

# **ESS Draft Strategy 2026-2031**

## for Consultation

June 2025

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# Our **Strategy** on a Page

## Our Vision



“ By holding public authorities to account, we will ensure that Scotland’s people and nature benefit from a high quality, healthy environment through improved compliance with and better implementation of effective environmental law. ”

## Our Priorities



## Our Strategic Objectives



Securing compliance and improving effectiveness	Analysing and investigating environmental concerns	Monitoring and scrutinising environmental performance	Engaging and communicating effectively	Being an efficient and effective organisation
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## Our Principles



We will be independent and trusted	We will be evidence driven	We will be open and transparent	We will engage widely	We will seek to resolve issues through agreement wherever possible	We will prioritise our efforts and resources to maximise our impact
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## Chair's foreword

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Scotland is rightly proud of its environment. But there is still much to do, particularly to deal with the twin climate and nature crises.

This draft of our new five-year Strategy sets out our proposed approach in the next chapter of Environmental Standards Scotland's life. By making environmental law work better we have already made a difference: from taking action on air pollution to improving how sewer overflows are managed, and from protecting seals and dolphins from underwater noise to setting the agenda for the next phase of action on climate change.

This Strategy brings a strong focus on key priorities and builds on the experience of our first four years.

Protecting and improving the environment is important for both current and future generations. A healthy environment contributes to human health and wellbeing. And a healthy environment underpins a thriving and resilient economy.

In our world of short-term financial pressures and international tensions some people are raising questions about the importance of the environment, but failing to deal with climate change in particular would end up costing us many times more than acting now to reduce the emissions we are responsible for and make Scotland more resilient in preparation for a more chaotic world.

So we will continue to make sure that environmental law is being properly implemented and we will press for the laws and standards themselves to be improved, including learning from best practice around the world.

I would encourage anyone with an interest in our work to give us their views on the draft. All feedback will inform the final Strategy that is submitted to the Parliament for approval.

Dr Richard Dixon

# 1. What is Environmental Standards Scotland?

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1.1 Environmental law exists to protect and improve the environment and human health. Public authorities have an essential role to play in complying with this law and ensuring that it is implemented effectively. Environmental Standards Scotland's (ESS) task is to scrutinise how well these organisations are doing this.

1.2 ESS monitors, investigates and secures public authorities' compliance with environmental law in Scotland. We also scrutinise the effectiveness of environmental law and policy in Scotland and how it is implemented and applied. We will identify where we consider there to be gaps in environmental protection.

1.3 The public sector organisations we scrutinise include the Scottish Government, public bodies, such as Scottish Environment Protection Agency, NatureScot, local authorities, Scottish Water and any organisation which performs functions of a public nature.

1.4 ESS is an independent non-ministerial office which is directly accountable to the Scottish Parliament. The UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 ('the Continuity Act') protects our independence and ensures that Scottish Ministers cannot direct our work.

1.5 ESS can decide on areas of environmental law it will scrutinise and we also respond to concerns about environmental law raised with us by the public. We have significant powers that we can use to protect and improve the environment.

1.6 ESS is not an appeals body for individual regulatory decisions made by other organisations (for example, relating to planning decisions, environmental licences or permits or regulatory enforcement in specific cases). However, we will consider whether such decisions might indicate systemic or cumulative problems with compliance, or with the effectiveness of environmental law.

1.7 ESS will ensure that the environmental governance system works effectively and we will liaise with and coordinate our work with other scrutiny bodies, such as Audit Scotland, the Scottish Public Services Ombudsman and the Climate Change Committee.

1.8 We work mainly in Scotland, but recognise that environmental issues span political boundaries and so work closely with our counterparts elsewhere in the UK and with other organisations, academic and research bodies across the UK and internationally.

