

# **Audit and Risk Committee Terms of Reference**

May 2023

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## 1. Background

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1.1 The Environmental Standards Scotland (ESS) Board has established an Audit and Risk Committee as a standing Committee<sup>1</sup> of the Board, to support its responsibilities for issues of: risk; control; governance; and associated assurance; through a process of constructive challenge.

1.2 This Committee is established under paragraph 7 of Schedule 1 to the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 ("the Continuity Act")<sup>2</sup>. The Committee will operate strictly in accordance with the terms of its remit<sup>3</sup>.

1.3 In establishing this Committee and its Terms of Reference, the Board has determined the Chair, membership and period(s) of appointment<sup>4,5</sup>. All relevant references to the ESS [Standing Orders](#) have been set out across these Terms of Reference.

## 2. Membership

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2.1 The Terms of Reference have been developed in consultation with the Board, and it has been determined that the Committee may comprise ESS Board members, alongside individuals who are not ESS Board members<sup>6</sup>.

2.2 The membership of the Committee must include at least two ESS Board members.

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<sup>1</sup> ESS Standing Order 7.7.

<sup>2</sup> [UK Withdrawal from the European Union \(Continuity\) \(Scotland\) Act 2021 \(legislation.gov.uk\)](#)

<sup>3</sup> As per Environmental Standards Scotland (ESS) Standing Orders at 7.1.

<sup>4</sup> [ESS Board Minute February 2021](#)

<sup>5</sup> [ESS Board Minute October 2021](#); ESS Standing Order 7.8.

<sup>6</sup> ESS Standing Order 7.3.

2.3 The quorum for the Committee must require at least one ESS Board member to be present for any Committee business to be transacted<sup>7</sup>.

2.4 All members will be appointed for up to four years, in line with the Board appointment process, and can be reappointed as a member if they meet the conditions set out in 2(4) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021<sup>8</sup>.

2.5 These appointments will be reviewed annually by the Board.

2.6 The Committee will be provided with a secretariat function by the CEO and Accountable Officer; Head of Corporate Services and Communications; and the Governance Lead.

2.7 The Chief Executive will ensure that the work of the Committees is supported and serviced by appropriate staff<sup>9</sup>.

2.8 Members of a Committee who are not ESS Board members are not entitled to vote at meetings of the Committee<sup>10</sup>. Members of a Committee who are not ESS Board members are nevertheless bound by the provisions of the Environmental Standards Scotland Code of Conduct<sup>11</sup>.

### 3. Reporting

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3.1 Following meetings of the Committee, the Board will consider oral and/or written updates from the Committee on the areas of the Committee's delegated responsibility at the next Ordinary Board meeting. Any recommendations of the Committee will be referred to the Board for approval.<sup>12</sup>

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<sup>7</sup> ESS Standing Order 7.2c.

<sup>8</sup> [UK Withdrawal from the European Union \(Continuity\) \(Scotland\) Act 2021 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukdsi/2021/0001/a1_1) 2 (4),(5)

<sup>9</sup> ESS Standing order 4.20.

<sup>10</sup> ESS Standing Order 7.4.

<sup>11</sup> ESS Standing Order 7.5.

<sup>12</sup> ESS Standing Order 5.4.

3.2 Minutes will be kept of each Committee meeting, recording the members present, staff in attendance, apologies tendered and accepted for non-attendance, declarations of interest, issues considered, decisions reached and actions agreed<sup>13</sup>.

3.3 These minutes will be circulated to the Board for information, and the Board will receive an annual written report from the Committee, timed to support finalisation of the accounts and the governance statement, summarising its conclusions from the work it has carried out during the year<sup>14</sup>.

3.4 Within 15 working days of a meeting, draft minutes will be approved by the Chair of the Committee and published on the ESS website as draft copy. These draft minutes will then be included on the agenda at the next Ordinary Committee meeting for final approval<sup>15</sup>.

3.5 Minutes will be published on the ESS website in final form within seven calendar days of the meeting at which they were approved. Minutes will be made available on the ESS website for two years following the date of the meeting after which time they will be removed and placed in an electronic archive by the ESS Secretariat<sup>16</sup>.

3.6 The Committee may organise, as appropriate, discussions on longer term issues or in-depth explorations of particular topics. Such meetings will be discursive rather than decision-taking. Decisions on whether it is appropriate to take minutes of such discussions will be made on a case-by-case basis. Decisions will also be taken on a case-by-case basis on whether to publish any minutes or output of the discussion. Output from any such discussions will be referred to the Board or to the appropriate Committee for consideration or decision<sup>17</sup>.

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<sup>13</sup> ESS Standing Order 6.1.

<sup>14</sup> ESS Standing Order 5.4.

<sup>15</sup> ESS Standing Order 6.2.

<sup>16</sup> ESS Standing Order 6.4.

<sup>17</sup> ESS Standing Order 5.13.

