

Biodiversity Duty Report

1 October 2021 to 30 September 2024

September 2024

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1. Introduction

About Environmental Standards Scotland

1.1 Environmental Standards Scotland (ESS) is an independent body set up to ensure compliance with, and to improve the effectiveness of, environmental law, and to prevent enforcement gaps arising in Scotland following the UK's departure from the European Union.

1.2 ESS was created by the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 ('the Continuity Act') as a non-ministerial office, independent of the Scottish Government, and accountable to the Scottish Parliament.

1.3 ESS' monitoring and analysis function tracks developments in Scottish, UK and international environmental policy and regulation, actively examines the issues of most environmental concern, and conducts analysis to scrutinise the implementation of environmental law. ESS' investigatory function uses the powers in the Continuity Act to investigate issues identified in monitoring and analysis work and concerns raised by the public, known as representations.

1.4 ESS' remit covers all Scottish public authorities, including: local authorities; health and transport authorities; the Scottish Government and its agencies; as well as organisations carrying out functions of a public nature.

1.5 ESS is led by a Chair and Board, who have significant experience in leading independent scrutiny organisations and expertise in environmental law, policy and regulation. We are headed by a Chief Executive Officer and are organised into three specialist teams, with a main office in Edinburgh.

1.6 ESS does not own or manage any land, nor does it regulate land use.

The Biodiversity Duty

1.7 Part 1 of the [Nature Conservation \(Scotland\) Act 2004](#) sets out the 'duty of every public body and office-holder, in exercising any functions, to further the conservation of biodiversity so far as is consistent with the proper exercise of those functions'.

1.8 The [Wildlife and Natural Environment \(Scotland\) Act \(2011\)](#) requires public bodies to report on their compliance with the biodiversity duty every three years.

1.9 This is ESS' first report on its compliance with the biodiversity duty, covering the three-year period from vesting on 1 October 2021 to 30 September 2024.

2. Actions to protect and enhance biodiversity

2.1 ESS' job is to improve compliance with, and the effectiveness of, environmental law in Scotland. Ultimately, the essence of ESS' work is to improve environmental outcomes, and with that, protect and enhance biodiversity.

2.2 As ESS does not own or manage any land, our greatest impact on biodiversity is through carrying out our statutory functions. ESS' [Strategic Plan 2022-25](#) sets out our intention to: to take action to ensure compliance with and effectiveness of environmental law; investigate the most important environmental concerns; and to monitor and evaluate environmental performance in Scotland. The Strategic Plan also identifies biodiversity as one of our analytical priorities.

Investigatory work

2.3 ESS may, either following receipt of a representation or off its own initiative, investigate compliance with, or effectiveness of, environmental law in Scotland.

2.4 ESS has considered, and is considering, a range of environmental concerns related to biodiversity and flora and fauna, resulting in additional protections and improved outcomes for Scotland's nature. These concerns and the outcomes of casework have included:

| Case | Status/Outcome |
|--|--|
| Agricultural environmental impact assessments | ESS scrutinised the Scottish Government's Rural Payments and Inspections Division's application of environmental impact assessments (EIAs) in projects, such as construction works, drainage works, etc., affecting landscapes. ESS reached informal resolution, securing increased clarity, transparency, communication and assessment of the EIA regime. This work will protect important habitats from detriment and maintain Scotland's natural heritage (see Environmental Impact Assessment (Scotland) Regulations 2017 - Environmental Standards Scotland) |