## 2. The context for our work

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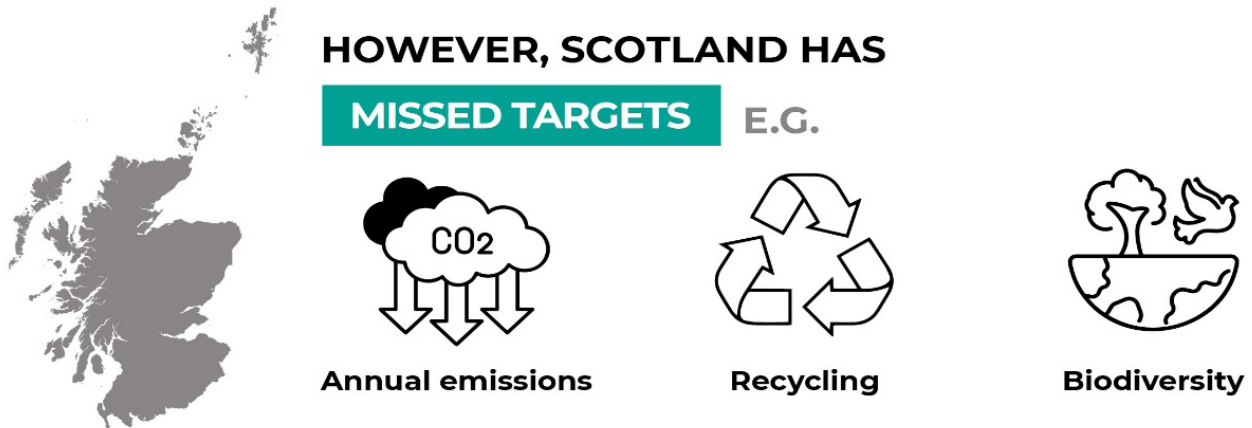
2.1 There has been some significant progress in improving the Scottish environment over recent decades. However, profound challenges remain, especially in taking the next steps to reduce greenhouse gas emissions, addressing the extreme loss of biodiversity<sup>1</sup>, in improving marine and freshwater environments and developing a circular economy (Figure 1).

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<sup>1</sup> Biodiversity is defined by the United Nations Convention on Biological Diversity as “The variability among living organisms from all sources including ... terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.”

## PROGRESS HAS BEEN MADE IN IMPROVING THE ENVIRONMENT...

Emissions of the **main air pollutants were lower** in 2021 than they were in 1990, while **renewable energy generation has doubled** in a 10 year period. Between 1994 and 2023, **43 out of 66 terrestrial breeding bird species increased or remained stable**.



Scotland's public bodies report that several environmental targets have been missed in recent years, including on annual emissions reductions, household recycling rates and 11 out of 20 biodiversity targets for 2020.

## PROFOUND CHALLENGES REMAIN...



Emissions declined by **50.1%** between 1990-2022. However, the 2024 climate change monitoring report set out that **17/43** indicators were **off track**.



**18% & 37%** of land and sea were protected in 2024, but pressures continue to impact the condition of these areas. In 2023, **11%** of Scottish IUCN assessed species were **"Threatened"**.



Waste to landfill decreased by **66%** (2005-2022). However in 2022, household waste recycling in Scotland was the **lowest of any UK nation at 42.1%**.



**64%** of surface waters were assessed as good status in 2020 (freshwater). At sea, **only 4/15** indicators for good status were met at the UK level (2018).

N.B: Figures presented are from Scottish Government Official Statistics and/or relevant public authority reports. The original sources provide detailed descriptions of the methodologies for calculating statistics and any limitations or assumptions.

