

Environmental Standards Scotland

# **Business Plan**

## **2022/23 – 2023/24**

April 2023

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## Version Control

Version	Author	Purpose	Date
0.1	Rebecca Peppiette	Outline approved at 2 December 2022 Board meeting	02/12/2022
0.2	Rebecca Peppiette	Full draft to be considered at 3 February 2023 Board meeting	3/2/2023
0.3	Board	Approved	3/2/2023

## 1. Introduction

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1.1 Environmental Standards Scotland (ESS) formally became a corporate body on 1 October 2021, as a new Non-Ministerial Office under the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (the Continuity Act). This is the date that ESS vested and became a statutory body, able to exercise its full functions and powers.

1.2 ESS has been established to help Scotland achieve the highest environmental standards. Our role is to scrutinise and deliver improvements to public authorities' compliance with environmental law, alongside the effectiveness of environmental law and the way it is being implemented and applied.

1.3 To deliver on these responsibilities we have published our [Strategic Plan 2022-2025](#) setting out our overarching approach. This, our second Business Plan published since our vesting date of 1 October 2021, sets out our ongoing work and key priorities for the organisation through to March 2024.

## 2. Strategic Plan

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2.1 As required by the Continuity Act, our proposed Strategic Plan for 2022-2025 was submitted to the Scottish Parliament on 30 September 2022 for consideration. The proposed Plan was approved by the Parliament on 24 November 2022 and the final Plan published on our website on 1 December 2022.

2.2 Our Strategic Plan sets out how we will work as an organisation to deliver a series of strategic outcomes which, together, will help us progress towards achieving our Vision. The Plan details how we will approach each aspect of our role and how we will measure our performance and contribution to environmental protection and improvement.

2.3 We will monitor progress against the Strategic Plan and undertake a review with three years. Progress will be reported to the Scottish Parliament through our Annual Reports.

### 3. Governance arrangements

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3.1 [Our Board](#) meets regularly and the minutes of its meetings are available on our [Publications](#) page, as are the minutes of the Audit and Risk Committee.

3.2 ESS is accountable to the Scottish Parliament and has a legal duty to report on its activities each year. As a body corporate, ESS operates in line with the Public Finance and Accountability (Scotland) Act 2000 and has a duty to produce annual accounts in line with the Government Financial Reporting Manual. The first set of accounts will be produced for the 18-month period October 2021 to March 2023.

3.3 The ESS Chief Executive Officer Mark Roberts is the Accountable Officer for ESS, responsible to the Scottish Parliament for the propriety and regularity of ESS' finances; for the economical, efficient and effective use of the resources placed at its disposal; and for signing ESS' accounts.

3.4 Deloitte LLP provide the external audit function for ESS, on behalf of Audit Scotland, and Scottish Government Internal Audit provides an audit advisory service to the Accountable Officer and Audit and Risk Committee.

### 4. Our work

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#### 2021-2023

4.1 Following a period of set-up, ESS published its first Business Plan in January 2022. Set out below are the key pieces of work identified at this time, all of which have now been achieved, as per the progress report sitting alongside.

	<b>Key piece of work set out in the 2021-2023 Business Plan</b>	<b>Progress</b>
<b>Taking action to ensure compliance and effectiveness</b>	Where, through our investigations, we identify failures to comply with environmental law, we will pursue these issues with the relevant public authorities and take the action needed to improve compliance.	The ESS team has been actively engaged with a number of public authorities on a range of issues, which we continue to monitor closely. No compliance failures requiring formal enforcement action have been identified to date.
	We will seek to resolve matters by agreement with the relevant public authorities where possible within a reasonable timescale.	In August 2022, ESS' first informal resolution report into Marine Scotland's enforcement of Acoustic Deterrent Devices was issued.  The ESS team has also been actively engaged with a number of public authorities on a range of issues, which we continue to monitor closely to assess whether informal resolution is appropriate.
	Where needed, we will use ESS' statutory powers to secure changes and remedial actions to address poor compliance and address environmental risks.	No compliance failures requiring formal enforcement action have been identified to date.
	Where our investigations identify patterns of compliance failure, or areas where the law is ineffective in protecting the environment or public health, we will pursue this directly with the relevant parts of the Scottish Government.	In September 2022, ESS' first investigation was completed. It found systemic failures in the systems in place to improve air quality.  Consequently, we took enforcement action to strengthen the operational and governance arrangements around air quality management.

