published it being guidance for dischargers and regulators. It is only used by Scottish Water and SEPA for limited aspects of practical implementation, given its age.

Through our discussions we have set out our position that updating this guidance would not be a proportionate use of public money. We have therefore explored other, more proportionate means of addressing the recommendations you have made. In doing so it is our strong view that responsibility for guidance should now sit with SEPA as the well-established regulator. In order to better recognise roles and responsibilities, as we discussed, we also favour withdrawing the 1998 guidance and will consider the implications of that with Scottish Water and SEPA which is responsible for enforcement of the Environmental Authorisations (Scotland) Regulations 2018 (as amended) (EASR). Discussions on this matter are now underway and I will revert with a timeframe for withdrawing the guidance once we have established what is required.

Since your report and recommendation, in August 2025 SEPA have published new guidance for sewer overflows and sewage treatment under EASR. We have reviewed that guidance with SEPA, and the Scottish Government are satisfied that it addresses your recommendations as set out in Annex A.

Clearly this guidance also has the benefit of a statutory basis and is widely available.

We consider the EASR guidance in conjunction with SEPA's regulatory experience, to provide a robust framework for assessing the acceptability of CSO spills. If on considering the EASR guidance and this letter you consider that there remains a gap for the Scottish Ministers to fill please do not hesitate to contact me.

To summarise our response:

- We will move to a clearer adoption of the EASR guidance as the single source of guidance by withdrawing the 1998 SG Guidance. I will provide a timescale for that once we determine what is required. The EASR guidance is already operational.
- In doing so we will remove the confusion around the governance and regulation of wastewater. This role sits with SEPA as a mature and experienced regulator.

- We continue to consider alignment with the recast Directive. I do not yet have a timeframe for that. Policy work is focussed on getting the right balance of impact to customer costs for Scotland.
- The Water Industry Investment Group will remain the forum for testing BTKNEEC for any investment proposals.

Yours sincerely

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1

Deputy Director for Water Industry and Corporate Operations

Annex A: relevant extracts of EASR guidance

ESS Recommendation	EASR 2025 position
(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.	**Case law and general approach to regulation of spills** As we have discussed the UWWTD does not refer to "*exceptional circumstances*" The judgement in 2012 EU (Case C-301/10) does use the term but goes on to describe it more specifically: "*…I propose is a two-stage verification process, in relation both to collecting systems and to treatment plants. During the first stage, it must be established whether the discharges can be regarded as an* ***exceptional*** *event, or,* ***more accurately****, as an element in the operation of the collecting system or treatment plant which is* ***not 'normal'****. During the second stage, if the first stage has revealed that the events resulting in the discharge of untreated water into the environment were not exceptional, it must be established whether the BTKNEEC clause applies…*" The judgement also states that "*…I believe, however, that, in reality, the only reasonable way of interpreting the obligations under the Directive is to carry out* ***a full analysis of the circumstances in each individual case****, combining, in a single assessment, verification of the extraordinary nature of the event and the projected cost of constructing collecting systems and treatment plants capable of preventing any overflow even in such extraordinary situations. In other words, I consider that the concept of 'unusually heavy rainfall' is not static but may vary in the light of other factors…* We consider that the EASR guidance recognises the complexity of defining "*not normal*" noted in the judgement and transparently sets out how SEPA will consider what is an acceptable spill relating to a range of parameters. The combination of the clarity of the EASR guidance and SEPA's experienced regulatory judgement form a robust methodology for determining what is and is not "*normal*". The 1998 also recognises the role of SEPA in making a determination on acceptability, stating: "*…This Annex and its detailed supporting notes at Appendices H2 and H3 set down in general terms, the minimum requirements which are to be met to ensure compliance with the Regulations. For the purpose of protecting the water environment SEPA may, in certain circumstances, require*

Key:

1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

	more stringent standards to be met than those specified in the notes. In view of the local nature of such circumstances it is not appropriate to cover these in this paper or in the notes. Rather they are for consideration at the local level between SEPA and the sewerage authorities…" **EASR relevant extracts** Looking at the specific safeguards in the 2025 EASR guidance: The EASR guidance (*WAT-G-058: EASR Guidance: Sewer overflows*) continues to refer to the SG Guidance of 1998 in terms of permitting existing CSOs or EOs (section 3.2), noting the six failure criteria of an intermittent discharge that: • Causes significant visual or aesthetic impact due to solids or fungus or has a history of justified public complaint. • Causes or makes a significant contribution to a deterioration in chemical or biological status. • Causes or makes a significant contribution to a failure to comply with Bathing Water Quality Standards for identified bathing waters and/or Shellfish Waters. • Operates in dry weather conditions. • Operates in breach of permit conditions provided that they are still appropriate; and/or • Causes a breach of water quality standards (EQS) or other EU Directive requirements. Many of these definitions are now more clearly specified in the EASR guidance. **Consideration of range of factors** In the EASR guidance, acceptability is also based on the significance of the discharge (low, medium, high), available dilution, population served, and compliance demonstrated through Formula A, 99th-percentile assessments, or FIS modelling as appropriate. It is a rounded assessment that recognises that as dilution decreases and risk to the water environment increases, discharges become of medium or high significance and need progressively more detailed catchment modelling and water quality impact assessment.

Key:

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	Monitoring of pass forward flow Importantly the EASR guidance (*WAT-G-065: Permit Activity: Municipal Sewage Treatment Works*) requires monitoring of pass forward flows to be able to test whether thresholds for certain flow limits are being exceeded. Flow limits are generally calculated based on a number of factors including dry weather flow (DWF). In relation to dry weather flows specifically section 3.2.2 Background, notes: "…*Some Sewage Treatment Works [STW] permits may still define DWF in the permit Interpretation of Terms as:* • *'the average daily flow to or from the STW during a week without rain (excluding a week which includes public or local holidays), following a week during which the rainfall did not exceed 0.25mm on any one day. For sewage with a large industrial component, dry weather flow should be based on the flows during five working days if production is limited to that period'…* *There are various problems with this traditional definition such as the infrequency of qualifying periods of DWF, large variability and difficulties in obtaining local reliable rainfall data…* *A 2006 research project sponsored by UK Water Industry Research recommended using the Q80 DWF definition [given below], rather than the traditional rainfall related definition. The Q80 definition closely matched the rainfall related definition and does not suffer from the problems outlined above…* *This approach also means that Scotland is consistent with that taken by the Environment Agency…* *Flow/overflow compliance is assessed by comparing the 80%ile exceeded flow limit against the measured 90% exceeded flow. The UK Water Industry Research project referred to in section 3.2.2 showed that if this measured Q90 is above the discharge permit limit, we can be 95% confident that the discharge has truly exceeded the permit DWF limit…"*

	Definition of dry day In specifying the design flow to full treatment , a dry day is defined in the EASR guidance as: "…*a day when rainfall does not exceed 0.25mm. However, the first day after it has rained should be removed from the calculation. Where it can be demonstrated that it takes more than one day for rainfall to reach the STW, this second day can be discounted also. Also discount days when there has been significant snow melt and the day after as the flows measured may contain significant runoff or snow melt from the previous day. Infiltration for all the remaining days should be calculated…* *The analysis must normally use data from at least 12 consecutive months, with ideally flow data over several years being used*…" Taking all of the above into account, we are satisfied that the EASR guidance provides a more rounded and measurable methodology for testing acceptability of spills. The role of SEPA as an experienced regulator is vital in the process and the EASR supports SEPA in exercising its role.
(2) ensure this guidance takes into account predicted future climatic conditions (commissioning further research if required); and	SEPA have adopted the guidance contained in the Urban Pollution Manual (UPM) for sewer modelling. That guidance makes allowances for climate change for new and upgraded sewer systems. We accept that future climate change is not taken account for in existing systems. We will consider that as part of work to align with the recast directive. However in the meantime as assets become due for renewal or replacement the UPM standards will apply. We do not yet have a timescale for alignment. Policy work is ongoing but we are mindful that full alignment is likely to come with significant costs to customers and are looking at the correct balance of cost and impact for Scotland. The initial estimate of full alignment with the Directive is in excess of £20 billion and this is likely to rise as the implications of several requirements are still to be fully understood and priced. For context, the current regulatory period has a cost of circa £6 Billion. Full alignment would clearly have a large impact on customer charges.

