

Jim Martin
Chair
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Ìrean Àrainneachdail na h-Alba

ENVIRONMENTAL
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Edward Mountain MSP
Convener
Net Zero, Energy and Transport Committee
Scottish Parliament
Edinburgh
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By email

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25 August 2023

Dear Mr Mountain,

Environmental Standards Scotland gave evidence to the Committee on 25 October 2022. At that meeting, it committed to updating the Committee on our work every six months.

1. The UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 established ESS. The Act requires the Scottish Government to review the arrangements in place for environmental governance following the UK's exit from the European Union. ESS is a part of that system of environmental governance and the only named statutory consultee. The Scottish Government has completed its review earlier in the summer and the Scottish Government is currently consulting on the results.¹
2. ESS is actively engaging with the Scottish Government over the development of planned future legislation that may have an impact on its remit, in particular, the Natural

¹ The [consultation](#) is open until 29 September 2023.

Environment Bill and the Human Rights Bill which include a human right to a healthy environment.

3. ESS has a memorandum of understanding with the other organisations which were established following the UK's exit from the European Union: the Office for Environmental Protection and the Interim Environmental Protection Assessor for Wales. The three organisations met in Edinburgh in May 2023 to discuss areas of shared interest and potential joint working. A particular focus for discussion was the implications of the Retained EU Law (Revocation and Reform) Act 2023. As the Committee will be aware, ESS has expressed concerns over the proposed revocation of the Regulations 9 and 10 of the National Emissions Ceiling Regulations under the Retained EU Law (Revocation and Reform) Act 2023.
4. In April 2023, ESS signed a memorandum of understanding with the Climate Change Committee setting out how the two organisations will collaborate.²
5. ESS' Strategic Plan (2022-25) sets out its priorities for its analytical work³. ESS has been progressing work on a number of these and expects to publish the first two outputs from this programme of work during the autumn 2023. These will focus on the discharge of sewage into the water environment and air quality, specifically, particulate matter. ESS continues to monitor policy and legislative developments at a Scottish, UK and international level as they affect environmental policy and law in Scotland.
6. Since it began work on 1 October 2021, ESS has received a total of 35 representations from individuals and organisations. All the representations ESS receives and which are assessed as meeting its criteria for consideration are listed on our website, along with summary reports documenting outcomes.^{4,5} In line with our Strategic Plan, ESS will seek to achieve informal resolution with public bodies where it identifies potential issues with either compliance with environmental law or the effectiveness of its implementation.

² <https://www.environmentalstandards.scot/wp-content/uploads/2023/04/MOU-CCC-ESS-signed-April-2023.pdf>

³ <https://www.environmentalstandards.scot/wp-content/uploads/2022/09/Our-Priorities-for-Analysis.pdf>

⁴ <https://www.environmentalstandards.scot/investigations/representationsreceived/>

⁵ <https://www.environmentalstandards.scot/investigations/investigations/>

7. To illustrate how this approach can operate, ESS reached informal resolution with the Scottish Environment Protection Agency (SEPA) regarding its programme of work to remove physical barriers from Scottish rivers, following receipt of a representation.⁶ SEPA set out a five-year plan to remove all barriers from rivers by the end of 2027. ESS reviewed progress against this plan in March 2023 and noted that the programme was on track. ESS will assess SEPA's progress against this plan on an annual basis.
8. ESS is currently in discussion with a number of public bodies about the potential for informal resolution in response to a number of representations.
9. ESS came into existence on 1 October 2021. An important milestone in its long-term establishment as a public body will be the completion of its first full annual report and accounts. This will span the period from October 2021 – March 2023. ESS anticipates laying its annual report and accounts in the Parliament before the end of October 2023.
10. Two new members (Morag Sheppard and Chris Spray) joined the Board of ESS on 7 June 2023. ESS continues to build its staff team and is now comprised of 20 people (18.2 full time equivalents) with plans for further recruitment over the next few months.

If the Committee would like any additional information on any of the points above, please contact Mark Roberts, Chief Executive. I will provide the Committee with a further regular update in February 2024.

Your sincerely,

Jim Martin
Chair

⁶ Specific details of this work are available at: <https://www.environmentalstandards.scot/wp-content/uploads/2022/09/Environmental-Standards-Scotland-Case-Summary-IESS.21.015.pdf>