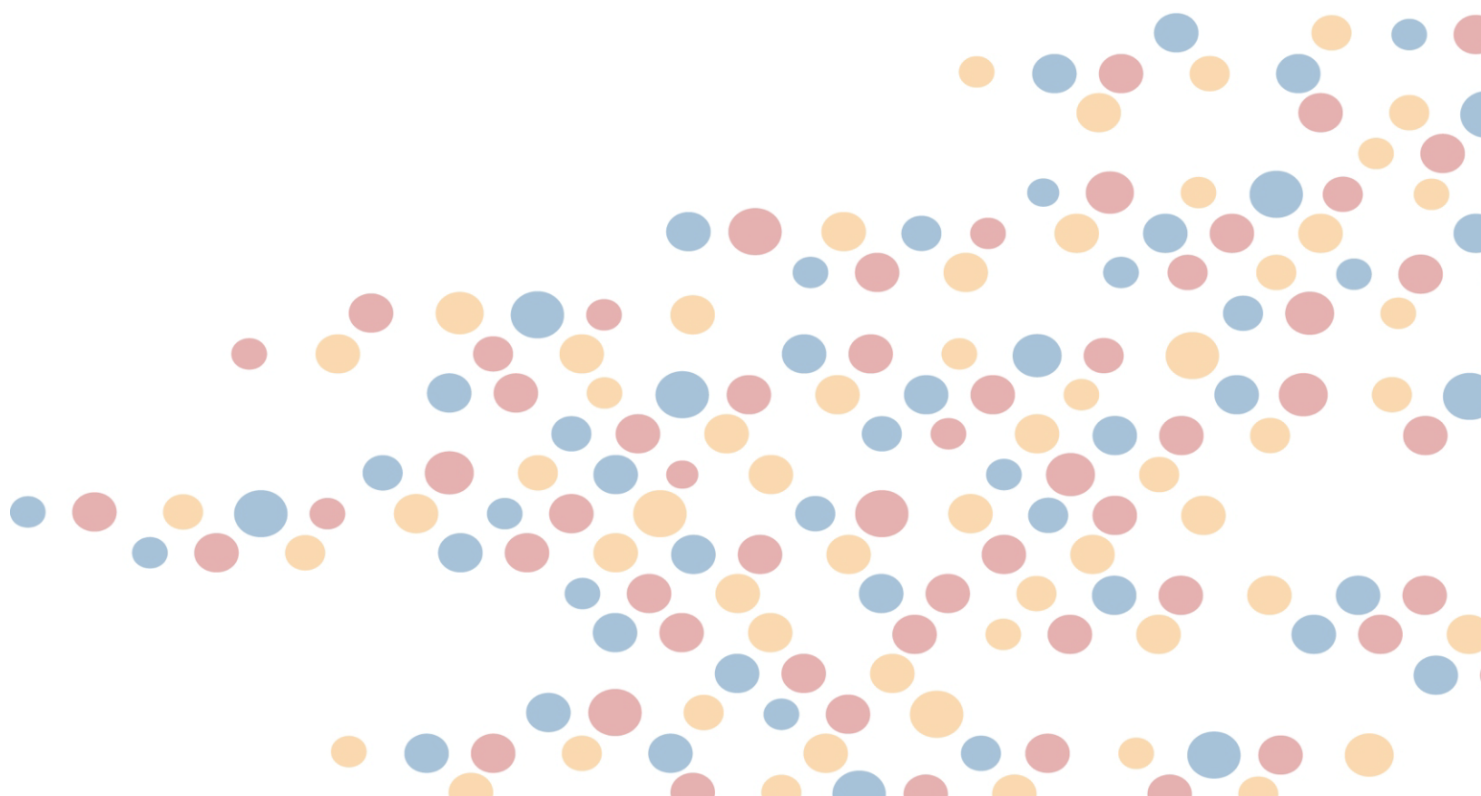


ESS Strategy 2025-2030: Summary of Consultation Responses

Environmental Standards Scotland

Final Report
October 2025



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EXECUTIVE SUMMARY

Environmental Standards Scotland (ESS) is an independent public body. ESS exists to monitor the effectiveness of environmental law in Scotland, and public authorities' compliance with environmental law, as well as to prevent enforcement gaps arising from the UK leaving the European Union.

