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Energy and Climate Change Directorate
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Dear Energy and Climate Change Directorate,

1. Environmental Standards Scotland (ESS) welcomes the opportunity to respond to the Scottish Government's consultation [Climate change duties - draft statutory guidance for public bodies](#). This response has already been formally submitted via the CitizenSpace consultation platform.
2. ESS is a non-ministerial office directly accountable to Scottish Parliament. Since 1 October 2021, it has been a component of the system of environmental governance in Scotland following the UK's exit from the European Union and the end of oversight of implementation of European Union environmental law by the European Commission and the European Court of Justice. ESS' remit is to:
 - ensure public authorities, including the Scottish Government, public bodies and local authorities, comply with environmental law
 - monitor and take action to improve the effectiveness of environmental law and its implementation

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With respect to the protected characteristics, could the content of the statutory guidance be changed or added to, to strengthen any positive impacts or lessen any negative impacts as it is implemented by public bodies?

3. N/A

With respect to inequality caused by socio-economic disadvantage, could the content of the statutory guidance be changed or added to, to strengthen any positive impacts or lessen any negative impacts as it is implemented by public bodies?

4. N/A

Does the guidance make it clear how public bodies can fulfil the requirement to 'best calculate' the climate impact of their actions?

5. Partially

6. The requirement for public bodies to best calculate the climate impact of their actions is a legal duty set out under section 44(1) of the Climate Change (Scotland) Act 2009.

7. When local practitioners were previously asked through ESS investigation (IESS.21.012) engagement about their ability to deliver this legal duty, it was not clear how to implement it, nor how to measure compliance – as there was no metric or indicator provided. Ensuring that all public bodies have a climate plan would be of benefit, enabling comparison and ensuring that compliance could be monitored.

8. The guidance provides some examples to demonstrate how public bodies can comply with this duty. We recognise that the duties have been written to provide flexibility for a diverse range of organisations, but we would like to note that 'best calculating' the climate impact of actions should be a minimum requirement, and it would be helpful for the guidance to provide clarification on what objective fulfilment of these obligations may look like to facilitate implementation.

Does the guidance make it clear how public bodies should take future climate scenarios into account when making plans and investment decisions?

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9. Partially

10. The draft guidance includes a section on climate change scenario analysis with some additional resources. The provision of examples is useful, as is direction to tools and guidance that have been developed by others (Adaptation Scotland, Local Partnerships).

11. While a wide range of information has been provided, the following improvements could be made:

- the guidance states that the 'Scottish Government has committed to developing a climate scenario decision tool to support the public sector' but no timeframe accompanies this information. This creates a lack of clarity around whether a tool will be provided before public bodies' first Climate Change Plan is required, or after

12. The guidance on future climate change scenarios should be strengthened to ensure the following:

- the guidance 'recommends' public bodies 'should seek to understand' different warming scenarios. This language could be strengthened to ensure that public bodies are required to understand and account for future climate scenarios in their Climate Change Plan, and that the information should be published
- direct guidance should be provided that lets public bodies know what data (ideally) they should be using to complete this climate scenario assessment. A best practice methodology would also help ensure effective and transparent delivery
- using clearer language to confirm that two degree and four degree scenarios should be prioritised, for comparison across local authorities for example, would be beneficial
- it is helpful that the guidance sets out best practice, however while it is considered 'best practice for public bodies to make organisation climate risks publicly available' and advised that this is linked within their 'annual report under

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the mandatory reporting duty', it is not required, therefore the action may not be fulfilled. To improve the sharing and transparency of information and it would be useful if the guidance set out that while it not necessary for all assessed climate risks to be published in relation to every project, at least a portion of climate risk and scenario information (based on scale of project / risk for example) should be published on an annual basis. This would provide the opportunity for a more comparable dataset across organisations to be developed and utilised

13. To increase comprehension and delivery clear information could be provided on the actions that public bodies should take with regard to planning and investment decisions. This information is present in part but could be improved through consolidation.

Do you have any comments about the guidance provided in this chapter on complying with the first duty?