3.7 Where those present at the Committee determine that any part of the business conducted is confidential, that part of the proceedings will be minuted separately and will not be published under ESS Standing Order 6.4<sup>18</sup>

## 4. Responsibilities

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4.1 The Committee will advise the Board (and Accountable Officer) on:

- the strategic processes for risk, control and governance and the governance statement
- the accounting policies, the accounts, and the annual report of the organisation, including the process for review of the accounts prior to submission for audit, levels of error identified, and management's letter of representation to the external auditors
- the planned activity and results of both internal and external audit
- the adequacy of management response to issues identified by audit activity, including external audit's management letter/report
- the effectiveness of the internal control environment
- assurances relating to the corporate governance requirements for the organisation
- proposals for tendering for either internal or external audit services or for purchase of non-audit services from contractors who provide audit services; and, where appropriate, anti-fraud policies, whistleblowing processes, and arrangements for special investigations
- the Audit and Risk Committee will also periodically review its own effectiveness and report the results of that review to the Board and Accountable Officer

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<sup>18</sup> ESS Standing Order 6.3.

## 5. Rights

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5.1 The Committee may:

- co-opt additional members for a period not exceeding four years to provide specialist skills, knowledge and experience
- procure specialist ad-hoc advice at the expense of the organisation, subject to budgets agreed by the Board or Accountable Officer

## 6. Access

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6.1 The Head of Internal Audit and the representative of External Audit will have free and confidential access to the Chair of the Committee.

## 7. Meetings

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7.1 The procedures for meetings are:

- the Committee will meet at least four times a year. The Chair of the Committee may convene additional meetings, as they deem necessary
- the quorum for the Committee must require at least one ESS Board member to be present for any Committee business to be transacted
- committee meetings will normally be attended by the Accountable Officer, the Head of Corporate Services and Communications and the Governance Lead.
- the Committee may ask any other officials of the organisation to attend to assist it with its discussions on any particular matter
- the Committee may ask any or all of those who normally attend, but who are not members, to withdraw to facilitate open and frank discussion of particular matters
- the Board (or Accountable Officer) may ask the Committee to convene further meetings to discuss particular issues on which they want the Committee's advice

7.2 In addition, the Committee may invite individuals, bodies or organisations to attend its meetings or parts of its meetings, provide information and/or make representations to it about particular issues<sup>19</sup>. The ESS Committees may also invite individuals, bodies or organisations to provide written submissions for consideration in advance of meetings of the Committee.

## 8. Agendas

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8.1 The agenda for a meeting shall be agreed by the Chair of the Committee, at least ten working days in advance of the meeting. It will be circulated to the Committee by e-mail at least five working days prior to the meeting<sup>20</sup>.

8.2 Any ESS Committee member may propose an item for the Agenda contacting the ESS Secretariat, copying the proposal to the Chair, not less than 14 calendar days before the date of the meeting<sup>21</sup>. The Chair of the meeting will consider the request, taking advice from the Chief Executive (or any officer acting on behalf of the Chief Executive) and the secretariat to the Committee. If the Chair decides not to include the item on the Agenda, the member will be advised and the Committee informed during the Chair's opening remarks.

## 9. Information requirements

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9.1 For each meeting the Committee will be provided with:

- a report summarising any significant changes to the organisation's Risk Register
- a progress report (verbal or written) summarising:
  - work performed (and a comparison with work planned)
  - key issues emerging from Internal Audit work

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<sup>19</sup> ESS Standing Order 4.18.

<sup>20</sup> ESS Standing Order 5.1.

<sup>21</sup> ESS Standing Order 5.5.



- management response to audit recommendations
- significant changes to the audit plan
- any resourcing issues affecting the delivery of Internal Audit objectives

9.2 At least twice a year the Committee will be provided with a progress report from the External Audit representative summarising work done and emerging findings.

9.3 As and when appropriate, the Committee will also be provided with:

- business update reports from the Accountable Officer
- the Memorandum of Understanding of the Internal Audit Directorate
- the Internal Audit Strategy
- the annual Internal Audit Plan
- the Head of Internal Audit's Annual Opinion and Report
- quality assurance reports on the Internal Audit function
- the draft accounts of the organisation
- the draft governance statement
- a report on any changes to accounting policies
- external Audit's management letter/report
- a report on any proposals to tender for audit functions
- a report on co-operation between Internal and External Audit
- a report on the Counter Fraud and Bribery arrangements and performance
- reports from other sources within the “three lines of assurance” integrated assurance framework (e.g. Best Value self-assessment Reviews, Gateway Reviews, Health Check Reviews, ICT Assurance Reviews, Digital 1st Service Standard Reviews, Procurement Capability Reviews, Procurement Key Stage Reviews)

9.4 The above list suggests minimum requirements for the inputs which should be provided to the Committee. In some cases more may be provided.

9.5 Papers for Committee meetings will usually be issued by secure electronic transfer. Any member who wishes to receive notice of all or any meetings and/or the agenda and papers for those meetings in paper copy, must ensure that this is agreed with the ESS Secretariat in time for the ESS Secretariat to meet the requirement to issue papers one week in advance of the meeting.

## **10. Code of Conduct**

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10.1 Committee members are bound by the provisions of the Code of Conduct and of standing orders 2.3 and 2.4 in respect of the registration and declaration of interests<sup>22</sup>.

## **11. Delegation of issues by the Board to the Committee**

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11.1 The Board may delegate areas of work to the Committee in line with the provisions of paragraph 8 of Schedule 1 of the Continuity Act. Where issues are delegated, the Board retains overall responsibility and will put appropriate arrangements in place for scrutiny of performance<sup>23</sup>.

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<sup>22</sup> ESS Standing Order 3.5.

<sup>23</sup> ESS Standing Order 4.8.

## CONTACT

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