ESS drafted a revised strategy for 2025-2030 and consulted on this draft strategy in summer 2025. Independent research consortium JRS were commissioned to support ESS to develop and analyse this consultation. This involved JRS and ESS working jointly to draft the consultation questionnaire, and JRS conducting a transparent and systematic analysis of responses following the close of the consultation.

This report summarises responses to the consultation to inform the development of the final revised strategy.

Vision

- Respondents were positive about ESS' vision, as set out in the strategy.
- The vision's emphasis on holding public authorities to account was welcomed, and ESS is considered the right organisation to take on this role.
- But respondents want the vision to go further in terms of outlining its scope, clarity, ambition, and the actions that will underpin it.
- A collaborative, whole system approach to achieving the vision was suggested, and some respondents believe working with others is core to achieving this vision.

Principles

- Respondents were supportive of the principles set out in the draft strategy.
- The principles of independence, transparency, evidence-based decision making, and engagement were welcomed.
- Openness and transparency were highlighted as core principles.
- Evidence-driven working was widely supported, but respondents also called for a precautionary approach.

- Caution around ‘resolving issues through agreement wherever possible’ was advised, and ESS need to show they are willing to escalate when needed.
- Respondents also asked ESS to ensure they do not conflate wide engagement with meaningful engagement.
- ESS was asked to provide further clarity on how principles will be implemented, particularly in relation to prioritisation.
- There were some concerns about ESS’ resource and capacity to deliver all of the principles, which could become a more pressing issue if ESS’ role expands.
- Several additional principles were suggested, focussing on fairness, future focus, and ensuring environmental protections are effective.

Priorities

- Respondents were broadly positive about the ESS’ approach to prioritisation, as laid out in the strategy. Priorities were described as logical, timely, and focussed on Scotland’s biggest challenges.
- However, there were key concerns about the priorities in the strategy appearing to read as a ranked list. ESS should be clear that the list of priorities is not in order of importance, and respondents want clarity on how criteria will be weighted and representations triaged to ensure equity. They asked for a balance between proactive and reactive activity to be struck, and for consideration to be given about how to work on issues of most concern whilst building and maintaining public confidence.
- There was also a call for clearer definitions around the prioritisation approach and scope of different priorities, outlining how they will work in practice, and how ESS will coordinate with other bodies when delivering on these priorities to avoid duplication of work.
- Whilst there was broad agreement with the four priorities, there was a strong call for ESS to remain flexible and open to emerging issues in its approach to prioritising its work, and to not feel fixed to the four priorities set out.
- Respondents also requested some additions to the priorities – specifically, a focus on air quality and pollution, to strengthen attention to soils, and to consider separating marine and freshwater given distinct drivers and solutions.

- There was also a request for ESS to recognise the resource pressures amongst public bodies, who may require support to deliver on actions if held to account by ESS.

Strategic Objectives

- There was broad support for and agreement with all five strategic objectives.
- On Objective 1: Securing compliance and improving effectiveness
 - Respondents asked for clarity and further detail on how ESS will ensure compliance with environmental law and improving the effectiveness of laws. Greater contextualisation of what is meant by ‘compliance’ was asked for, and concerns about resourcing and capacity amongst public authorities in ensuring compliance were raised.
 - Caution was advised around the approach of seeking agreement in the first instance, as whilst this is supported in many cases, some respondents think ESS needs to be willing to use its full range of enforcement powers when necessary.
 - ESS was asked to be more open and transparent about the resolution actions and measures they take.
- On Objective 2: Analysing and investigating environmental concerns
 - Respondents highlight the importance of investigations being evidence based and informed by both local knowledge and best practice.
 - There was strong support of ESS’ dual role in both responding to representations from the public and undertaking its own proactive monitoring and analysis, but there were also requests for ESS to be clear about processes for managing representations – especially those raised by the public – to ensure resolution efficiently and effectively.
 - Concerns regarding resource and capacity of ESS, to allow them to effectively analyse and investigate concerns, were raised - particularly in situations where public authorities fail to fully implement legislation.
 - Questions were raised about ESS’ role in relation to monitoring whether Scotland is keeping pace with EU law and standards – with some being supportive of them taking on this role, and others feeling it is not their responsibility.

