

Net Zero, Energy and Transport Committee
Tuesday 8 October 2024
30th Meeting, 2024 (Session 6)

Environmental Standards Scotland Investigation – Climate Change Delivery Improvement Report

Background

1. Environmental Standards Scotland (ESS) is a public body set up to ensure the effectiveness of environmental law, and to prevent enforcement gaps arising from the UK leaving the European Union. Its role includes carrying out investigations and, where necessary, producing an improvement report. This is “...a report setting out the details of the alleged failure and recommending measures that the Scottish Ministers, or any other public authority, should take in order to (a) comply with environmental law, or (b) improve the effectiveness of environmental law or of how it is implemented or applied.”
2. In response the Scottish Ministers must publish an improvement plan. It must be laid in the Scottish Parliament within 6 months of publishing the improvement report or 9 months if consultation exercises are undertaken. This must include:

“...the measures that the Scottish Ministers propose to take to implement the recommendations (in full or in part), (ii) the proposed timescale for implementing the recommendations, (iii) the arrangements for reviewing, and reporting on, progress in implementing the recommendations, and (b) if the Scottish Ministers do not intend to implement the recommendations in the improvement report (in full or in part), the reasons for that.”
3. In May 2022 ESS launched an investigation into the effectiveness of the systems in place to support local authorities in their duty to contribute to the delivery of national climate change targets under the Climate Change (Scotland) Act 2009. The investigation concluded in March 2023, with the [final improvement report](#) being laid in the Scottish Parliament on 6 December 2023.
4. The Scottish Government wrote to the Committee on [3 September 2024](#) notifying that the [Improvement Plan](#) had been laid. The table on page 2 of the letter provides an update on the ESS recommendations.
5. The ESS report had outlined five recommendations to the Scottish Government:
 - 1) Make it compulsory for local authorities to have climate, adaptation and sustainability plans.
 - 2) Ensure that the planned statutory guidance covers the full breadth of local authorities’ climate change responsibilities and includes the changes needed as a result of the recommendations contained within this report.
 - 3) Introduce a separate reporting framework for local authorities;
 - 4) Make it mandatory for local authorities to report their scope 3 emissions. The Greenhouse Gas Protocol defines scope 3 emissions as a residual category of

emissions not encompassed in Scopes 1 or 2 emissions. They comprise “all other indirect emissions that occur in the upstream and downstream activities of an organisation.”¹

- 5) Identify or introduce an appropriate monitoring body and give it the necessary powers, including to: scrutinise compliance; follow-up on climate plans; and recommend improvements in climate activity.
6. Recommendations 1-3 and 5 were resolved informally, with the Scottish Government agreeing to put measures in place to implement these. Recommendation 4 could not be resolved informally. This led to the improvement report being made. The Scottish Government says that its Improvement Plan “proposes a pragmatic, proportionate and phased approach to mandating the reporting of scope 3 emissions”. It says that through working collaboratively with local authorities it has categorised scope 3 emissions into three groups based on:
 - The practicality and feasibility of reporting on scope 3 emissions;
 - Where there is a need for collaboration and further work to develop data collection methodologies; or
 - The likelihood of a specific scope 3 emission category being applicable to LAs at this time, but require further research.
7. ESS wrote to the Committee on 3 October setting out their views on the Scottish Government’s Improvement Plan (see **Annexe**).

Committee inquiry

8. Earlier this session, the Committee carried out a major inquiry into local government and net zero. The Committee’s report called for—

“a more empowered local government sector, with better access to the skills and capital it will need to play a full role in this energy revolution, and a clearer understanding of the specific role the Scottish Government wants it to play in some key delivery areas.”
9. It also noted the—

“... unprecedented and often highly technical demands being made on local government’s resources and skill-sets against a challenging financial backdrop. The main conclusion of this report is that Councils need more help.”

Next Steps

10. The Parliament has 40 calendar days (with allowance for recess periods) in which to take any action in relation to any Improvement Plan arising from an ESS investigation. The 40-day period for this Plan ends on 29 October. The Parliament

¹ [Homepage | GHG Protocol](#)

has the option of resolving by resolution not to approve the Improvement Plan. At the time of writing, no motion for such a resolution has been lodged.

11. There is no obligation for the Committee to report on any Improvement Plan. In this case, the Committee has agreed to hold a one-off evidence session, with the option of afterwards agreeing a short report to Parliament, or letter to the Scottish Government. (Last year the Committee considered the Scottish Government's response to ESS first-ever improvement report, on Air Quality, and produced [a report.](#))

**Clerks to the Committee
October 2024**

Annexe: letter from Environmental Standards Scotland

Dear Convener

Scottish Government's improvement plan on climate change duties

Environmental Standards Scotland (ESS) welcomes the opportunity to give evidence to the Committee on 8 October 2024.

ESS' improvement report concluded that there are significant structural weaknesses in respect of the delivery of local authorities' climate change duties, the support that is available to local authorities to this end and in the reporting and scrutiny of performance. The report contained five recommendations for improvement, four of which ESS was pleased to be able to resolve informally with the Scottish Government, in accordance with the approach set out in ESS' strategic plan. ESS continues to work with the Scottish Government to ensure these four recommendations are implemented in full and on schedule.

During the informal resolution process, ESS welcomed the Scottish Government's commitment to develop and invest in improved methodologies for the reporting of Scope 3 emissions. However, ESS was not assured that, under a continued voluntary system, robust reporting of Scope 3 emissions would either be achieved (including within a reasonable timescale) or maintained. Accordingly, ESS decided to issue its improvement report.

Having considered the content of the improvement plan, I have set out ESS' view on the Scottish Government's response to the single recommendation which we were unable to resolve, which concerns the mandatory reporting by local authorities of their Scope 3 emissions.

ESS welcomes the Scottish Government's acceptance of the principle of its recommendation to introduce mandatory reporting of Scope 3 emissions by local authorities. ESS continues to acknowledge the complexity of measuring and reporting Scope 3 emissions and recognises the considerable work that the Scottish Government has done with local authorities and others since the improvement report was issued. ESS welcomes the Scottish Government's intention to mandate the reporting of certain (Group 1) categories of Scope 3 emissions.

The Scottish Government's improvement plan sets out the work that will be undertaken within the next two years to gain a deeper understanding of the methodologies which are required to standardise the recording and reporting of the remaining categories (Groups 2 and 3) of Scope 3 emissions. The improvement plan notes that mandatory reporting of certain categories of Scope 3 emissions will begin in November 2027. The improvement plan notes that work to understand how best to report the remaining categories of Scope 3 emissions will begin in 2025. The improvement report is not clear about the intended timescales for completion of this work and when the Scottish Government anticipates that all categories of Scope 3 emissions will be subject to mandatory reporting.

ESS expects that, following completion of this work, all categories of Scope 3 emissions would become subject to mandatory reporting in accordance with the Scottish Government's acceptance of the principle of the recommendation.

It is also important to note that, when Scope 3 emissions reporting becomes mandatory, the monitoring body will be able to consider the implementation and effectiveness of the system, and take action where local authorities are not complying with their duties in this connection

In conclusion, ESS welcomes the Scottish Government's acceptance of the principle of mandatory reporting of Scope 3 emissions and the progress that has been made to date. It maintains the position that mandatory reporting of Scope 3 emissions should take place as quickly as possible. Given the work that the Scottish Government has proposed to undertake over the next two years, ESS would expect that mandatory reporting of all Scope 3 emissions relevant to local authorities should begin from November 2027.

Yours sincerely

Mark Roberts
Chief Executive