	Where possible, we will seek to resolve matters and secure the necessary changes and improvements by agreement with the Scottish Government.	No appropriate opportunities to secure informal resolution have been identified to date.
	Where this isn't possible within a reasonable timescale, we will use ESS' statutory powers and take formal action by preparing and issuing improvement reports to the Scottish Parliament.	In September 2022, ESS' first improvement report was laid before the Scottish Parliament, setting out the changes and improvements considered necessary to strengthen the operational and governance arrangements around air quality management.
<b>Investigating the most important environmental concerns</b>	Build and develop the capability of the investigation team.	A team of three Senior Investigation Officers led by the Head of Investigations, Standards and Compliance is in place and operating effectively.  An additional Senior Investigations Officer will be recruited in 2023.
	Actively support parties submitting representations, particularly where they are unfamiliar with ESS processes, to ensure their concerns are accurately captured.	Support is ongoing and an online advice video has been created.  A new community and stakeholder engagement programme will be delivered in 2023.  <a href="#">How to Raise a Concern - Environmental Standards Scotland</a>
	Develop, publish and regularly review our forward work programme, so that we are investigating the most important environmental concerns.	A new webpage detailing all ongoing and completed casework has been published.  <a href="#">Ongoing and Completed Casework - Environmental Standards Scotland</a>

	Develop and regularly update our publicly available register of investigations and carry out these investigations.	A new webpage detailing all ongoing and completed casework has been published. <a href="#">Ongoing and Completed Casework - Environmental Standards Scotland</a>
	Develop and implement our approach to keeping those who have made representations informed about our consideration and investigation of their matter of concern.	Those submitting representations are kept updated on the representations they bring to ESS and the final outcome is published as set out above.
	Develop our approach and publish reports about the issues we have investigated and the actions that have been taken.	A new webpage detailing all ongoing and completed casework has been published. <a href="#">Ongoing and Completed Casework - Environmental Standards Scotland</a>
	Continuously assess our systems and processes to ensure the effectiveness of our investigations.	These systems are regularly assessed. A positive internal audit review of systems and processes was carried out in 2022/23.  In addition, now that the Public Interest Disclosure Act 1998 names Environmental Standards Scotland as a prescribed person, our approach to whistleblowing has been published. <a href="#">Whistleblowing - Environmental Standards Scotland</a>
	Publish our Customer Service Standards for dealing with representations.	Customer service standards are now published. <a href="#">Our Service Standards - Environmental Standards Scotland</a>

<b>Monitoring and evaluating environmental performance and change in Scotland</b>	Fully establish ESS' analysis and monitoring function including recruiting eight new roles.	By March 2023 the full Strategy and Analysis team will be in place. In addition, planning is in place to host new internships or secondments to provide additional capacity when required.
	Develop and regularly publish a forward programme of priority environmental issues for ESS to monitor and evaluate Scotland's progress on.	Our analytical priorities have been confirmed and published as part of the Strategic Plan, approved by the Scottish Parliament.  <a href="#">Our-Priorities-for-Analysis.pdf (environmentalstandards.scot)</a>
	Review and analyse the available data and evidence on performance around an initial suite of priority issues, collaborating with and seeking input from others, to identify potential areas of non-compliance or ineffective law.	Eight Baseline evidence reviews have been prepared and published.  <a href="#">Baseline Evidence Reviews - Environmental Standards Scotland</a>
	Develop effective working relationships with a range of organisations involved in collating, analysing and publishing data and evidence on environmental performance in Scotland.	Extensive engagement has been undertaken as part of preparation of baseline evidence reviews and positive relationships have been formed.  MOU's with key organisations have been developed and are now published.  <a href="#">Publications - Environmental Standards Scotland</a>
	Develop effective systems for monitoring Scotland's comparative environmental performance and for identifying relevant developments in European and international law and regulation.	Eight baseline evidence reviews have been prepared containing information on comparative performance. An advisory group on keeping pace will be established in 2023.



