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Edward Mountain MSP  
Convener  
Net Zero, Energy and Transport Committee

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13 March 2023

Dear Convener,

### **Appointments to the Board of Environmental Standards Scotland Candidate Recommendations**

I wrote to your Committee on 30 September 2022 and set out the approach being taken to appoint two additional members to the Board of Environmental Standards Scotland (“ESS”). Following a successful recruitment exercise, which attracted 20 applications, I am pleased to propose to Parliament the following candidates:

Professor Christopher Spray Role One Environmental Scientist  
Morag Sheppard Role Two Organisational Governance

As detailed in my previous correspondence and in accordance with the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (“the Act”), appointments to the Board of ESS are subject to Parliamentary approval. As such, I am writing to seek Parliamentary approval of the aforementioned candidates via the Net Zero, Energy and Transport Committee.

Appointments to the Board of ESS are regulated by the Ethical Standards Commissioner for Public Life in Scotland and I can assure the Committee that the appointments process has been conducted in line with the Code of Practice for Ministerial Appointments to Public Bodies in Scotland (“the Code”) as well as, in compliance with the terms of the Act.

Furthermore, the Scottish Government’s Public Appointments team provided oversight of the appointment process and the assessment process was supported by a Public Appointments Adviser, appointed by the Ethical Standards Commissioner, who was a member of the selection panel.

For assurance purposes and to support the Parliament in its role in approving these appointments, the following supporting information is set out in Annexes A – D:

- ANNEX A: Legislative Context and Parliamentary Scrutiny
- ANNEX B: Scottish Government's approach to the appointment process
- ANNEX C: Person Specification
- ANNEX D: Candidate Biographies

Should the Scottish Parliament deem the proposed candidates suitable for appointment, the appointees will be appointed for a period not exceeding 4 years in accordance with Schedule 1, paragraph 2(4) of the Act.

I hope that the information enclosed will enable the Parliament to make an informed decision on the proposed candidates. However, I would be happy to discuss these recommendations further with the Committee if necessary and, in addition, arrangements can be made should the Committee wish to meet with the proposed appointees directly.

I am confident that the Parliamentary stage of the process will be a positive part of these nationally important appointments, and I look forward to working with you and Board members of Environmental Standards Scotland as they play their part in ensuring environmental laws and standards are adhered to in Scotland.

Yours sincerely,

**MICHAEL MATHESON MSP**

## ANNEX A - Legislative Context and Parliamentary Scrutiny

1. Provisions to establish Environmental Standards Scotland as Scotland's environmental governance body were included in the [UK Withdrawal from the European Union \(Continuity\) \(Scotland\) Act 2021 \("the Act"\)](#). The Act and supporting UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (Consequential Provisions and Modifications) Order 2021, provided for ESS to be established as a Non-Ministerial Office in the Scottish Administration, independent of Ministers and directly accountable to the Parliament. The Bill for the Act completed its passage through the Parliament during December 2020, establishing ESS on a non-statutory basis before ESS was formally vested as a statutory body on 1<sup>st</sup> October 2021.
  2. [Schedule 1, paragraph 2\(1\)](#) of the Act establishes that Environmental Standards Scotland is to consist of (a) a member appointed by the Scottish Ministers to chair Environmental Standards Scotland, and (b) at least 4 but no more than 6 other members appointed by the Scottish Ministers.
  3. [Schedule 1, paragraph 2\(2\)](#) of the Act established that Appointments to ESS are to be proposed and made by Scottish Ministers, subject to approval by the Scottish Parliament.
  4. To date, Scottish Ministers, with the approval of the Scottish Parliament, have appointed James Martin as ESS Chair and four board members through a motion on 23 December 2020 which affirmed the members of what was originally a shadow board prior to the formal establishment of ESS as a corporate body on 1st October 2021.
  5. In accordance with [Schedule 1, paragraph 2\(1\)\(b\)](#) of the Act, this provides for the appointment of two additional board members, subject to approval by Scottish Parliament.
  6. [Schedule 1, paragraph 2\(3\)](#) requires Scottish Ministers to have regard among other things, to the desirability of ensuring that the membership (taken as a whole) has expertise or experience in -
    - (a) law (including international law) relating to the natural environment,
    - (b) environmental science,
    - (c) environmental policy, and
    - (d) investigatory and enforcement proceedings.
- The person specification for the most recent appointment process can be found in **ANNEX C** and the expertise and experience of the proposed appointment persons is detailed in **ANNEX D**. Both with respect to the requirements above.
7. [Schedule 1, paragraph 2\(4\)](#) A member is appointed for such period not exceeding 4 years as the Scottish Ministers determine.