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(3) provide up to date information on BTKNEEC requirements…"	*The 2012 judgement stated: "…The BTKNEEC clause in fact requires, always and in any event, a comprehensive assessment of all the circumstances of each specific case and must necessarily be adjusted to take account of those circumstances…* *During this stage, the burden of proof— which, during the first stage, is shared in the usual way between the Commission and the Member State— falls entirely upon the latter. It is for the Member State to prove that securing an improved level of collection or treatment of the water would be technologically impossible, or would involve costs that are wholly disproportionate as compared with the resultant benefits for the environment.…"* The EASR guidance states that "…*If investment is required, the CSO should be identified in the agreed investment programme. …"* BTKNEEC is simply the application of project appraisal to inform value for money decision making. It is a part of all major projects and, in the water industry, is vital to ensuring that customer charges remain targeted and affordable. In Scotland the balance of investment and affordability is managed through formal sector governance and an investment programme. It is the role of Scottish Water to propose projects for investment in its business plan and to evidence those. That plan is used to agree a regulatory settlement for the 6 year period by the Water Industry Commission for Scotland (WICS) as economic regulator. In undertaking this process, WICS and Scottish Water take advice from both SEPA and the Drinking Water Quality Regulator on risk areas and compliance concerns. Scottish Water's proposed plan for the 2027-2033 period can be found here: Delivery & Business Plans - Scottish Water The programme also recognises that the need for investment must be able to flex during the 6 year period to respond to emerging pressures or risks such as regulatory non-compliance. The investment group (WICS, SW, SG, DWQR, SEPA and Consumer Scotland) meets quarterly to review investment projects and performance. Scottish Water may add or remove projects from the programme due to new pressures or opportunities but they must make those decisions transparent

	to the investment group. It is through this mechanism that any new CSO investment would be considered with Scottish Water providing the business case and feasibility work and WICS and SEPA considering that evidence. In the event Scottish Water felt a necessary investment was not feasible or value for money, both SEPA as regulator and the investment group with a wider economic remit would be fully sighted on that evidence and able to form a view. In effect the investment group considers BTKNEEC as part of its oversight of the investment programme. The investment group is in the process of moving from an SG Chair to a WICS Chair. The previous papers can be found here: Water Industry Investment Group - gov.scot and the latest and future papers can be found on the WICS website here: Water Industry Investment Group | WICS

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1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

From: 1
To: 1
Subject: FW: SG response to ESS Storm Overflow Report
Date: 08 September 2026 08:57:51
Attachments: SG - ESS - response to storm overflow report - September 2026.pdf
image001.png

As discussed, could you run through the references and guidance and produce a summary comparison please? Could you prioritise this please and do shout when you'd like to talk through.

From: 1 @gov.scot>
Sent: 03 September 2026 16:42
To: 1 @environmentalstandards.scot>
Cc: 1 @environmentalstandards.scot>; 1 @gov.scot>; 1 @gov.scot>; 1 @scottishwater.co.uk>; 1 @scottishwater.co.uk>; 1 @sepa.org.uk>; 1 @sepa.org.uk>; 1 @wics.scot>
Subject: SG response to ESS Storm Overflow Report

Afternoon 1

Thank you once again for the helpful dialogue on this matter.

As promised I have attached our response to the recommendation that relates to the Scottish Government.

I am copying this to Scottish Water, SEPA and WICS for awareness.

Regards

1

1
Deputy Director Water Industry and Corporate Operations | Directorate for Energy and Climate Change

-

From: 1
To: 1
Subject: IESS.26.040 - Sewage Spills & Network Capacity - Case Update
Date: 29 September 2026 12:38:00
Attachments: image001.png
image002.png

Hi 1 ,

Just an email to provide you with a quick progress update. Last week I received responses from SEPA and Scottish Water to my enquiries – these focussed on the authorisation of the Elie Bay sewage network and treatment works, any assessment or evidence on the spill frequency from the combined sewer overflows in question and SEPA's response to pollution incidents. I am currently reviewing these responses with a view to determining next steps. I have also undertaken a comprehensive review of the relevant areas of environmental law, and pertinent case law.