- On Objective 3: Monitoring and scrutinising environmental performance
 - Respondents were in strong agreement with ESS' approach to delivering regular, independent monitoring and scrutiny of environmental performances to hold government and public bodies to account, but sought clarity on how this would work in practice – e.g. how ESS will assess data quality, set threshold for acceptability, etc.
 - ESS' commitment to engaging with other environmental organisations was welcomed to strengthen monitoring and avoid duplication of work.
 - The importance of ESS' role in scrutinising delivery of statutory targets, particularly those to be introduced through the National Environment (Scotland) Bill, was raised, and respondents suggested ESS could play a role in ensuring plans and strategies set clear, achievable targets and provide scrutiny at the policy development stage, not just after implementation.
 - The new role of ESS as Independent Review Body for statutory nature recovery targets (subject to the Natural Environment Bill) was recognised as significant.
- On Objective 4: Engaging and communicating effectively
 - Respondents asked for ESS' work to be more transparent and visible to the public – with ESS being encouraged to raise its profile significantly as awareness of its role, remit, and processes remain low among communities and public authorities.
 - Ensuring communication is accessible, inclusively designed, and culturally and linguistically sensitive is important.
 - A recurring theme was the need to amplify environmental voices and ensure diverse perspectives are represented.
 - Stronger collaboration with academic, civic, and community actors was widely supported.
- On Objective 5: Being an efficient and effective organisation
 - Respondents agreed that efficiency is an important objective, but emphasised that it should not come at the expense of depth or meaningful environmental outcomes.

- There were some queries around whether ESS has sufficient resources to deliver on its wide remit.
- The importance of strong governance, independence, and transparency in how ESS operates, particularly given its role in making judgements on contentious matters, was highlighted.
- A small number of respondents request ESS to strengthen its skills in specific areas – such as climate adaptation.

Measuring Performance

- Respondents were broadly supportive of ESS' plan to evaluate impact and measure performance through use of a theory of change model, key performance indicators (KPIs), and performance management indicators (PMIs). However, clarity on the different KPIs and PMIs to be used was asked for, to help readers better understand how this approach to measurement will work in practice.
- ESS is also requested to consult with others to determine relevant and robust KPIs and PMIs.
- The use of a theory of change model was welcomed, with requests for ESS to review this in an ongoing manner and adapt as necessary.
- ESS is asked to measure its approach through outcomes rather than outputs.
- Consideration of equity and disproportionate impacts is important to build into frameworks and metrics, and regular review and monitoring will ensure this is done in a robust way.

Interim Conclusions on the Impact Assessments

- Respondents were cautiously positive about the draft impact assessments overall.
- Core to responses was that IAs should be kept under review as new evidence emerges, and current assessments should not be considered final.
- Respondents suggested that ESS change their conclusion on the BRIA and ICIA from 'not required' to 'under review', as new evidence may emerge and impacts may be identified at a later ICIA conclusion, suggesting this conclusion overlooks substantial evidence around the burdens and resource constraints on islands.

- In relation to the SEA – ESS is requested to consider indirect impacts from the strategy, even if direct impacts have not been identified.
- The CDIA was generally supported, and there were no specific concerns linked with this assessment.
- Whilst there was support for ESS' DPIA conclusion, some disagreement with the conclusion was also identified, with one comment highlighting that data protection is paramount and core to ESS' purpose.