<b>Engaging and communicating effectively about our role and how to raise concerns</b>	Develop and consult on our Strategic Plan for 2022-25 for submission to the Scottish Parliament by 1 October 2022.	Extensive engagement has been undertaken as part of the Strategic Plan consultation, a summary of which has been published.  <a href="https://www.environmentalstandards.scot/wp-content/uploads/2022/09/ESS-Strategic-Plan-Accompanying-Statement-to-Parliament-for-publishing.pdf">https://www.environmentalstandards.scot/wp-content/uploads/2022/09/ESS-Strategic-Plan-Accompanying-Statement-to-Parliament-for-publishing.pdf</a>
	Consult on and finalise a set of indicators through which we will monitor our own performance and the impact we are having.	We consulted on our approach to measuring our performance and a set of indicators as part of our draft Strategic Plan. Our indicators have now been finalised and have been published as part of the approved Strategic Plan.
	Actively promote an understanding of our role and how people can make representations to us about matters of concern.	Online public information sessions were held in January 2022. Extensive engagement has been undertaken as part of the consultation on the draft Strategic Plan including.  <a href="#">ESS-Strategic-Plan-Accompanying-Statement-to-Parliament-for-publishing.pdf (environmentalstandards.scot)</a>
	Formalise our relationships by agreeing memoranda of understanding (MoU) with key environmental scrutiny and advisory bodies.	An MoU with the Office for Environmental Protection and Interim Environmental Protection Assessor for Wales has been signed and published.  All MoUs are published on the ESS website publications page <a href="#">Publications - Environmental Standards Scotland</a>
	Finalise our Communications Strategy to inform this work.	The Communication and Engagement Strategy has been published.  <a href="#">Communications-Communication-and-Engagement-Strategy-FINAL-20221103.pdf (environmentalstandards.scot)</a>

<b>An effective and efficient organisation</b>	Recruit towards our full agreed staffing complement to ensure we are suitably resourced to perform our role.	By the beginning of the financial year 2023/24 there will be 20 staff members in place with planning in place to recruit or second the remaining complement.
	Prepare, submit and publish our first annual report to the Scottish Parliament in April 2022.	The first Annual Report has been published. <a href="#">ESS-Annual-Report-20220524.pdf (environmentalstandards.scot)</a>
	Building on our SEAS finance system, develop and implement our approach to finance monitoring, reporting, budget setting, including Board and Audit and Risk Committee scrutiny, to ensure efficient and effective use of resources.	This work has been completed. An internal audit review of governance, systems and processes was carried out in 2022 and the top rating of 'substantial' awarded.
	Prioritise the development of our new team by implementing our learning and development programme, pulse surveys and events, to build our organisational culture with a focus on equalities and wellbeing.	A learning and development programme is in place. Pulse surveys are carried out every two months and an additional staff engagement index has been established with a positive scoring of 88% recorded in January 2023.  The equalities policy has been finalised and a delivery plan is in development. A People policy is now in development to be published in 2023.
	Review initial ESS set-up and corporate services arrangements to ensure their effectiveness, taking into account all feedback and audit recommendations.	This work has been completed. An internal audit review of systems and processes was carried out in 2022 and the top rating of 'substantial' awarded.  In addition, a Deep Dive on setting up ESS during a pandemic was carried out with positive feedback received.