As I set out in my previous email, internal discussions are ongoing regarding progress on the delivery of key recommendations ESS has previously made – the most recent correspondence from the Scottish Government has been published on our website:
Letter---incoming---Scottish-Government-to-ESS---Storm-Overflow-Recommendations---20260909.pdf

On the second issue raised in your representation concerning the governance of approving new connections to existing sewage infrastructure, this issue was already well under our consideration. With a view to concluding this case, I have submitted a formal information notice to Scottish Water which they are due to respond to shortly.

Lastly, for your awareness we have received a request (under the Environmental Information Regulations) for the documentation we hold in respect of your representation. We intend to release a lot of the documentation we hold, including the Trust's correspondence with us in respect of the representation. All personal data will be redacted so no one within the trust will be identifiable. The information is due to be released this coming Thursday.

If a quick call to chat through any of the above in more detail would be useful, please do let me know and we can arrange something. Many Thanks,
1

1
Principal Investigations Officer
1@environmentalstandards.scot
1

Key:
1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

From: Richard Dixon
To: [redacted]
Cc: Marie Fallon; Paul McAleavey; Paul McAleavey; Chris Spray; Laura Anderson; Annalisa Savaresi; Morag Sheppard; Mark Roberts; [redacted]
Subject: Re: Combined Sewer Overflows Report - Scottish Government letter to ESS re: guidance recommendation
Date: 23 September 2026 12:38:42

Thanks [redacted], I look forward to hearing the team's thoughts at the Board meeting

Cheers, Richard

On 21 Sep 2026, at 12:38, [redacted]@environmentalstandards.scot wrote:

Hi All

At the last Board meeting I noted that we expected to receive a letter from Scottish Government setting out how they proposed to address the recommendation from our sewage report to prepare updated guidance on the circumstances in which CSOs are permitted to spill.

I wanted to update you that we received a letter on 4 September and this has now been published on our website (Letter---incoming---Scottish-Government-to-ESS---Storm-Overflow-Recommendations---20260909.pdf). We are currently assessing the SG's response and will provide a verbal update for you at the upcoming Board meeting on 2 October on whether we feel this addresses things satisfactorily. Please let me know if any queries in the meantime

Regards

[redacted]

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[redacted] <image002.png>
Head of Strategy and Analysis
[redacted]@environmentalstandards.scot
[redacted]

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

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From: 1
To: 1
Cc: 1
Subject: RE: Meeting follow-up
Date: 28 August 2026 16:57:00
Attachments: image001.png
image003.png
image005.png

Hi 1

Thanks for sight of the draft letter. Helpful to be able to see this and to have the opportunity to provide feedback on how it might be made clearer – to enable us to consider it when submitted without having to come back to clarify things.

First thing to say is that, obviously, we will need time once formally submitted to consider what is proposed and to determine whether we think that will address our recommendations in an acceptable way. We'll need some time to consider in detail the EASR guidance etc – so I'm not able to give a view at this time (nor would it be appropriate for me to do so) on the substance of what is proposed in the draft.

I've therefore focused this initial feedback on the presentation of what's proposed to enable us to consider it once submitted and have the following observations and suggestions:

1. It would be helpful if you could more clearly set out in both the main body of the response and the annex the action that you are proposing to take to address our recommendations, and by when. Some of that is implicit in the letter as drafted but it would be helpful to us (and for wider interested stakeholders, given that the correspondence will be published in due course) if both a) the action that is proposed and b) the timescale over which that action is expected to be completed could be made more explicit.

   To take one specific example, at the top of page 2 of the draft you say that "we also favour withdrawing the 1998 guidance and will consider the implications of that with Scottish Water and SEPA". Does that mean that you are "proposing" to formally withdraw the 1998 guidance? If so, do you have an indicative timescale and what will replace it (if anything)?