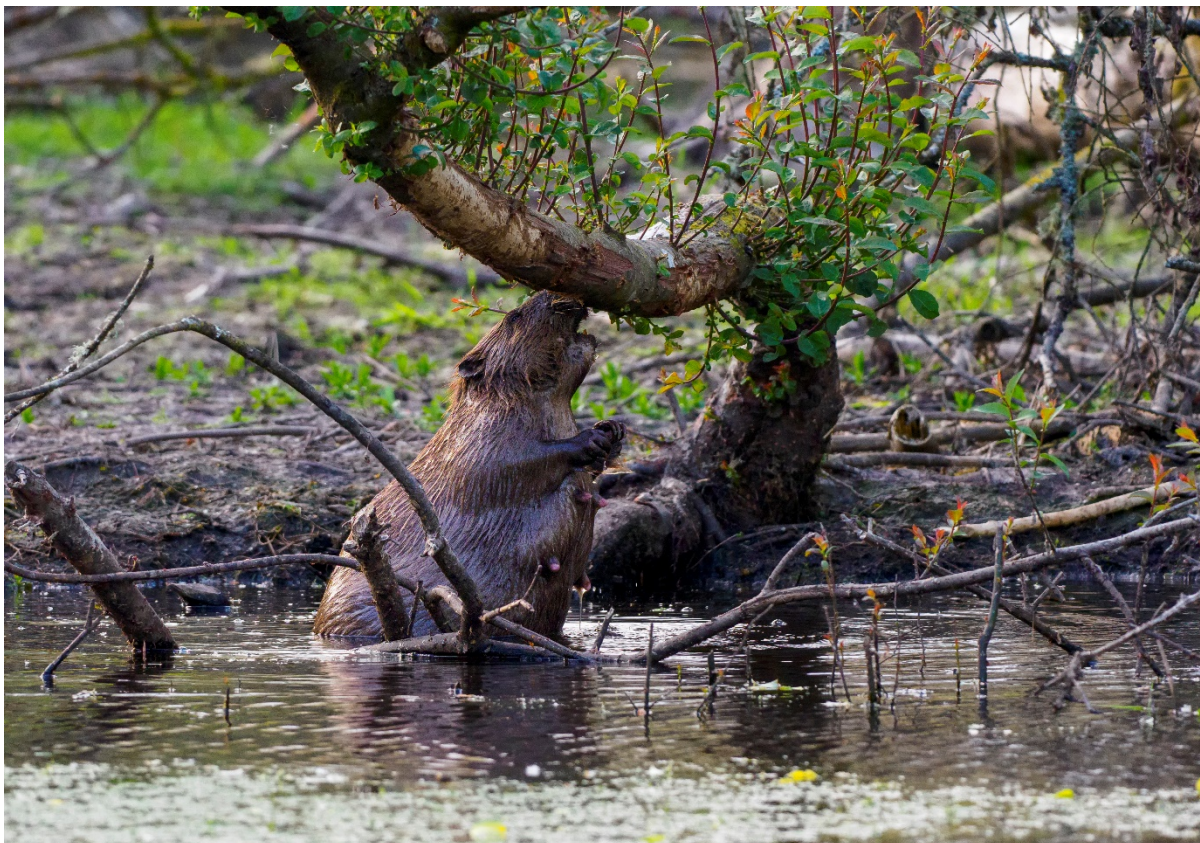
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| <p>Licencing of acoustic deterrent devices</p> | <p>ESS reached agreement with Marine Scotland on how it regulates and enforces fish farm operators' compliance with their legal duties relating to their use of acoustic deterrent devices. This work will reduce disturbance to protected species such as dolphins and porpoise (see Use of Acoustic Deterrent Devices Summary Report - Environmental Standards Scotland).</p> |
| <p>The Habitats Regulations Appraisals regime</p> | <p>ESS reached agreement with NatureScot to improve its guidance on how public authorities assess the mitigation options stage within the Habitats Regulations Appraisal process. This work will help to protect the integrity of European sites and the species within these habitats (see Habitats Regulations Appraisals (HRA) Regime Informal Resolution Report - Environmental Standards Scotland).</p> |
| <p>The classification of special protection areas</p> | <p>ESS is currently investigating compliance with environmental law related to the classification and adaptation of sites (Special Protection Areas) in Scotland designated specifically for the protection of wild birds. This work will seek to ensure the protection of habitats and their species (see Classification of Special Protection Areas (SPAs) - Environmental Standards Scotland)</p> |
| <p>Sustainable management of fisheries</p> | <p>ESS is currently investigating Marine Scotland's approach to the bycatch and discard of fish. This work will examine the effectiveness of the systems in place to ensure the sustainable management of cod stocks and fisheries in Scotland (see Sustainable Management of Fisheries - Environmental Standards Scotland).</p> |