Figure 1 - Providing context on Scotland's environmental performance



2.2 This strategy covers the next five years. During that period, there are several important developments at a national level that will provide context for our work. These include:

- agreeing and implementing a new climate change plan which will be critical if Scotland is going to meet its long-term, statutory goal of achieving net zero by 2045
- agreeing and delivering against robust and ambitious statutory targets for restoring nature and ensuring Scotland delivers the Global Biodiversity Framework target of halting biodiversity loss and protecting 30% of land and sea for nature by 2030
- setting and delivering against new statutory targets related to a circular economy, reducing waste and improving recycling rates by 2030
- publishing a new National Marine Plan for Scotland in 2025, alongside the latest UK assessment
- reviewing Scotland's River Basin Management Plans and setting a new framework of targets and objectives for the period beyond 2027

2.3 The Continuity Act gives Scottish Ministers the power to amend the law to maintain alignment with EU law on the environment. ESS will monitor developments in European and international environmental standards and law to highlight areas where changes or further progress is needed, particularly in relation to the aim of maintaining alignment with EU law, or where Scotland can learn from good practice elsewhere.

### 3. Our strategic approach

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#### Our vision

By holding public authorities to account, we will ensure that Scotland's people and nature benefit from a high-quality, healthy environment through improved compliance with and better implementation of effective environmental law.

#### Our principles

We will:

- be independent and trusted
- be evidence driven
- be open and transparent
- engage widely
- seek to resolve issues through agreement wherever possible
- prioritise our efforts and resources to maximise our impact

#### Our priorities

3.1 We will consider all concerns raised with us by members of the public. We will focus most of our proactive work around four priorities:

**Climate change:** Scotland's approach to mitigation and adaptation

**Nature:** Scotland's approach to reversing the decline in biodiversity

**Resources:** Scotland's approach to reducing resource use and waste and developing a circular economy

**Water:** Scotland's approach to improving the freshwater and marine environments

3.2 We have chosen these priorities because they include the two fundamental challenges of climate change and biodiversity decline, issues of public concern and areas where performance is declining or is not on track to achieve Scotland's existing targets or commitments. They also represent the areas where we consider that ESS can make the most significant impact.

3.3 The majority of our proactive work over the next five years will concentrate on these four priorities. We will retain some flexibility to ensure that we can undertake work in other important and emerging areas and we will continue to monitor and follow-up on our previous scrutiny work, for example, on air quality and soils. We may also choose to scrutinise thematic or cross-cutting issues that span more than one priority (for example, public bodies' approaches to enforcement).

3.4 We will consider interactions between these priorities and how improvements to the implementation of environmental law can secure better environmental outcomes overall. We also recognise that how public authorities manage and regulate our environment can have impacts beyond Scotland, for example, in how we manage our use of resources and dispose of waste.

When deciding what work to do, we will consider the following criteria:

**Impact** – the size and risk of the potential impact on the environment and/or public health, the urgency with which improvement is required

**Character and scope** – recent trends in performance, whether the issue is systemic or longstanding, levels of public concern and the international context

**Neglect** – whether there has been action taken on the issue recently, or further action is planned in the near future

**Added value** – the contribution we can make, considering whether there are other oversight or scrutiny bodies who are/could take action to address concerns, the resourcing implications for ESS

3.5 This strategy draws together ESS' approach to its work and provides links to other documents with more operational detail (Figure 2).



Figure 2 - ESS' governance landscape

## 4. Our strategic objectives

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**Objective 1.** Securing compliance and improving effectiveness

**Objective 2.** Analysing and investigating environmental concerns

**Objective 3.** Monitoring and scrutinising environmental performance

**Objective 4.** Engaging and communicating effectively

**Objective 5.** Being an efficient and effective organisation

### Objective 1. Securing compliance and improving effectiveness

4.1 Environmental law exists to protect and improve the environment and human health. Public authorities have an essential role to play in complying with environmental law and ensuring that it is implemented effectively. ESS has significant statutory powers to secure public authorities' compliance with environmental law and to bring about improvements to the effectiveness of environmental law and how it is implemented or applied (Table 1), with the aim of protecting and improving the environment and public health.