   As another example, in the section on BTKNEEC in Annex A you state that "In the event Scottish Water felt a necessary investment was not feasible or value for money, both SEPA as regulator and the investment group with a wider economic remit would be fully sighted on that evidence and able to form a view". My reading of that is that you are essentially saying that BTKNEEC will be considered as part of the deliberations by the Improvement Group on which assets are allocated investment in the improvement programme? If that is the case then it would be helpful if that could be set out more explicitly.

   In terms of being clearer on timescales, another example in the annex, in relation to the second element of the recommendation (taking account of climate change) you note that "*future climate change is not taken account for in existing systems*" and that you will "*consider that as part of work to align with the recast directive*". It would be helpful if you could set out in the final

letter when legislation is expected (accepting that this will be subject to Parliamentary timetabling) to be brought forward.

So, in the main body of your final letter, for example, it might say something along the lines of "In response to recommendation 3 of your report we are proposing to:
a) …. by ….
b) …. by …
c) …. by …

2. In the draft (particularly in the annex) there are various references to "*the guidance*" but it is not always clear what guidance is being referred to. For example, beneath the heading "*Consideration of range of factors*" it states "*In the guidance, acceptability is also based on the significance of the discharge (low, medium, high)*" but I am unclear on first reading whether this refers to the 1998 guidance or one particular element of the EASR guidance?

And finally, one clarification. Near the bottom of page 1 of the draft you state that "*I understand that you* [i.e. ESS] *accept our position that updating this guidance would not be a proportionate use of public money*". I don't think this is an accurate reflection of our position. In our discussions we have stated that we do not necessarily consider that the whole of the 1998 guidance needs to be revised and updated. However, we have been clear that if the 1998 guidance is **not** to be updated, you must be clear on what (if anything) will replace it to address our recommendations (even if this is accomplished by referring to another piece(s) of existing guidance). I'd therefore prefer that this sentence be amended in the final draft

I hope that this is helpful. Let me know if you want to clarify any element of our feedback – may be easier to talk some of it through on a Teams call?

Regards

1

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1
Head of Strategy and Analysis
1 @environmentalstandards.scot
1

From: 1 @gov.scot>
Sent: 26 August 2026 08:21

To: 1 @environmentalstandards.scot>
Cc: 1 @environmentalstandards.scot>
Subject: RE: Meeting follow-up

Morning 1 and 1

Thank you for the offer of looking at a draft letter on the matter of updating the SG Wastewater Guidance.

I attach our draft letter and I would be grateful for any feedback before I submit this in final form.

Regards

1

From: 1 @environmentalstandards.scot>
Sent: 03 August 2026 13:18
To: 1 @gov.scot>
Cc: 1 @environmentalstandards.scot>
Subject: RE: Meeting follow-up

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 @environmentalstandards.scot
1

Key:
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2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

From: 1 @gov.scot>
Sent: 24 July 2026 15:11
To: 1 @environmentalstandards.scot>
Cc: 1 @environmentalstandards.scot>
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 @environmentalstandards.scot>
Sent: 23 July 2026 17:21
To: 1 @gov.scot>
Cc: 1 @environmentalstandards.scot>
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 [redacted] is around if you have any queries on this in the meantime

Regards

[redacted]

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[redacted]
Head of Strategy and Analysis
[redacted]@environmentalstandards.scot
[redacted]

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

From: 1
To: 1
Cc: 1
Subject: RE: Meeting follow-up
Date: 26 August 2026 08:21:00
Attachments: draft response - 1 - ESS - 26 August 2026.docx
image001.png
image003.png
image005.png

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Cc: 1 @environmentalstandards.scot>
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Cc: 1 @environmentalstandards.scot>
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Regards

[redacted]

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[redacted]
Head of Strategy and Analysis
[redacted]@environmentalstandards.scot
07879 232669

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

From: Chris Spray (Staff)
To: [redacted]
Cc: Mark Roberts; [redacted]
Subject: RE: Combined Sewer Overflows Report - Scottish Government letter to ESS re: guidance recommendation
Date: 21 September 2026 17:33:45
Attachments: image001.png
image003.png

Thanks [redacted],

I had indeed noticed that, and also the more recent report in the Edinburgh Evening News (and elsewhere) calling for action over '*record 100,000 'horror' sewage spills'*.