	Establish our processes and policies for monitoring and minimising ESS' impact on the environment.	Sustainability Plan Phase 1 completed and published. <a href="#">Report-Sustainability-Plan-2022-2025-Final-20230127.pdf (environmentalstandards.scot)</a>
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## 2023-2024

4.2 The sections below set out the key priorities and outputs that will be delivered from April 2023 to March 2024.

## Ensuring compliance and effectiveness

### Strategic Outcome:

We have taken effective action to ensure public authorities' compliance with environmental law and to improve the effectiveness of the law

### Our Strategic Plan sets out our intention to:

- seek to work constructively with public authorities where possible to reach informal resolution
- use our statutory powers to prevent further harm or to reduce the risks to the environment, or public health
- issue a compliance notice where we consider that: there has been a failure by a public authority to comply with environmental law; harm to the environment has been caused, is continuing to be caused, or is at risk of being caused as a result
- prepare an improvement report where we consider that: there is a failure by one or more public authorities to comply with the law or where a systemic change is required by the public authority(s) concerned to improve compliance with, and/or the effectiveness of; environmental law
- consider the use of our power to make an application for judicial review, or intervene in civil proceedings taken by another party

### Key pieces of work 2023-2024:

- where, through our investigations we identify failures to comply with environmental law, we will pursue these issues with the relevant public authorities and take the action needed to improve compliance
- we will seek to resolve matters by agreement with the relevant public authorities where possible, within a reasonable timescale
- where needed, we will use ESS' statutory powers to secure changes and remedial actions to address poor compliance and address environmental risks
- where our investigations identify patterns of compliance failure, or areas where the law is ineffective in protecting the environment or public health, we will pursue this directly with the relevant parts of the Scottish Government
- where possible, we will seek to resolve matters and secure the necessary changes and improvements by agreement with the Scottish Government
- where this isn't possible within a reasonable timescale, we will use ESS' statutory powers and take formal action by preparing and issuing improvement reports to the Scottish Parliament

## Investigating Environmental Concerns

### Strategic Outcome

We have prioritised and investigated the most important matters of concern and identified the action needed to rectify problems and improve compliance and effectiveness

#### Our Strategic Plan sets out our intention to:

- assess whether representations made to us may trigger an immediate investigation due to importance, neglect or added value
- take into account importance, scope and nature, neglect and added value when prioritising our work
- notify the public authorities and relevant parties of our decision where we decide to investigate a matter of concern
- gather information from the public authority(s) concerned through the issuing of Information Notices
- work quickly and efficiently throughout our investigations and provide relevant parties with updates and an estimate of the completion date of each investigation as soon as we can

### Key pieces of work 2023-2024:

- we will actively support parties submitting representations, particularly where they are unfamiliar with ESS processes, to ensure their concerns are accurately captured
- we will carefully review and assess all representations to identify candidates for investigation and advise on alternative routes for cases not suitable for investigation
- we will regularly review and publish our forward work programme, so that we are investigating the most important environmental concerns
- we will regularly update our publicly available register of investigations and carry out these investigations
- we will keep those who have made representations informed about our consideration and investigation of their matter of concern
- we will publish reports about the issues we have investigated and the actions that have been taken
- we will continuously assess our systems and processes, to ensure the effectiveness of our investigations

## Monitoring and Analysis

### Strategic Outcome:

We have built knowledge on environmental performance, are well informed about developments in EU and international standards and practice, and have formed effective partnerships with bodies collecting, collating and scrutinising environmental data

### Our Strategic Plan sets out our intention to:

- collate, synthesise and assess the evidence about potential matters of concern (including matters of public concern) against a range of criteria, including: impact; nature and scope; neglect; and added value
- cast our net widely, identifying and interrogating data, reports, submissions and intelligence from partners and stakeholders that can help us identify instances of non-compliance or ineffective implementation of the law
- quality assure the evidence we use to ensure it is robust, reliable and objective
- progress our monitoring and analysis work through a series of stages, from horizon scanning to identify high-level areas of concern, through a deepening analysis and understanding of how things are changing in that area, the causes of this, and how policy and regulatory decisions affect this
- continue to monitor environmental performance more widely to assess whether any other matters of concern should be prioritised. We will also undertake horizon scanning to identify emerging matters of concern and relevant improvements in environmental law elsewhere