## **ANNEX B – Scottish Government’s approach to the appointment process**

1. Scottish Ministers agreed a skills matrix and person specification, in line with provisions in Schedule 1, paragraph 2(3) of the Act, which seeks to ensure that membership (taken as a whole) has expertise or experience in (a) law (including international law) relating to the natural environment, (b) environmental science, (c) environmental policy, and (d) investigatory and enforcement proceedings. On this basis, two distinct roles were advertised to meet the current skills needs of the ESS Board:
  - Role One                      Environmental Scientist
  - Role Two                      Organisational Governance
2. The assessment process was supported by a Public Appointments Adviser, appointed by the Ethical Standards Commissioner, who was a member of this selection panel.
3. The selection panel held the shortlisting meeting on 5 December 2022 and considered 20 applications. The selection panel comprised:
  - Jim Martin, Chair of the Board of Environmental Standards Scotland (Chair of selection panel);
  - Katriona Carmichael, Deputy Director, Circular Economy, Scottish Government;
  - Vicki Nash, independent panel member;
  - Ali Jarvis, Public Appointments Adviser, Ethical Standards Commissioner.
4. Following consideration of the completed applications, the selection panel agreed that nine applicants should be invited to the assessment stage.

### **Assessment**

5. The assessments were held on 12 and 13 January 2023. You may find it helpful to note that the final stage of assessment included an interview with the selection panel as well as an exercise where candidates were provided with a copy of the ESS Strategic Plan and asked to consider the Plan before providing the selection panel with a short presentation.

### **Fit and Proper Person Test**

6. In terms of the fit and proper person tests, the candidates had confirmed in their applications that they:
  - understood the work of the body and the nature of the appointment and were not aware of having committed any offence or performed any act incompatible with the position;
  - were not disqualified on any grounds from being appointed; and
  - had read, understood and agreed to be bound by the members code of conduct for the Board.

7. Candidates were also asked to provide details of any political activity within the past five years, for consideration by the selection panel in the context of their ability to perform the role.
8. Having undertaken these checks and additional questioning during the interview part of the assessment, and as highlighted in the candidate summary, the selection panel are satisfied to the best of their knowledge that the candidates are fit and proper persons.

### **Selection Panel Recommendation**

9. Scottish Ministers have considered and agreed the recommendations of the selection panel and recommend the following two candidates to the Scottish Parliament for appointment to the Board of ESS (in alphabetical order):
  - Morag Sheppard
  - Professor Christopher Spray

## ANNEX C

### Person Specification

Ministers would like to strengthen the ESS Board further by building additional capacity in **environmental science** and on **organisational governance**. The person specification sets out the skills, knowledge, understanding and experience being sought for the two specific roles and indicates how and at which stage in the process each of the criteria will be tested.

Ministers will give extra weight to the evidence presented for the priority criteria as well as ensuring that there is the right balance of skills, knowledge, understanding and experience on the Board overall.

We are looking for applicants with significant experience and expertise in either of the two priority criteria who will be able to have an impact rapidly. We recognise however, that this may have been gained across a wide variety of contexts including the public, private or voluntary sectors and may come from within the UK or internationally.

We are keen to attract the widest possible field of suitably skilled and experienced applicants for these roles. If you are already an elected member, office holder or employee in the public sector in Scotland, or are with an organisation that is overseen by ESS, we are still keen to hear from you. Any potential for conflicts of interest would then be explored with suitably qualified applicants at interview.

Priority Criteria (Role One)	What does it mean?	Where it will be tested
Environmental Scientist with a proven track record of offering considered and influential views on strategic environmental issues	<ul style="list-style-type: none"><li>• ability to form judgements on the basis of complex information on issues which have a bearing on the approach to, and outcomes of, environmental legal compliance;</li><li>• ability to identify the strategic implications of environmental policy and/or law within Scotland, and across the rest of the UK and Europe;</li></ul>	The evidence will be tested initially at the application stage as well as at the interview stage.