As I highlighted in my email of 11th September, as reported (and usefully in our own weekly press briefings, thank you), the *LibDems are urging the Scottish minister to address a sewage crisis after a record 100,000 spills were recorded in a single year. The surge in reported incidents follows the installation of new overflow monitors that expanded active tracking across discharge sites.*

It is definitely one we need to revisit and to be seen to be taking positive action, so I look forward to being able to discuss with whatever other updates you can provide at our upcoming Board.

Best regards,
Chris

From: [redacted]@environmentalstandards.scot
[redacted]@environmentalstandards.scot>
Sent: 21 September 2026 12:39
To: [redacted]
Cc: [redacted]@environmentalstandards.scot;
[redacted]@environmentalstandards.scot;
[redacted]@environmentalstandards.scot; [redacted]@environmentalstandards.scot;
[redacted]@environmentalstandards.scot; [redacted]@environmentalstandards.scot;
[redacted]@environmentalstandards.scot
Subject: Combined Sewer Overflows Report - Scottish Government letter to ESS re: guidance recommendation

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Hi All

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Regards

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From: 1
To: 1
Cc: 1
Subject: RE: CSO letter
Date: 09 September 2026 10:10:40
Attachments: image003.png
image004.png
image005.png
image006.png

Hi 1 and 1 ,

Please see the published CSO letter: Letter from Scottish Government to ESS - Storm Overflows Report Recommendations - Environmental Standards Scotland

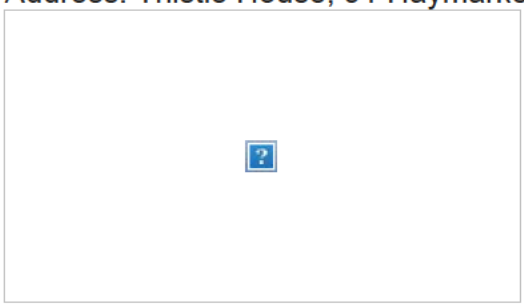
Many thanks,

1

1
Community and Engagement Lead
1 @environmentalstandards.scot
1



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



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From: 1 @environmentalstandards.scot>
Sent: 09 September 2026 09:33
To: 1 @environmentalstandards.scot>
Cc: 1 @environmentalstandards.scot>; 1
1 @environmentalstandards.scot>
Subject: CSO letter

Hi 1 ,

I just wanted to check if the letter that ESS received from SG on CSO guidance has been published on the website, so I can include it in the Board paper we're putting together?

Thanks,

1

1
Senior Policy Analyst
1 @environmentalstandards.scot

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

From: 1
To: 1
Cc: 1 Mark Roberts; 1
Subject: RE: SG response to ESS Storm Overflow Report
Date: 09 October 2026 11:15:45
Attachments: Letter Outgoing - Head of Strategy and Analysis to Scottish Government - sewer overflow recommendation - October 2026.docx
image002.png
image003.png
image004.png

Hi 1

Thank you for your letter. As discussed earlier in the week I attach a letter setting out ESS' reply – including the additional action, information or assurance that we would need to be able to accept your proposed response to the recommendation. As detailed in the letter I'd be grateful if you could let us have a response **by close on 13 November 2026** please.

Let me know if any queries about the contents of the letter and, as previously, please let me know if you would like me to look over a draft of your response to see if there are any elements of that where we'd seek clarification before you send it.

As with previous correspondence on the report we will publish a copy of this letter on our website.

Regards

1

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Head of Strategy and Analysis
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From: 1 @gov.scot>
Sent: 03 September 2026 16:42
To: 1 @environmentalstandards.scot>
Cc: 1 @environmentalstandards.scot>; 1 @gov.scot>; 1 @gov.scot>; 1 @scottishwater.co.uk>; 1 @scottishwater.co.uk>; 1 @sepa.org.uk>; 1 @sepa.org.uk>; 1 @wics.scot>
Subject: SG response to ESS Storm Overflow Report

Afternoon [redacted]

Thank you once again for the helpful dialogue on this matter.

