

- 1. A Summary of the Environmental Standards Scotland Report: An investigation into the effectiveness of the systems in place to support local authorities in their duty to contribute to the delivery of climate change targets.**
- 1.1 Environmental Standards Scotland (ESS) was established under the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (“the Continuity Act”) to fill the environmental governance gap caused by the UK’s departure from the European Union. It is an independent body, accountable to the Scottish Parliament.
- 1.2 Their role is to ensure effective scrutiny of public authorities’ compliance with and effectiveness of environmental law, and the way it is being implemented and applied in Scotland. They may investigate matters in response to concerns brought to its attention (known as representations), or on its own initiative.
- 1.3 ESS received a representation concerning a number of the climate change duties, including the support and scrutiny provided by Scottish Ministers of how local authorities contribute to meeting climate change targets. The representation presented concern that without adequate support and scrutiny, it would be difficult for Scotland to achieve its net zero target.
- 1.4 The representation submitted that ESS should focus on the following provisions contained within part 4 of the Climate Change (Scotland) Act 2009:
  - public bodies’ duty to act in ‘the way best calculated’ to contribute to climate change targets, and to act in a way that they consider most sustainable, as set out in section 44 of the 2009 Act
  - Scottish Ministers’ duty to provide guidance and co-operate with relevant public bodies to help those bodies comply with their climate change duties, as set out in section 45 of the 2009 Act
  - the adequacy of the monitoring and evaluation of climate change responsibilities, as set out in sections 47-52 of the 2009 Act
- 1.5 Considering that the consequences of not achieving climate targets are serious and that it is crucial that local authorities demonstrate leadership, ESS took the decision to launch an investigation.
- 1.6 The purpose of the investigation was to consider:
  - the duties placed on local authorities and Scottish Ministers in respect of the delivery of climate legislation;
  - the support that is available to this end;
  - reporting and monitoring of performance.

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1.7 Having considered the implementation and application of the duties contained within the Act, ESS concluded that there were significant structural weaknesses in delivering climate change targets, the support that is available to local authorities, and the reporting and monitoring of performance.

1.8 The following key points have been identified from the investigation:

- there is inconsistency across the reports submitted by local authorities, and no definitive overview of how their activity has been calculated to achieve best effect.
- the data maturity of emissions calculations is weak, and reported emissions data is unreliable.
- there is no legal obligation on local authorities to report on Scope 3 emissions, which is the largest proportion of emissions.
- clarity on the proportionate extent of Scope 3 emissions is missing.
- there is no legal obligation for local authorities to produce climate plans.
- although there is evidence to show that Scottish Ministers are co-operating with public bodies, Scottish Government guidance to public bodies is out of date, or non-statutory, and there is no single, comprehensive, up-to-date, accessible source for climate practitioners.
- strategies for co-ordinating government policy with local authority plans is weak, and although support for co-ordination between local authorities is available and well-regarded, the reporting process does not fulfil its aim to encourage knowledge sharing between local authorities.
- there is no evidence that public bodies' climate change delivery is monitored against reported progress, evaluated or scrutinised, despite there being a legal mechanism to do so.

1.9 In view of the above, ESS made the following 5 recommendations to Scottish Ministers:

1. Make climate, adaptation and sustainability plans at local authority level compulsory.
2. Ensure that the planned statutory guidance covers the full breadth of local authorities' climate change responsibilities and includes the changes which will be required as a result of the recommendations contained within this report.
3. Introduce a separate reporting framework for local authorities.

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4. Make the reporting of Scope 3 emissions mandatory for local authorities.
  5. Identify or introduce an appropriate monitoring body and give the monitoring body the necessary powers, including the powers to: scrutinise compliance; follow-up on climate plans; and recommend improvements in climate activity.
- 1.10 ESS invited the Scottish Government to work with them to resolve the issues identified. The Scottish Government agreed to put in place measures which implement recommendations 1, 2, 3 and 5. For recommendation 4, where informal resolution was not achieved, an improvement report was laid in the Scottish Parliament under ESS statutory powers and Scottish Ministers are now required to respond to this in the form of an improvement plan to Parliament.
- 1.11 Against the backdrop of declared crises, where climate targets are not being met and the window for taking effective action narrows, the ESS's view is that it is important for this gap to be addressed. Accordingly, they recommended that the Scottish Government introduces a standard Climate Plan template with mandatory reporting for local authorities.
- 1.12 It is their view that a standard template for climate plans will support consistency and quality in the production of local authority climate plans. The template is to incorporate what is required for local authorities to demonstrate how they are acting in the way best calculated in contributing to climate targets, adaptation programme and sustainability duties. The template should also be capable of yielding reliable data (internally and externally) for continuous assessment and improvement on the question of whether local authorities are 'acting in the way best calculated'. Climate plans should also be clear as to whether they are area-based or specific to the local authority.
- 1.13 During the informal resolution process, the Scottish Government accepted the importance of local authorities having appropriate plans to comply with their duties and have proposed that the Climate Intelligence Service (CIS) will develop a common climate change plan template. The Scottish Government then intends to consult, under section 44(7) of the 2009 Act, on an order under section 44(3) of the 2009 Act, requiring local authorities to maintain appropriate plans for complying with their duties under section 44.
- 1.14 The Scottish Government also confirmed that new statutory guidance, expected to be introduced in March 2025, will cover climate plans for local authorities and will also contain guidance on climate plans for other public bodies, which public bodies must have regard to.
- 1.15 In respect of the reporting of Scope 3 emissions, although the Scottish Government acknowledged that more should be done in this area, it explained that it could not support the mandatory nature of the recommendation and instead proposed the following pathway for improvement:

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- Exploration of a strong voluntary response from public bodies on increasing measurement, reporting and action on Scope 3 emissions pending the new statutory guidance (by end of 2023).
- Development of clear and robust expectations in the new statutory guidance on Scope 3 emissions (anticipated to be completed by mid-2025).
- Development of, and investment in, improved methodologies around Scope 3 emissions across this period

1.16 In light of this, and the other findings within this report, ESS recommended that the Scottish Government identifies or introduces a body with the remit to monitor the system of climate duties compliance holistically. During the informal resolution process, the Scottish Government explained that central assessment in detail of 32 individual local authorities would be a 'huge challenge' and that it would strongly prefer that monitoring arrangements should be closely related or integrated into existing scrutiny systems. The Scottish Government considered that ESS may be an appropriate monitoring body and suggested that, with appropriate funding, ESS could be nominated under section 47 of the 2009 Act ('a section 47 monitoring body').

1.17 The link to full report can be found here:  
<https://environmentalstandards.scot/wp-content/uploads/2023/09/ESS-Investigation-Climate-Change-Improvement-Report-IESS.21.012.pdf>