### Key pieces of work 2023-2024:

- we will deliver a programme of analytical work on priority issues identified in ESS' approved Strategic Plan, including:
  - air quality targets/standards for particulate matter
  - biodiversity decline
  - sewage discharge into the aquatic environment
  - antimicrobial resistance
  - threats to the marine environment
  - soil health
  - illegal disposal and management of waste
- we will monitor data and evidence on environmental performance and undertake a regular review of ESS' analytical priorities to identify emerging issues of concern
- we will develop and maintain effective systems for monitoring Scotland's comparative environmental performance and for identifying relevant developments in European and international law and regulation
- we will develop and maintain effective working relationships with a range of organisations involved in collating, analysing and publishing data and evidence on environmental performance in Scotland
- we will respond to the Scottish Government's consultation on their report into the effectiveness of environmental governance arrangements following EU withdrawal (as required by the Continuity Act)

## Engaging and Communicating Effectively

### Strategic Outcome:

Our role is widely understood and individuals, groups and organisations are confident raising concerns with us. We are regularly engaged in work to improve compliance, the effectiveness of environmental law and how it is applied

### Our Strategic Plan sets out our intention to:

- be accountable through reporting annually to the Parliament on our activities and liaise with relevant committees to provide updates on our work and avoid unintentional overlap in our work programmes
- liaise with other oversight and scrutiny bodies to ensure that we add value and avoid unnecessary overlap in our functions
- be open to anyone raising a concern with us about compliance with, or the effectiveness of, environmental law in Scotland
- regularly publish information on our live investigations, pre-investigation casework and frequently asked questions on our website
- continue to develop our communication with stakeholders in the public, private and voluntary sectors, and develop our Communications Strategy to broaden our reach, in particular to marginalised or disadvantaged communities and groups, to ensure they are aware of our role and how to raise concerns

### Key pieces of work 2023-2024:

- we will actively promote an understanding of our role and how people can make representations to us about matters of concern
- we will deliver the programme of digital communication work identified in the Communication and Engagement Strategy
- all our communication and engagement activity will follow the latest accessibility guidelines and standards
- we will develop and deliver the ESS community and stakeholder engagement programme set out in the Communication and Engagement Strategy
- we will update the ESS website to ensure it complies fully with the Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018
- we will report publicly to Scottish Parliament on our progress
- we will continuously assess our systems and processes, to ensure the effectiveness and accessibility of our approach



## Developing a High Performing Organisation

### Strategic Outcome:

We are an effective and efficient organisation.

### Our Strategic Plan sets out our intention to:

- ensure our plans and operational activity are regularly reviewed and accountable
- continue to maintain a clear approach to how we allocate and prioritise our spending to ensure best value
- regularly assess ESS' staffing complement necessary to ensure we can perform our functions effectively
- prioritise the development of our team by implementing our learning and development programme, pulse surveys and events, to build our organisational culture, with a particular focus on equalities and wellbeing
- established our core internal communications policy and continue to create an inclusive culture where team members are consulted and involved in the development of key policy areas

### Key pieces of work 2023-2024:

- we will strengthen the capacity of the Board through the recruitment of two new members
- we will review the performance of the Board and Audit and Risk Committee through self-assessment
- we will develop a People Strategy for the organisation, which will include a focus on the culture of the organisation, equalities, and learning and development
- we will build on the experience of ESS' internal audit reviews and take part in our first external audit to provide independent assurance that public funding is being spent properly, efficiently and effectively
- we will prepare and publish our first Annual Report and submit this to Scottish Parliament
- we will deliver on our corporate reporting requirements, to publicly demonstrate our performance across a range of indicators, including delivery of our equalities action plan
- we will review our IT and finance systems, through an independent IT Roadmap exercise
- we will work towards the integration of the new Oracle Cloud finance system in 2024
- we will implement the processes and policies for monitoring and minimising ESS' impact on the environment as set out in our Sustainability Plan

## 5. Performance monitoring

5.1 Our general performance and progress towards our strategic outcomes are monitored through a suite of Performance and Management Indicators as set out below. These have been developed and agreed as part of the consultation on our 2022-25 Strategic Plan and will be reported against in the ESS Annual Report to Scottish Parliament.