As promised I have attached our response to the recommendation that relates to the Scottish Government.

I am copying this to Scottish Water, SEPA and WICS for awareness.

Regards

[redacted]

[redacted]
[redacted] Industry and Corporate Operations | Directorate for Energy and Climate Change

-



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

From: 1 @sepa.org.uk>
Sent: 01 October 2026 17:30
To: 1 @environmentalstandards.scot>; 1 @sepa.org.uk>
Cc: 1 @sepa.org.uk>
Subject: RE: Water Industry

OFFICIAL

Thanks – I'll get dates set up for both of those sessions.

We'll need to make it clear before the "general" session that we're there to listen and hear your experience and opinions – rather than a meeting to explain/justify SEPA's current approach.

Shall we come to you – we'd be happy to host at Waverly Court; whichever is easier.

Yours,
1

1
Head of Operational Excellence and Improvement
Scottish Environment Protection Agency

1
1 @sepa.org.uk
Angus Smith Building I Unit 6 I 4 Parklands Avenue I Eurocentral I Holytown I North Lanarkshire I ML1 4WQ

SEPA logo

OFFICIAL

From: 1 @environmentalstandards.scot
1 @environmentalstandards.scot>
Sent: 21 September 2026 17:18

To: 1 @sepa.org.uk>; 1 @sepa.org.uk>
Subject: RE: Water Industry

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Hi 1

Thanks for the email and apologies for the delay in replying – I was off with the lurgy back end of last week

That sounds like an interesting new team you're setting-up – I think a meeting would be useful and would certainly be happy to have an introductory chat about this and feed in our thoughts and experience to date. I'd probably want to invite someone from the investigations team as there have been relevant casework on some of those topics (e.g. a past one on bathing waters and a current one on shellfish waters I think)

If that sounds OK then let me have some dates that you, 1 and 1 could make and I'll canvass availability at this end

Would also welcome a catch-up at some point about the CSO report follow-up. I know you're due us another update shortly on the action SEPA is taking but would probably also be useful to touch base on the SG's proposed response to recommendation 3 around the guidance. I think you were copied into SG's letter to us earlier this month? We're still digesting this and will aim to respond to 1 shortly but there is a proposed reliance on SEPA's regulatory role and guidance and I think we will have some queries on the detail of how this will work in practice.

Many thanks

1

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1
Head of Strategy and Analysis
1 @environmentalstandards.scot
1

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

From: 1 @sepa.org.uk>
Sent: 15 September 2026 10:30
To: 1 @environmentalstandards.scot>; 1 @sepa.org.uk>

Subject: Water Industry

OFFICIAL

Hi [1]
[1] and I are in the process of setting-up a new team in SEPA – very bijou and selective (only eight people!), with a focus on the Water Industry, Bathing Waters and Shellfish protected Areas.

It would be useful for us to talk to you and perhaps a few of your analytical colleagues, to get a wider sense of what you think we should be focusing on, based on your perspective, the areas you see coming in from the public, and best-practise you've seen elsewhere. How much of that aspiration we can meet might be another question, but at least we can consciously make those choices!

I'd like to separate this conversation from your regulatory role/our work on the sewage analytical report – although that's linked, this would be more a "blank sheet of paper" thought-experiment to get your perspective on, rather than a look at our current approach, if that makes sense.

Is that something you think could be useful? It would be me, [1] and our analytical lead, [1] - we could come to your offices, if that works.

Hope all is well,
[1]

[1]
Head of Operational Excellence and Improvement
Scottish Environment Protection Agency
Buidheann Dìon Àrainneachd na h-Alba

[1]
[1]@sepa.org.uk
Strathallan House I Castle Business Park I Stirling I FK9 4TZ
Postal address: Angus Smith Building I Unit 6, 4 Parklands Avenue I Holytown I Motherwell I ML1 4WQ

SEPA logo with the three SEPA values of Passionate, Professional and Purposeful.

Key:
1 - Regulation 11(2) - Personal data
2 - Regulation 10(4)(e) - Internal Communications
3 - Information out of scope

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Working flexibly

I work flexibly (Tuesday - Friday).

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