| | |
|--|--|
| <p>The protection of wild salmon from sea lice</p> | <p>ESS is currently considering a representation regarding the adequacy of SEPA’s new sea lice framework and its compliance with international agreements and domestic law. The representation was made with a view to enhancing protections for wild salmon and sea trout from harm caused by sea lice.</p> |
| <p>The impacts of wrasse fishing on protected areas and species</p> | <p>ESS is considering a representation regarding the impacts of wrasse fishing on protected areas/species. The representation was made with a view to protecting reefs in Special Areas of Conservation through regulatory controls.</p> |
| <p>The removal of redundant weirs in Scottish rivers</p> | <p>ESS continues its annual monitoring of SEPA’s progress against its staged plans for the removal of weirs in Scottish river catchments. This work will improve the quality of river habitats through removing the barriers to fish migration (see Licencing and Removal of Weirs - May 2023 Progress Update - Environmental Standards Scotland).</p> |
| <p>The effectiveness of Ramsar site protections</p> | <p>Following consideration of a representation ESS continues to monitor the Scottish Government’s implementation of improvements to the protection system for wetland sites of international importance. If implemented effectively, this work should result in additional protection for these sites (see Ramsar Site Protection Case Update - Environmental Standards Scotland).</p> |

2.5 ESS has also undertaken investigatory work on a number of other cross-cutting environmental issues, such as consideration of permitted planning policies, and the enforcement of the Water Environment (Controlled Activities) (Scotland) Regulations 2011. ESS will continue to investigate matters of environmental concern related to biodiversity, whether in response to representations from the public or pursuing issues flagged through its own analytical work (see section 6). More information on ESS’ investigations work and how to raise a concern with ESS can be found on our [website](#).

Case spotlight: the Habitats Regulations Appraisals regime

2.6 In February 2023 ESS received a representation from a non-governmental organisation (NGO), acting on behalf of a community group concerned over the granting of a beaver translocation licence. In particular, the community group was concerned about the impacts that introducing a family of Eurasian beavers to the Loch Lomond catchment would have on Special Area of Conservation (SAC) protected species, such as Atlantic salmon (*Salmo salar*) and brook (*Lampetra planeri*) and river (*Lampetra fluviatilis*) lamprey.



2.7 ESS reviewed the documentation submitted by the NGO and, following enquiries with NatureScot, identified broader issues surrounding how mitigation options are considered during Habitats Regulations Appraisals (HRA).

What is a Habitats Regulations Appraisal?

A Habitats Regulations Appraisal (HRA) is a process that assesses the impacts of a plan or project on protected species. It is a requirement of the European Union (EU) Habitats Directive ([Council Directive 92/43/EEC](#)) transposed into Scots law via The Conservation (Natural Habitats, &c.) Regulations 1994 ('the Habitats Regulations').

If a project or plan will have a 'likely significant effect' on a European site (either Special Area of Conservation or Special Protection Area), it must be subject to an 'appropriate assessment' under the HRA regime. If it can be ascertained 'beyond reasonable scientific doubt' that a proposal, alongside mitigation options (measures taken to avoid or reduce negative effects), will not adversely affect a European site, only then can NatureScot consider a proposal for approval.

2.8 Specifically, ESS had concerns over:

- the clarity and detail of NatureScot's guidance regarding the consideration of mitigation options during the appropriate assessment stage
- NatureScot's decision-making regarding the level of evidence provided in support of mitigation options

2.9 Querying the effectiveness of NatureScot's application of the Habitats Regulations, the Investigations team pursued informal resolution with NatureScot. NatureScot agreed with ESS' concerns over gaps in the HRA guidance regarding the mitigation options stage and revised its guidance accordingly, providing:

- a clearer understanding of the requirements at the mitigation options stage of the HRA process. This stage is now outlined in a separate, titled section within the European site EU casework guidance
- reference to 'scientific certainty' by which the mitigation measures will work and can be secured, in accordance with the EU guidance
- additional detail required when assessing the effectiveness of the mitigation options. For example, how, when and by whom will the mitigation be implemented and what arrangements are proposed for ongoing monitoring and corrective measures, if required as outlined in the EU guidance

2.10 ESS considered that these updates were sufficient and that NatureScot had taken reasonable steps to address the concerns raised. NatureScot published the updated guidance online and the case was closed under informal resolution.