Table 1 – ESS' Statutory Powers

<b>Information notice</b>	Requires a public authority to provide us with any information we need
<b>Improvement report</b>	Report to the Scottish Parliament setting out what a public authority must do to comply with environmental law or to improve effectiveness. Scottish Ministers must then lay an Improvement Plan in Parliament for approval
<b>Compliance notice</b>	Requires a public authority to take steps to address a failure to comply with environmental law and to prevent that failure being repeated
<b>Judicial review</b>	Enables us to apply for judicial review or to intervene in other civil court proceedings where there is a serious failure to comply with environmental law or where there is a risk of serious environmental harm

4.2 ESS will take the action it considers necessary to ensure public authorities' compliance with environmental law, or to improve the effectiveness of environmental law, or in how it is implemented or applied. In line with the Continuity Act, we will seek to reach agreement with public authorities on action needed to protect the environment before using our statutory powers. Reaching agreement with public authorities is a fundamental element of our approach to enforcement. However, if we decide it is necessary we will use our powers. By law, public authorities must co-operate with ESS to resolve matters quickly. Our approach to enforcement is set out in our [guidance](#).

4.3 The type of enforcement action we take will depend on the form the failing takes and the consequences (or potential consequences) of it. In deciding what action is required, ESS will take into account whether immediate action is required to protect the environment. Enforcement action can result from any part of our investigatory, analytical or monitoring work. Where we decide to take enforcement action, we will be clear on the outcomes required and will ensure the necessary steps are taken within agreed timescales. We will report publicly on all enforcement action, including the results of our longer-term monitoring of the environmental outcomes achieved.

## Objective 2. Analysing and investigating environmental concerns

4.4 Ensuring that we analyse and investigate the most important environmental concerns is fundamental to ESS' work. We have two mechanisms to do this (Figure 3):

- individual members of the public, community groups, whistleblowers and organisations can highlight concerns (we call these “representations”)
- our own proactive monitoring, analytical and engagement work can highlight areas of concern about the environment and may result in detailed investigatory work



Figure 3 – ESS' process for scrutinising environmental concerns

4.5 We will undertake work on the concerns identified using the criteria set out at section 3.5 before deciding what next steps to take. We will also seek external expert advice if we consider it necessary to reach a full and robust decision. Our detailed approaches to our [analytical](#) and [investigatory](#) work are available on our website. Our analytical work may lead to investigatory work or may be published in its own right. It may also contain recommendations that we expect public authorities to respond to.

4.6 If an issue brought to us is not within our remit, or we decide not to take it forward, we will explain why. We will provide as much assistance as possible, including signposting to other organisations that are better placed to help.

4.7 In all our analytical and investigatory work we will consider relevant international obligations, standards and laws. We will pay particular attention to keeping pace with positive developments in environmental policy, law and regulation in the European Union and will also look globally to identify further examples of good practice.

## Objective 3. Monitoring and scrutinising environmental performance

4.8 Understanding the state of the Scottish environment through data, evidence and research will allow ESS to identify areas where there may be non-compliance with environmental law, or where performance or progress is inadequate to meet Scotland's ambitions.

4.9 We will cast our net widely, bringing together and synthesising evidence from a range of sources. Occasionally, where existing evidence is insufficient to enable us to draw conclusions, we may commission work or identify where further research and evidence gathering is required by others.

4.10 Whilst maintaining our independence ESS will also strive to be a well networked and connected organisation. To achieve this we will engage widely with other organisations that collect data on the environment and which scrutinise and evaluate environmental performance and the effectiveness of environmental law. We will seek opportunities to bring together and to work in partnership with others to drive improvements in how data and evidence on Scotland's environmental performance is monitored and reported.

4.11 We may issue our own calls for evidence to gather insights from those involved in implementing environmental law about how it is working in practice and whether the tools and measures available are sufficient and effective.

4.12 We will respond to consultations and calls for views on environmental law from the Scottish Parliament, the Scottish Government and other public authorities. Our growing body of work in this area will provide insights into how environmental law can be established, improved or implemented most effectively.