14. There is no reference to an overarching monitoring body that would scrutinise compliance. It is also unclear who would follow-up on the climate plans and recommend improvements in climate activity in this section.
15. Guidance currently says, 'public bodies should, wherever possible, set a corporate decarbonisation pathway that reflects the national pathway, and are strongly encouraged to set a pathway aligned to the IPCC recommendations for a 1.5°C, Paris Agreement pathway'. This should be accompanied by clear guidance on when exemptions apply to providing the 1.5°C Paris Agreement pathway.

Do you think the Carbon Management Plan template is suitable for its intended purpose? (Annex A - template Carbon Management Plan: 'baseline' plan aimed at smaller public bodies)

16. Yes, in principle.
17. This is in line with ESS previous recommendations to have a Climate Change Plan for local authorities. In theory, this approach of Climate Change Plans and Carbon Management Plans should help to reduce the current accountability gap. To improve the

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template, we recommend the inclusion of a review period (for example, every 5 years) and an inbuilt mechanism to ensure regular review.

18. The plans themselves should be high quality, and the diversity of approaches that public bodies may take should not undermine the overall standard that the plans should demonstrate, or key information which they should contain.
19. We would encourage that the guidance highlights the preference for transparent external reporting for the management plans.

Do you think the Climate Change Plan template for local authorities is suitable for its intended purpose? (Annex B – template Climate Change Plan for local authorities)

20. Yes
21. We are pleased to see the development and inclusion of a Climate Change Plan for local authorities, as per ESS' recommendation in our investigation report (Case Reference IESS.21.012). The format appears to present suitable sections that should be appropriate for organisations of different sizes.
22. Broadly this template, and associated guidance, is suitable for its intended purpose.

The guidance lays out an approach whereby public bodies should review the Scottish National Adaptation Plan (SNAP); identify the objectives relevant to them; contribute towards those objectives; and, where relevant, report annually on progress in their public bodies' climate change duties report. To what extent do you agree with this proposed approach?

23. We support the links between the SNAP(3) and climate change duties for public bodies and agree that public bodies should report on objectives within SNAP3 that are relevant to them.
24. The boxes highlighting 'minimum next steps' are a useful addition to ensure public bodies have an accessible and guided starting point to adaptation action.

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25. Improvements could be made by including the following:

- a mechanism to facilitate the identification of the relevant objectives
- clear guidelines on the frequency of reporting required (e.g. annual) would facilitate the development of a more robust and up-to-date dataset. Given the nature of adaptation, it can take time to realise the results of changes, particularly when nature-based solutions are put in place
- greater clarity is required regarding how a body might be sure that it has objectively fulfilled the duty. Where objectives have been identified, the action taken to achieve them should be clearly reported
- using more assertive and less passive language would be appropriate given that this is statutory guidance

Do you have any other comments about the guidance provided in this chapter about complying with the second duty?

26. Depending on the date of publication, the final version of the guidance could contain reference to CCRA4.

Having considered the content of the chapter, is it clear how public bodies should implement the third duty, to act in the most sustainable way?

27. Partially

28. Public bodies should act 'in a way that it considers most sustainable' as per the climate change duties prescribed by the Climate Change (Scotland) Act 2009. As highlighted in the guidance, there is no prescribed way to 'develop sustainably'. This will be an iterative process that might look different across local authorities.

29. Public bodies should evidence their approach and considerations for sustainable development within their planning, and it will be necessary for the relevant public body to understand that the approach may need to change as best practice is further developed. The guidance states that 'sharing information about what has been tried, what has

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worked, and what has not, will of course be critical' and we agree that this will be a necessary part of the transformative change to a more sustainable approach. Reporting sustainable approaches taken by public bodies to achieve their climate change duties and plans, will ensure that the information is shared, and data can be used to further develop best practice approaches on a national scale. With this in mind, we think that this chapter provides some clarity on what may be considered more and less sustainable ways to operate and provides useful reference to appropriate resources (e.g. UK Shared Framework for Sustainable Development).

30. The request for public bodies to embed the five principles (from the UK Shared Framework for Sustainable Development) into their approach and working practices' is positive. We support the request that public bodies contribute towards the achievement of both national sustainability outcomes, and global sustainability outcomes – such as the UN SDGs, through their consideration for sustainability in their Climate Change Plans and duties.