Response to Scottish Government Recommendations Following the Environmental Governance Review

- In general, the feedback on ESS' response to the Scottish Government was positive, specifically when acknowledging the limitations of its remit.
- Respondents did ask for some examples / explanations to illustrate what is and is not within its remit to improve public understanding.
- Whilst the limitations of ESS' remit are understood, there was also a call for ESS to retain flexibility to consider issues which could point to systemic failings.
- Some concerns were raised about gaps that have arisen due to ESS' lack of enforcement powers. ESS is asked to recognise these gaps and explain any mitigation actions that will be taken.
- There is strong support for ESS to take local and community insights seriously, recognising that communities provide valuable information and early warning signs about environmental concerns.
- Due to ESS' limited size and overlaps with other bodies, the need for ESS to work with relevant organisations was emphasised.

Final comments

- The draft strategy was received positively by many and considered to be well-structured, and grounded in important priorities such as biodiversity, climate change, marine protection, and accountability.
- Some suggested additions/refinements to improve the strategy included: a clearer opening statement; stronger recognition of environmental justice and fairness; explicit commitments to ESS' own sustainability as a public body; explanations of

how ESS' work will and avoid overlap with other statutory bodies; clear criteria for identifying systemic failures; greater transparency around ESS' rationale for its strategic priorities and how it plans to address gaps in environmental protection; and clearer commitment to exercising enforcement powers under the Continuity Act.

- Concerns about ESS' expertise and capacity to undertake all of the work outlined in the strategy were raised, with collaboration with other authorities and organisations felt to be crucial to achieving the organisation's goals.

1. INTRODUCTION

Environmental Standards Scotland (ESS) is an independent public body, established by the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021. ESS exists to monitor the effectiveness of environmental law in Scotland, and public authorities' compliance with environmental law, as well as to prevent enforcement gaps arising from the UK leaving the European Union.

ESS drafted a revised strategy for 2025-2030 and consulted on this draft strategy in summer 2025. This consultation sought to gather the views of interested stakeholders, community groups, and individuals on the strategy, to allow for the strategy to be revised before submission to the Scottish Parliament for approval in October 2025.

Independent research consortium JRS were commissioned to support ESS to develop and analyse this consultation. This involved JRS and ESS working jointly to draft the consultation questionnaire, and JRS conducting a transparent and systematic analysis of responses following the close of the consultation.

This report summarises responses to the consultation to inform the development of the final revised strategy for submission to the Scottish Parliament.

2. METHODOLOGY

2.1 Questionnaire Development

The consultation questionnaire was developed jointly between JRS and ESS. The initial draft of the consultation was based on ESS' consultation on its previous Strategic Plan in 2022. However, ESS requested the consultation was shortened, and had some additional open questions added to gather qualitative feedback.

The consultation questionnaire was developed to gather both quantitative and qualitative feedback, allowing respondents to rate their agreement with different parts of the draft strategy using 5-point 'strongly disagree' to 'strongly agree' scales, and then giving

opportunity for respondents to provide additional comments in open fields. No questions were made mandatory, meaning respondents only had to answer questions they wanted to.

The final questionnaire included 30 core questions to gather insights relating to the draft strategy. There were nine (9) additional questions to gather information about the types of respondents that took part (e.g. individuals or organisations), collect any further relevant information about the respondent, gather feedback on the questionnaire itself, and establish privacy and consent details around publication of responses.

2.2 Hosting and Promotion

The consultation was hosted on Citizen Space and managed by ESS. The consultation was available to respond to between 4th June 2025 and 29th August 2025. The consultation was promoted in the following ways:

- ESS sent the consultation questionnaire directly to all relevant public authorities and stakeholders on their mailing list.
- Promotion on ESS' social media pages and website.
- Promotion on the Citizen Space website.