### Performance Indicators

Actions →	Outputs →	Intermediate Outcome →	Long-term Outcome
Number of investigations completed	Number of investigations resulting in: <ul style="list-style-type: none"> <li>• Compliance Notice;</li> <li>• Improvement Report;</li> <li>• Judicial Review</li> </ul>	Percentage of compliance notices implemented in full, on schedule	ESS' assessment of Scotland's progress against environmental indicators
Number of analysis projects completed		Percentage of recommendations implemented from improvement reports	
Number of representations considered		Percentage of recommendations/actions implemented in full, on schedule from informal resolution	

### Management Indicators

Engaging and Communicating Effectively About Our Role and How to Raise Concerns	An Efficient and Effective Organisation
Number attending public/stakeholder engagement sessions	Service standards met
Percentage of feedback positive from public/stakeholder engagement sessions	Percentage of corporate reporting requirements delivered to schedule
Number of citations in parliamentary reports or meetings	Number of complaints received
Number of social media followers	Board and staff diversity information
Number of new and return visits to ESS website	Staff engagement
Stakeholder perception of ESS role	Organisational carbon emissions (tonnes of CO2 equivalent)

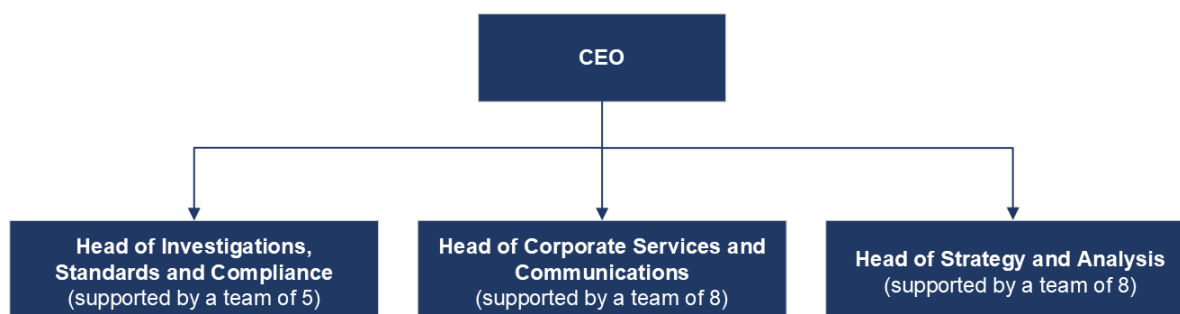
## 6. Finances and staffing

6.1 A summary breakdown of ESS' finances for the financial years 22/23 and 23/24 (ESS' second two years of operation) is set out in Table 1 below.

6.2 The 2021/22 and 2022/23 final expenditure information will be submitted as part of ESS' Annual Report to Parliament in October 2023.

<b>Table 1</b>	2022/23 budget allocation	2023/24 budget allocation
<b>Income (£000)</b>		
	2,192	2,910
<b>Expenditure (£000)</b>		
Board (Committee and advisory groups)	61	95
Staffing	1,587	1,648
Corporate and shared services	286	579
Communication and events	70	219
External advice and support	164	369
Set-up costs	24	0
<b>Total</b>	<b>2,192</b>	<b>2,910</b>

6.3 Plans for the full staffing compliment will be reached in 2023. The current ESS staff structure includes a Chief Executive and three senior heads of functions, each covering one of the three main areas of ESS' operation. The planned staff structure showing the senior roles and the number of staff under each function is set out below. Not all of these positions are permanent, or full time.



## CONTACT

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