2.11 With clearer, comprehensive guidance available, competent authorities are better equipped to carry out appropriate assessments under the HRA regime. In turn, NatureScot will be provided with the level of detail and evidence required to enable robust and informed decision-making regarding approval of plans that may impact protected sites. Ultimately, this will help to protect the integrity of European sites and the species which inhabit these sites, and support the conservation of nature in Scotland.

2.12 ESS thanks the community group and NGO for raising their concerns, and NatureScot for the assistance it provided in resolving this matter.

Responding to consultations

2.13 ESS also influences environmental law by responding to consultations and calls for views. ESS has provided consultation responses on issues related to biodiversity, such as:

| Consultation | Response |
|--|---|
| Implementation of 30x30 targets for the protection of land and sea for nature | <p>In May 2024, ESS responded to the Scottish Government’s consultation on legislative proposals which will support the implementation of 30 by 30. In responding, ESS noted its support, in principle, for:</p> <ul style="list-style-type: none">• proposals to allow protected areas to be designated based on important ecosystems in addition to individual natural features• proposals to clarify existing powers that require management and restoration of protected areas, to make it clear that this requirement also covers protected areas that are experiencing slow deterioration over a long period of time, for example, strengthening tools such as Land Management Orders• proposals to expand existing powers to enforce and incentivise nature restoration beyond protected areas <p>The full response can be found at: Response to the Scottish Government's consultation on 30 by 30 - Environmental Standards Scotland</p> |

Legislative proposals to introduce enabling powers to allow future amendment of Scotland's Environmental Impact Assessment (EIA) and Habitat Regulations

In May 2024, ESS responded to the Scottish Government's consultation on proposals to introduce enabling powers to allow future amendment of Scotland's Environmental Impact Assessment (EIA) and Habitats Regulations. In responding, ESS noted its support, in principle, for these proposals, provided that:

- they are used to strengthen environmental law and its application in Scotland
- they are used proactively, yet proportionately, to enhance the function of (and outcomes delivered by) these regulations
- there is sufficient clarity to provide assurance that any future use of them is necessary, pragmatic and proportionate
- any future use of the enabling powers would be subject to public consultation and appropriate impact assessment
- any secondary legislation brought forward under the enabling powers is subject to the full affirmative procedure and appropriate parliamentary scrutiny
- enabling powers are defined objectively, framed as narrowly as possible and any powers to make (or amend) secondary legislation restricted by effective legal boundaries

The full response can be found at: [Response to the Scottish Government's consultation on Environmental Impact Assessment and Habitats Regulations - Environmental Standards Scotland](#)

Legislative proposals to facilitate marine nature restoration and the application

In May 2024, ESS responded to the Scottish Government's consultation on facilitating marine nature restoration through legislation. In responding, ESS noted its support, in principle, for:

| | |
|--|--|
| <p>of Marine Conservation Orders to habitats and species undergoing restoration</p> | <ul style="list-style-type: none"> • the introduction of a well-designed and proportionate registration scheme that aims to encourage more restoration projects at a community-level by reducing the complexities associated with the current marine restoration licencing process • the extension of existing Marine Conservation Orders to habitats and species undergoing restoration or which have been restored <p>The full response can be found at: Response to the Scottish Government's consultation on facilitating marine nature restoration through legislation - Environmental Standards Scotland</p> |
| <p>Scotland's Strategic Framework for Biodiversity</p> | <p>In December 2023, ESS responded to the Scottish Government's consultation on Scotland's Strategic Framework for Biodiversity. In responding, ESS noted its support, in principle, for:</p> <ul style="list-style-type: none"> • placing targets for nature restoration on a statutory footing, supported by a robust process for establishing, verifying, reviewing, monitoring and reporting on targets • increased emphasis on the leadership role of National Park authorities in nature restoration and climate change mitigation and adaptation • public bodies operating within National Parks should have regard to the National Park principle¹ and the proposed National Park aims • public bodies should have an obligation to support and contribute to implementation of National Park Plans |

¹ Set out at section 9(6) of the [National Parks \(Scotland\) Act 2000](#).