2.3 Sample

35 responses to the consultation were received. This included six individual respondents, and 29 responses on behalf of organisations. The sample included respondents in the following categories:

- Community Councils
- NGOs
- Industry / trade bodies
- Academic bodies
- Local authorities

- Membership/advocacy organisations
- Political parties
- Private companies
- Professional bodies
- Public bodies
- Research institutes

2.4 Analysis

Analysis of the consultation took a systematic approach. Responses were analysed in a question-by-question format. For the quantitative questions, data was reviewed and charts produced. Analysis of the open questions took a qualitative approach, where responses were reviewed and coded based on key themes, allowing for unifying/differentiating themes to be distinguished and findings to be written up thematically.

All 35 responses were analysed to inform this report, although quotes are only included from the 29 organisations who consented to having their responses published. Only indirect references under core themes are made to insights gathered from the five organisations which did not want their responses published.

Cross-tabulation analysis based on respondent type was conducted as part of the analysis process. Due to the sample size and limited information collection about respondents, there were few significant variations by sub-group identified, but these are highlighted in the narrative where relevant (e.g. when themes were found to relate to a specific sub-group of the sample, such as local authorities).

3. FINDINGS

3.1 Vision

Questions:

Question 1 asked respondents to comment on ESS' vision, as included in the draft strategy. The vision is shown in the box below, and respondents were asked the following two questions:

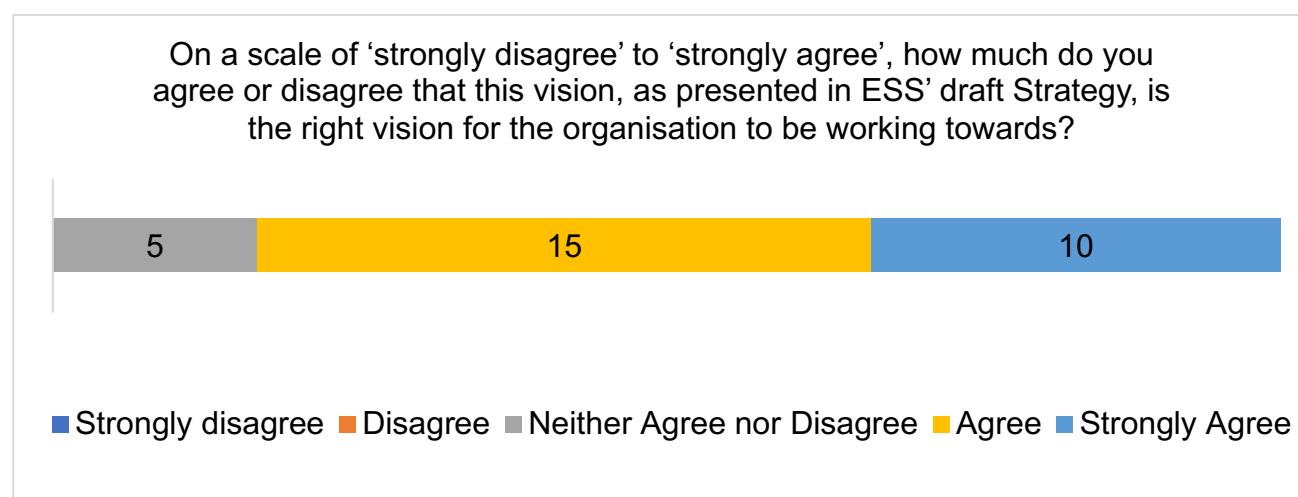
- On a scale of 'strongly disagree' to 'strongly agree', how much do you agree or disagree that this vision, as presented in ESS' draft strategy, is the right vision for the organisation to be working towards?
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree
- Do you have any comments on ESS' vision, as laid out in the draft strategy?
 - Open field for comments

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.

Responses:

Figure 1: Agreement with ESS' vision



Base: 30 (5 not answered)

Respondents were highly positive about the vision set out in the draft strategy. Of the 30 respondents who rated the vision on the 'strongly disagree' to 'strongly agree' scale, 25 either agreed (15) or strongly agreed (10) that the stated vision was right for ESS. No respondents disagreed or strongly disagreed. A total of 22 respondents left comments to explain their answer.