31. The guidance highlights several resources and pieces of relevant legislation surrounding sustainable procurement, land use and more. It is useful to see some consolidation of these tools in Annex C.

Do you have any other comments about this chapter?

32. N/A

To what extent do you agree with the proposed baseline reporting of the scope 3 emission categories as outlined?

33. Somewhat agree

34. We support the inclusion of scope 3 emissions in the baseline reporting, as per the Scottish Government's Improvement Plan. Categories 1(partial),3,5,6,7 were found to be reasonable and feasible scope 3 emissions categories to report.

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35. It is positive that the reporting of baseline scope 3 emissions will be expected across all public bodies.
36. In the Scottish Government's Improvement Plan (in Response to Environmental Standards Scotland Investigation – Climate Change Delivery Improvement Report (IESS.21.012)) it was noted that additional work will be done to enable the following categories to be included in future: 1 (partial),2,8,13,15, and further research is needed to include categories 9,10,11,12,14. In the guidance it states that 'expansion of the reporting boundary can progress in a phased approach, focusing first on the scope 3 categories which contribute the most to the organisation's overall footprint. Such priority categories will differ according to the body's functions, budget and operations.' We agree that the prioritisation approach different public bodies take may be different depending on the noted criteria. Further thought should be given as to whether the expansion should explicitly be selected from the proposed list in the improvement plan (1 (partial),2,8,13,15) for the next phase of emissions reporting, or the entirety of the categories (1 (partial),2,8,13,15, 9,10,11,12,14). The selection of expanded emissions reporting in set phases/groups may provide more consistency in emissions being reported at any one time and make for easier data comparison.
37. Increased clarity could be given regarding the division of different scope 3 - category 1 emissions for public bodies, as different areas are mentioned in baseline emissions reporting and as part of expanding the baseline.
38. We would strongly encourage a timeline for the phasing of different scope 3 categories. While this will understandably be varied depending on the scale and remit of the public body, a broad indication of the expected timeframe would ensure that progress across sectors is being made. Explanations should be provided for the categories of scope 3 emissions that are not reported as the phasing of emissions reporting progresses.

Do you think that any other categories of scope 3 emissions should be included in the recommended baseline for reporting, where these are relevant and applicable?

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39. We welcome the addition of further emissions categories to the baseline emissions reporting. It is our general understanding that the expansion of scope 3 emissions reporting has already been planned out, as per the Scottish Government's improvement report.
40. A timeline for the incorporation of baseline reporting, and the phasing in of further scope 3 categories would be beneficial.

Do you think that the guidance fulfils its stated purpose of providing support to public bodies in putting the climate change duties into practice?

41. It will be necessary to link reporting to actions where possible to provide a clear line of sight from action to delivery.
42. Templates and methodologies will be necessary to ensure comparability between local authorities, and different public bodies as a whole, to ensure the necessary level of consistency in data collection and reporting. It is essential that figures are determined through a robust and consistent methodology to ensure comparability.
43. If revisions (as noted above and in response to other questions) are implemented, the guidance can fulfil its intended purpose to provide useful and meaningful support for public bodies putting the climate change duties into practice. It will be necessary to engage with stakeholders and trial the approach with those that would be using it, to fully assess that the guidance provides the appropriate support public bodies require.

Do you have any further comments about the guidance?

44. The guidance is substantial and detailed, but could better serve its purpose with some helpful additions:
45. Clear reference to the introduction of a monitoring body.
46. Clarity on the review period for this guidance e.g. every 5 years

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47. Making clear reference to the need for consistent and robust methodologies and appropriate quality assurance of data
48. Ensuring clear reference and distinction between what actions are required, and which are best practice
49. Language could be stronger (less passive) in several areas, with reference specifically to what is preferable to report, and what local authorities and public bodies are required to report on. The required reporting should build a robust and full dataset that can be used to monitor and indicate progress and issues. This should provide an open and comprehensive dataset over time and geographically.
50. The guidance document is lengthy, and text heavy for users to digest. Where possible, streamlining and infographics may be of benefit.
51. Providing greater clarity on the way in which these plans will interact with the Climate Change Plan (that is currently being reviewed) would be beneficial.

Yours sincerely

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