- an expansion in the range of enforcement tools available to National Park Authorities to enforce byelaw breaches within National Parks

The full response can be found at: [Response to Scotland's Strategic Framework for Biodiversity Consultation - Environmental Standards Scotland](#)

2.14 By responding to consultations, ESS seeks to influence the development of environmental policy and law throughout the legislative process, in turn looking to secure improved outcomes for biodiversity in Scotland. ESS also proactively engages with bill teams in the Scottish Government through less formal structures to understand and influence legislative change. An example of this would be our regular engagement with the Natural Environment Bill team.

Cross-border issues and international approaches

2.15 Environmental issues often don't recognise state boundaries. ESS has signed a [memorandum of understanding](#) (MoU) with its counterparts in England and Northern Ireland (the Office for Environmental Protection) and Wales (the Interim Environmental Protection Assessor for Wales). This sets out how the environmental scrutiny bodies across the UK will work together, particularly collaborating on cross-border issues where appropriate.

2.16 ESS also monitors developments in the European Union (EU) and internationally to ensure that Scotland is raising ambition and keeping pace with the EU and further afield. This work is supported by ESS' [International Advisory Panel](#) which was established in February 2024 to provide an opportunity to tap into insights and advice on keeping pace with the European Union and wider international developments.

Retrofitting ESS' office

2.17 Although ESS does not own or manage any land, we lease an office space in Edinburgh under a Memorandum of Terms of Occupation with the Scottish Legal Aid Board (SLAB). During the spring of 2024 we carried out a retrofit of this office space, drawing on our sustainable procurement practices (more in section 3) and using local businesses to supply and fit furniture, recycling old furniture and equipment where practicable. Since the project was finalised in May 2024, ESS now shares this space with

fellow public body, Consumer Scotland, maximising use of the office and thus reducing our impact on carbon emissions and biodiversity decline.

2.18 As we continue to settle into our new office space we will keep working with our colleagues in Consumer Scotland and SLAB to identify ways in which we can minimise our impact and enhance biodiversity through our accommodation.

Staff engagement

2.19 ESS staff are allowed up to six days per year to participate in volunteering. This can be taken on staff's own initiative, and voluntary opportunities relating to sustainability are periodically promoted via staff networks. ESS has also organised team visits to organisations such as the Water of Leith Conservation Trust and volunteering days: carrying out maintenance with the Granton Hub community garden; litter-picking via the Water of Leith Centre; and preparing native oysters for restoration in the Dornoch Firth with DEEP - Heriot-Watt University. ESS has also developed an organisation-wide learning and development programme which has embedded within it time dedicated to environmental volunteering. The team will continue to look for opportunities to volunteer with local groups to enhance biodiversity in the future.

3. Mainstreaming biodiversity

ESS' Sustainability Plan

3.1 In January 2023 ESS published the first phase of its [Sustainability Plan](#) to achieve net zero by 2045, covering the period 2022-25. This plan sets out ESS' intention to use the best science available to ensure that we meet net zero in that timeframe, and to share good practice both within the organisation and outside to demonstrate leadership and innovation. Over the period of this phase one of the plan, ESS has delivered, or is on track to deliver, all its actions to schedule. This has included obtaining independent verification of our carbon emissions, implementing a programme of sustainability champions and encouraging sustainable travel practices.

Sustainable Procurement

3.2 ESS has a shared service agreement in place with the Scottish Government Procurement and Property Directorate and adheres to the Public Sector Procurement guidance. This agreement covers compliance with regulations and value-for-money

savings. Scottish Government procurement practices also comply with the [sustainable procurement duty](#), which requires the consideration of environmental wellbeing throughout, from supply to the life-cycle of goods services procured.