Many respondents used the open comments field simply to underline their support for the vision and ESS' role. They saw ESS as the right organisation to ensure environmental legislation protects both people and nature, with some noting the vision aligned well with their own organisational values, provided that environmental and economic needs are balanced.

"The vision is strongly supported and recognised as critical for Scotland's people and environment."

"It is highly desirable to have an organisation which fulfils this role. Experience of the years since ESS was founded suggests that this is the right approach."

"The vision aligns with [our] commitment to high environmental standards, provided that implementation supports integrated land use, balances environmental and economic needs, and enables land managers to deliver climate, biodiversity, and food/timber security objectives together."

Accountability emerged as a central theme across responses. The vision's emphasis on holding public authorities to account was welcomed as an essential element to ensuring environmental laws are meaningful and deliver real change and are more than 'just words'. ESS was broadly seen as the right organisation to take on this role. However, questions were raised about who decides what counts as "effective" environmental law and how this will be measured, with calls for greater clarity on how ESS will exercise this responsibility.

"Scottish Government and public authorities are largely off track in their goals to match or align with EU environmental protections such as chemical regulation and Water Framework Directive. ESS plays a vital role in holding authorities to account and improving implementation and effectiveness of environmental regulations."

“It’s important that ESS focuses on real accountability, not just guidance or soft measures.”

One response also emphasised that ESS itself must demonstrate transparency. This was seen as important to build confidence in the organisation’s independence and consistency. Respondents called for transparency in how ESS applies its judgement, particularly in defining “better implementation”, and for regular reporting to show progress.

“I would like to see this vision followed by clear actions and regular public reporting.”

In a similar vein, some responses also called for clear actions to underpin the vision. While the vision was seen as important, some worried it risked being too aspirational without concrete steps for delivery.

“The problem with visions is that they are just visions. There is no teeth or real commitment by the Scottish Government to actually hold all parties including themselves to account. So yes, I agree with the vision, but it should be so much more.”

Whilst respondents were broadly supportive of the vision, some also suggested it requires some expansion - and should go further in terms of scope, clarity, and ambition. They suggested it should not be limited to retrospective scrutiny, but should also commit ESS to a more proactive, future-focused role. Others argued that ESS’ remit should extend beyond environmental law to cover wider legal and policy frameworks that affect environmental outcomes, such as the Human Rights Bill and the UK Internal Market Act.

“The draft strategy also indicates that ESS has the discretion to determine which aspects of environmental law it will scrutinise. However, it is not clear if this would encompass other laws whose potential environmental impacts are likely to be more indirect, such as the proposed Human Rights Bill which would enshrine the right to a healthy environment.”

“It would be useful for the vision to move beyond a purely legislative measure of compliance. There exist many government policies, strategies, and frameworks that

influence the delivery of environmental outcomes and the implementation of environmental law.”

“We believe ESS’ proactive work is equally important and should be expanded. By reinforcing this horizon scanning role, ESS can raise greater awareness of emerging environmental threats so that Scotland is well placed to respond early and effectively.”

A collaborative, whole system approach to achieving this vision was also suggested. Some respondents believe the success of the vision is dependent on close working with public authorities, and recognising their reliance on Government as a funder.

“The success of this vision may depend on how effectively public authorities are supported and held to account in practice.”

“It is important that ESS recognise that Public Authorities rely on Government as their key funder to improve compliance and deliver meaningful implementation.”

Only one respondent used the comment box to express a negative view of the vision. This response questioned ESS’ impartiality from the Scottish Government, which they felt undermined the organisation’s credibility. However, no other respondents expressed this perspective in their responses.

“From past experience the ESS is strongly influenced by the Scottish Government and is not impartial. This undermines the credibility of the ESS and unless this is addressed it should be disbanded - an expensive quango with no purpose.”