4.13 Over the period of this Strategy, we will prepare for, integrate and then start delivering new aspects of scrutiny, including:

- scrutinising local authorities' delivery and reporting of their statutory climate change duties
- acting as the Independent Review Body scrutinising progress towards delivery of Scotland's statutory targets for nature recovery (as proposed in the Natural Environment (Scotland) Bill currently before Parliament)



## Objective 4. Engaging and communicating effectively

4.14 To realise ESS' vision, we must communicate and engage effectively. Drawing on our principles, our approach to communications and engagement will be:

**Independent** – we will communicate with a clear, authoritative voice, including when we explain the results of our scrutiny work

**Trusted** – we will ensure that the content of all our work is factual and objective

**Transparent** – we will make all our procedures, updates on our progress and our completed work public and accessible

**Effective** – we will ensure that we explain why our work is relevant to the people of Scotland and the Scottish environment

4.15 Being a well-connected and networked organisation is critical to ESS' ability to fulfil its functions effectively and efficiently. We will engage regularly, and at a variety of levels, with a broad range of stakeholders, including the public authorities we scrutinise. We will engage widely to raise the profile of ESS and increase understanding of our remit and our work and will seek to collaborate with other bodies whose work aligns with our goals. Strong relationships with our stakeholders will ensure:

- ESS' accountability
- the ability of the public to raise concerns with ESS
- knowledge and evidence exchange across the environmental governance system
- understanding of the different roles of different bodies
- assurance that we are adding value through our work

4.16 We will continue to engage in person with communities across Scotland to understand and discuss the environmental issues which affect them. This programme will help ensure ESS' role is widely understood and that communities and individuals are confident in raising their environmental concerns with us.

4.17 ESS is accountable to the Scottish Parliament. To complement our statutory annual reporting, we will provide the Parliament with regular updates on our work and respond to requests to contribute to scrutiny and other work.

## Objective 5. Being an effective and efficient organisation

4.18 ESS is led by a [Board](#) of between five and seven members. Scottish Ministers appoint board members using a regulated appointments process, following approval from the Scottish Parliament. The Board's operation is governed by its [Standing Orders](#). ESS' [Framework Document](#) sets out the relationship between ESS, the Scottish Parliament and Scottish Ministers with regards to governance, finance and the operation and functions of the organisation.

4.19 We have a team of skilled, motivated people with a broad range of professional expertise. They are organised into three departments: Corporate Services and Communications; Investigations, Standards and Compliance, and Strategy and Analysis. We have a blend of different contract types (permanent and fixed-term contracts, secondments, and internships/placements). We aim to have a professional and trusting working culture with respect and empowerment being at the core of how we work. We will ensure that all members of our team are able to continue to develop and have the space and opportunity to try new ideas and innovations.

4.20 ESS' [People Strategy](#) is made up of three pillars:

- attracting and keeping the right people
- developing and nurturing our people
- enabling great performance and delivery

4.21 We prioritise diversity, equality and inclusion and wellbeing in everything we do. This is reflected through our Equalities and Diversity Policy principles of respect, inclusivity, fairness.

4.22 We complement our team with support from other organisations. This includes operational advice such as legal, human resources and information technology advice. In the context of the wider public service reform agenda, we will explore opportunities to collaborate with others, beyond our current arrangement of sharing our office with another public body.

4.23 ESS must meet the public sector duties set out in the Climate Change (Scotland) Act 2009 and the Nature Conservation (Scotland) Act 2004. Our Sustainability Plan sets out our approach to reducing emissions, contributing to

reaching net zero by 2045 and furthering the conservation of biodiversity and aspires to be an example of good practice.

4.24 We operate in accordance with the Public Finance and Accountability (Scotland) Act 2000 and the Scottish Public Finance Manual. We have secure governance and financial management and effective corporate functions. We will continue to maintain a clear approach to how we allocate and prioritise our spending to ensure best value.

4.25 Every year, we will write to the Scottish Parliament setting out whether we consider the draft budget allocated to ESS to be sufficient for the following year. Within our annual report, we will report on whether ESS' budget enabled us to deliver our functions during the preceding year. Our annual report will also report on our progress in delivering our strategic objectives.