3.3 ESS is committed to sustainable procurement and ensuring its potential contractors demonstrate their own commitment to achieving net zero before awarding a contract. As such, sustainability is now considered in the technical scoring for awarding contracts, alongside quality and price. This helps to encourage organisations to consider their sustainability impacts early on, through what they are supplying and how they are operating. Some of the sustainability benefits achieved under the procurement framework are:

- carbon reduction plans/net zero targets
- greener offices/greener travel
- Cycle to Work schemes
- waste reduction and recycling initiatives, including IT equipment and furniture being offered to local charities
- use of renewable energy suppliers
- hybrid working models
- employees encouraged to use days for Corporate Social Responsibility, net zero and community benefit activities
- hosting sector-focused national conferences where sustainability is a key topic

Hybrid working arrangements

3.4 ESS operates under hybrid working arrangements, where staff attend the office from across a range of once per month to several days per week. As part of this policy, we offer staff a range of homeworking equipment to ensure health, safety and wellbeing, and that no one is disadvantaged by working from home. Enabling staff to work in this way reduces the need for office space, thus reducing our impact on land use and biodiversity. This also reduces our scope 3 carbon emissions as people are not required to travel into the office each day, especially pertinent to ESS where staff are based across Scotland.

Sustainable travel

3.5 Where staff or Board members are required to travel to the office or on business, ESS encourages the use of sustainable transport. ESS has in 2024 implemented a Business Travel Policy, requiring, for example, special circumstances and approval for domestic air travel, and encouraging the use of public transport and active travel where possible.

3.6 ESS supports staff to pursue active travel options by offering the Cycle to Work scheme, and our office provides bike storage and shower facilities to ensure this is feasible for all.

3.7 Finally, as a social initiative, ESS staff have over the last couple years taken part in Cycle September. This has encouraged commuting by bicycle as well as enjoyment of active travel for leisure.

Sustainability Champions

3.8 In the Sustainability Plan, ESS set out its intention to nominate a Sustainability Champion to encourage sustainable practices across the organisation. ESS now has a team of Champions, including a nominated Board Sustainability Champion, who drive best practice at ESS, through: monitoring progress and driving action against the sustainability plan; raising sustainability considerations in ESS' day-to-day operations; and sharing experience and learning with the wider team.

3.9 Having a Sustainability Champion on the Board also ensures that sustainability is considered at the strategic level. This is through designated agenda items at Board meetings, and through championing sustainability throughout strategic discussions regarding finance, governance, operational work and people.

Sustainability objectives

3.10 ESS staff are required to set themselves sustainability objectives during their annual appraisals. This encourages staff to think about sustainability in their working life beyond their day-to-day responsibilities. Examples of staff objectives range from becoming a Sustainability Champion, to completing sustainability learning and development opportunities, to pursuing more active travel on the commute. This objective can encompass actions to support biodiversity.

4. Nature-based solutions, climate change and biodiversity

4.1 ESS has undertaken a range of work related to climate change, including monitoring and analysis, consultation responses and investigatory work. ESS recognises that there is a twin crises of climate change and biodiversity decline, and this is demonstrated within ESS' analytical priorities.

4.2 Following a [baseline evidence review on climate change](#), ESS identified two priority areas for analytical work within the climate change area: progress against greenhouse gas emissions targets, and progress on climate change adaptation.

4.3 ESS has signed a [memorandum of understanding](#) (MoU) with the Climate Change Committee (CCC). This sets out our organisations' shared interests in addressing climate change, and how we can work together to maximise our contributions to this area. We continue to liaise with the CCC on matters of climate change mitigation.

4.4 Given ESS' prioritisation of the issue of climate change mitigation, we have also [responded](#) to the Scottish Parliament's August 2024 call for views on the Climate Change Targets Bill, relating to the proposed introduction of carbon budgets, the Scottish Government's next Climate Change Plan, and the monitoring and reporting related to carbon budgets.