	<ul style="list-style-type: none"> <li>• ability to make credible decisions based on scientific evidence that help drive organisational performance;</li> <li>• ability to influence the environmental agenda and those who have a stake in that through environmental science.</li> </ul>	
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Priority Criteria (Role Two)	What does it mean?	Where it will be tested
Organisational Governance	<ul style="list-style-type: none"> <li>• experience of ensuring effective governance at senior management or board level (ideally with some public sector insight);</li> <li>• ability to articulate what board responsibilities are from a fiscal and legal perspective;</li> <li>• experience of involvement in implementation of good governance principles;</li> <li>• understanding of audit and risk management and able to demonstrate effective practical application of that understanding.</li> </ul>	The evidence will be tested initially at the application stage as well as at the interview stage.

Essential Criteria (Both Roles)	What does it mean?	Where it will be tested
Constructive Challenge	<ul style="list-style-type: none"> <li>• ability to effectively express views in group setting and challenge constructively;</li> <li>• provides clear focus in ensuring that the organisation achieves its objectives;</li> <li>• successful in encouraging the Board and executive to work collaboratively together and to reach compromise and consensus.</li> </ul>	The evidence will be tested at the interview stage.
Communication and Influencing	<ul style="list-style-type: none"> <li>• excellent influencing and communications skills;</li> <li>• experience of working across organisational boundaries to deliver shared outcomes;</li> <li>• experience of communicating with diverse audiences.</li> </ul>	The evidence will be tested at the interview stage.
Analysis and Decision Making	<ul style="list-style-type: none"> <li>• effective use of evidence to inform complex decision making;</li> <li>• evidence of risk based decision making aligned to organisational priorities and performance;</li> <li>• ability to explain complex information in a way which is understood clearly;</li> <li>• understanding of the importance of strategic thinking.</li> </ul>	The evidence will be tested at the interview stage.



## **ANNEX D - Candidate Biographies**

- The recommended appointees have provided the written submissions below which outline their relevant experience and suitability for the aforementioned board positions.
- Copies of the application forms submitted by the recommended appointees can be provided to the Committee if required.

### **Role One – Environmental Scientist - Professor Christopher Spray**

Professor Chris Spray is an emeritus and honorary professor of Water Science and Policy at the UNESCO Centre for Water Law, Policy and Science, University of Dundee, and a board member of The Loch Lomond and The Trossachs National Park. Chris's research interests cover the environmental science-policy interface, with a focus on water and wetland environments both at home and abroad, including biodiversity and nature-based solutions for climate change adaptation. A past Director of Environmental Science for the Scottish Environment Protection Agency and, prior to that Environment Director for the Northumbrian Water Group, Chris has extensive experience in environmental regulation and delivery, including a year's secondment to the Welsh Government to assist working on their emerging environmental legislation.

Chris has given evidence to the UK and Scottish parliaments on biodiversity, climate change, flooding and marine science, and played a key role in developing Scottish legislation on flood risk management. He was a past member of Scottish Natural Heritage's Scientific Advisory Committee, a member of the UK Advisory Committee on Releases to the Environment and chaired the UK Special Protection Area/Ramsar Scientific Working Group. He has been a trustee of several national environmental NGOs, with a particular interest in ecosystem restoration, governance and stakeholder engagement.

Chris has a first class honours degree in General Natural Sciences from the University of Cambridge and a PhD in Zoology from the University of Aberdeen.

### **Role Two – Organisational Governance - Morag Sheppard**

Morag has extensive experience of corporate governance at senior management and Board level, in the public and private sectors.

From 2018-2022 she was a Member of the Board of the Scottish Legal Complaints Commission (SLCC), and latterly Chair of its Audit Committee. Key activities included ensuring the delivery of the SLCC's statutory functions; financial and risk oversight; advising the Board on strategic processes for risk, internal control and governance; scrutiny of organisational performance; and contributing to strategy development and decisions, including chairing a working party to recommend the SLCC's future delivery model.

Before this, from 1998-2015 Morag held a series of senior organisational governance roles in the financial sector. As part of directing large-scale operations for firstly a major financial services provider and then a prominent outsourcing company, she had personal responsibility for governance in a highly regulated sector. This included ensuring effective

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performance by offshore partners to whom a large number of administrative roles had been transferred. She was also responsible for the construction of a standard governance framework, both to promote a culture of financial stewardship and customer service, and to mitigate operational loss - a key risk in this sector.

Following Morag's retirement from full-time employment in 2015, she gained a Master of Laws degree which included the study of corporate governance.

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