4.26 We will publish an Annual Business Plan at the start of each financial year. This will set out the work we plan to do and the outputs we aim to publish. We plan to review our Strategy during 2031 and submit a revised Strategy to the Scottish Parliament for approval by the end of that year.

## 5. Our approach to measuring our performance

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5.1 We evaluate both the impact of our work and the effectiveness of how we work. We use a theory of change approach to demonstrate how our scrutiny work has an impact on the environment. We also utilise key performance indicators (KPIs) and performance management indicators (PMIs) to measure our organisational performance. Together these approaches will enable us to assess how well we are achieving our vision (see Figure 4).

### **Evaluating our impact**

5.2 For each of our major investigations and analytical projects we will develop a theory of change to explain how the actions taken by ESS are expected to contribute ultimately to improved environmental outcomes. This will set out the intended improvements to environmental law and regulation, the chain of events that is expected to result in improvements, any key assumptions that underpin our theory of change and the wider context. Each theory of change will also identify specific indicators that ESS will use to track improvements in areas of the environment in which ESS has acted. In addition to these indicators, we will commission detailed case-studies on a three-yearly basis to examine the long-term outcomes of our work and ESS' contribution to changes in policy and regulation.

5.3 Those improvements should, alongside other contributing factors, lead to better environmental outcomes for nature and people and contribute to the achievement of Scotland's ambitions for the environment and climate change.

### **Measuring our performance**

5.4 We will measure our organisational effectiveness on a regular basis using PMIs and KPIs.

5.5 Our PMIs include a wide range of operational and management information related to our investigation and analysis work, our engagement and profile, delivery against our People Strategy pillars, delivery of our annual Business Plan objectives and compliance with governance and financial reporting requirements.

5.6 These PMIs are organised under three KPIs: Performance, People and Profile, which enables us to describe and explain our progress each year in a qualitative and quantitative way.

5.7 Our KPIs will remain constant across the period of this strategy. However, to enable a flexible approach, and to build more challenge into our KPIs over time, our PMIs may be added to, or enhanced, where additional insight is required.

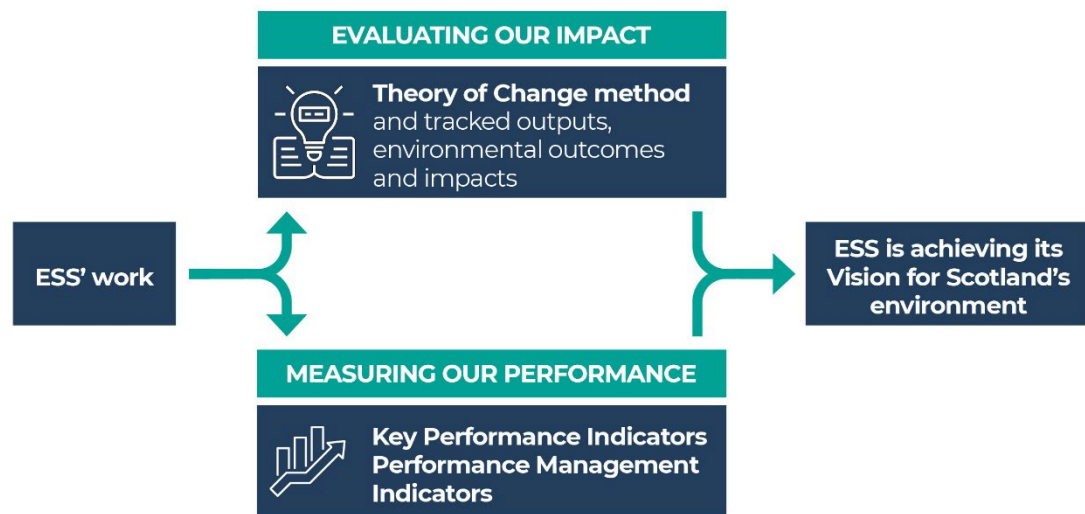


Figure 4 – ESS' approach to assessing impact and performance

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