4.5 Following identification of climate change adaptation as a priority for analysis, ESS is undertaking analytical work in this area. Initial scoping will take into account analysis of policy and legislation, the impacts of climate change on the environment, how Scotland is responding to the impact and keeping pace with the EU and global community in this area. While this work is in its early stages, it is anticipated that nature-based solutions will be flagged as one form of an adaptation response to the impacts of climate change.

4.6 ESS has also undertaken a range of investigatory work relating to [climate change](#), resulting in informal resolution, ongoing monitoring and, in one instance the use of ESS' formal powers in the form of an improvement report. The issues considered include:

- Scottish Ministers' compliance with the Section 94(A)2 of the Climate Change (Scotland) Act 2009 duty to assess how infrastructure investment contributes to Scottish emissions targets - [Infrastructure Investment Plan Informal Resolution Report - Environmental Standards Scotland](#)
- the effectiveness of the Scottish Government's Climate Change Plans - [Climate Change Plan Summary Report - Environmental Standards Scotland](#)

- the effectiveness of the systems in place to support local authorities in their duty to contribute to the delivery of climate change targets - [Climate Change Delivery Investigation Improvement Report - Environmental Standards Scotland](#)

5. Public engagement and workforce development

5.1 ESS is regularly engaged with a variety of stakeholders through the exercise of its statutory functions.

5.2 Anyone can make a representation to ESS on matters of environmental concern. This leads our staff to be frequently in contact with members of the public, community groups, NGOs, elected representatives, etc. discussing environmental issues and gathering intelligence.

5.3 Representations are a key catalyst for ESS' investigatory work, so it is important that ESS communicates and promotes the importance of its work widely, in a way that is inclusive and accessible. ESS' Communication and Engagement Strategy guides this work, and below are a few strands with a particular biodiversity angle.

Community engagement programme

5.4 ESS is committed to being an open and transparent organisation. Being accessible to the public is a priority for ESS. A community engagement programme was launched in the 2023, reaching out to communities across Scotland to discuss the environmental issues which affect them.

5.5 The programme is aimed at ensuring ESS' role is widely understood and that communities are confident in raising concerns. Communities possess valuable local knowledge about their environments. Through this engagement, ESS can tap into information that might not be apparent through traditional assessments.

5.6 The Investigations, Standards and Compliance Team, with the support of the Community and Engagement Lead, carry out this programme through a variety of in-person and online sessions with environmental-focused community groups and networks. The sessions have allowed the teams to listen directly to environmental concerns that communities around Scotland are facing. ESS has engaged with a broad range of community groups, including, for example the Berwickshire Marine Reserve, an East Lothian-based charity aiming to conserve marine biodiversity.

Calls for evidence

5.7 ESS launched a public call for evidence on the impact and control of invasive non-native species (INNS) in May 2024. This call for evidence sought views from individuals, communities and organisations alike to gather qualitative evidence which will inform the next stages of this analytical project.

5.8 The call for evidence coincided with Invasive Species Week across the UK, Ireland and the Channel Islands. ESS promoted both events in tandem, alongside an informative [video](#) on what INNS are, the impacts of INNS and the types of INNS present in Scotland.

6. Research and monitoring

Analytical priorities

6.1 ESS' [Strategic Plan 2022-25](#) sets out our intention to monitor and evaluate environmental performance in Scotland. To guide this work, ESS produced and published eight [baseline evidence reviews](#) in August 2022, providing a snapshot of the position and trends in each environmental category at that time, and informing whether Scotland was on track to achieve its environmental targets and objectives. Along with our prioritisation criteria and feedback from our consultation, this work has helped us to identify 14 issues of most concern for our analytical programme.

6.2 The [baseline evidence review on biodiversity and ecosystem resilience](#) identified biodiversity decline (with a particular focus on pressures and mitigation strategies) and the control and impact of INNS as priorities for ESS' analytical work.

Biodiversity decline

6.3 Continuing from the baseline evidence review, the biodiversity decline analytical project is at a scoping and framing stage, looking at issues such as:

- policy and legislative developments, with particular reference to keeping pace with the European Union (EU)
- international targets/commitments
- wildlife crime
- protected sites
- protected species
- browsing/grazing

6.4 To this end, ESS undertook qualitative analysis of related policies, legislation and progress reports. ESS also organised a workshop (December 2022) for various stakeholders, including attendees from the Scottish Parliament Information Centre, the Office for Environmental Protection, Marine Scotland, NatureScot, RSPB, NFU Scotland, and more. This session provided ESS with useful qualitative information on the pressures driving biodiversity decline, mitigation strategies preventing or reversing biodiversity decline, and developments in the EU.

6.5 ESS also undertook quantitative analysis, building on data related to targets and species/habitats identified in the baseline evidence review, trends in specific topics such as sites of special scientific interest, and understanding of pressures and their impacts on biodiversity decline.

6.6 This scoping and framing project has identified a number of key issues for ESS to pursue, including wildlife crime, INNS, SPA networks and protected sites. It has also informed ESS' responses to consultations on this topic, and engagement with stakeholders regarding the Scottish Biodiversity Strategy Delivery Plan and the Natural Environment Bill.

Invasive non-native species

6.7 ESS has identified the control and impact of INNS as a priority for analysis. Also at the scoping and framing stage, ESS launched a [call for evidence](#) on this topic in May 2024. Open to the public, this call for evidence sought views on: the control of INNS, particularly regarding the effectiveness of the current legislative and policy framework; and the impact of INNS, particularly regarding evidence and data gaps.

6.8 Closing in July 2024, the call for evidence gathered responses from a broad range of stakeholders. The responses are now being analysed by ESS' Biodiversity Policy Analyst and the team to identify key themes and inform the drafting of a scoping report.

Wildlife crime

6.9 During summer 2023 ESS took part in the Scottish Graduate School of Social Science (SGSSS) internship programme. As part of this programme, a PhD student of social sciences joined the ESS team for a 12-week placement. During this time the student undertook a systematic literature review focusing on wildlife crime in Scotland and the issue's economic and social drivers.

6.10 The [final report](#) is a useful resource that ESS may draw upon during future analytical work.



6.11 In addition to ESS' analytical projects that fall directly within the biodiversity category, the team is also undertaking work in the areas of water quality, threats to the marine environment and soil health, which will have an impact on biodiversity and ecosystem resilience.

Monitoring environmental performance

6.12 ESS' Strategic Plan 2022-25 contains a [set of performance and management indicators](#) (PMIs) to assess ESS' performance in relation to its functions. This includes ESS' assessment of Scotland's progress against environmental indicators. This indicator will consider how ESS has contributed to delivering improvements in selected environmental outcomes where it has undertaken scrutiny work. This will involve formulating theories of change, identifying specific indicators to monitor changes in outcomes at a high level, and undertaking light-touch impact assessments (once every three years) of how ESS' work has contributed (directly or indirectly) to changes. ESS has not yet reported on this indicator, however it is hoped that the work outlined within this report will result in tangible improved outcomes for biodiversity in Scotland.

7. Biodiversity highlights and challenges

7.1 As this is ESS' first biodiversity report, there are many highlights that come with establishing a new public body. Identifying biodiversity decline as an analytical priority has guided ESS' analytical and horizon scanning work in this area, while our Investigations team has worked with members of the public, community groups and NGOs to realise our first changes in the application of environmental law.

7.2 We have also developed the first phase of our Sustainability Plan which will be delivered to completion in the coming months. With thanks to our staff for their work to reduce and measure our environmental impact, this first phase of the plan has been a success. While emissions have naturally increased along with the size of our maturing organisation, they have not done so in the same proportions. Drafting of the next phase will begin shortly, and, as we settle into our new office setting, we will be well-placed to build on our biodiversity commitments in the way we operate at ESS.

7.3 The area of biodiversity is wide-reaching and cross-cutting. The very fact of prioritising issues implies that there is always more that could be done if resources allowed. This is of course a challenge that the wider public sector faces, including the organisations that ESS scrutinises. However ESS has remained flexible in its approach to prioritisation and considering emerging threats to the environment, reviewing its suite of priorities every six months. ESS will continue to prioritise the areas of most environmental concern and work with public bodies to secure environmental improvements in these areas.

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