3.2 Principles

Questions:

Question 2 asked respondents to comment on ESS’ principles, as laid out in the draft strategy. The principles are shown in the box below, and respondents were asked the following two questions:

- On a scale of ‘strongly disagree’ to ‘strongly agree’, how much do you agree or disagree that these principles, as presented in ESS’ draft strategy, are the right principles for the organisation to be working with?

- Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree
- Do you have any comments about ESS' approach to prioritisation, as laid out in the draft strategy?
 - Open field for comments

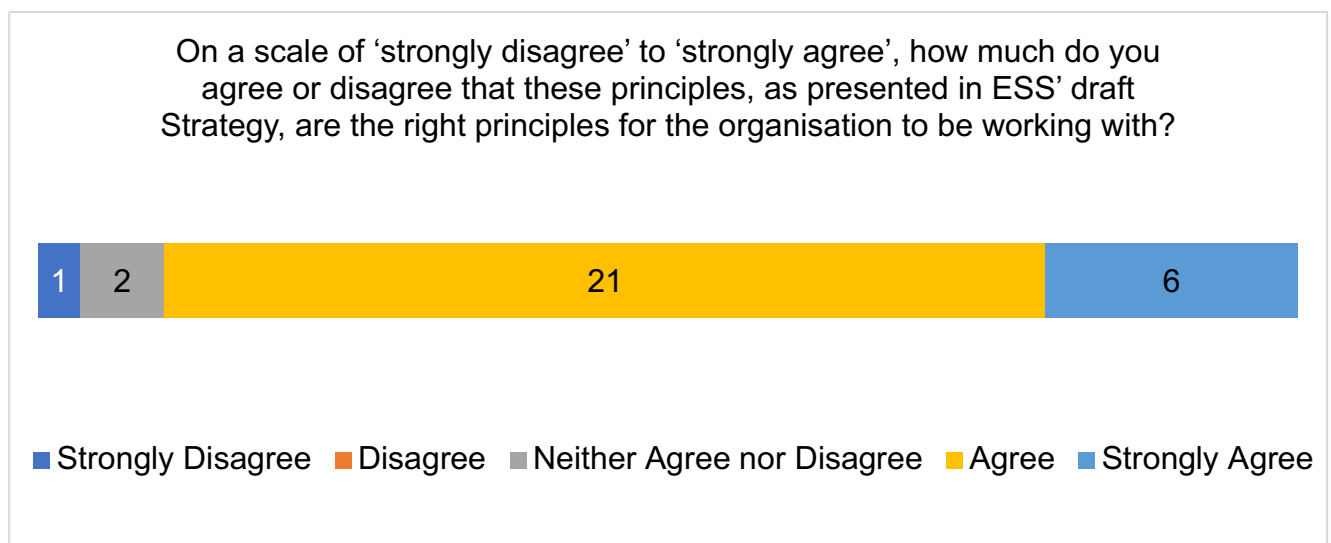
Our Principles

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

Responses:

Figure 2: Agreement with ESS' principles



Base: 30 (5 not answered)

Respondents were generally supportive of the principles set out in the draft strategy. Of the 30 respondents who rated the principles on the 'strongly disagree' to 'strongly agree' scale, 27 either agreed (21) or strongly agreed (6). Only one respondent

strongly disagreed, and two neither agreed nor disagreed. The one strongly disagreeing view again raised concerns about ESS' independence from the Scottish Government.

Many respondents welcomed the principles of independence, transparency, evidence-based decision making, and engagement. These were seen as appropriate for a regulatory public body. Several respondents highlighted their overall agreement, describing the principles as “sensible” and “robust,” although some noted that they were too vague and would benefit from greater detail.

“The principles are robust.”

“They seem sensible and the sort of principles that ought to be largely universal in public bodies.”

“The principles listed under heading three are vague and would benefit from more detail.”

Evidence-driven working was widely supported, but respondents also called for a precautionary approach. They argued that ESS should act to prevent irreversible environmental harm rather than waiting for complete evidence, particularly in situations of scientific uncertainty. The precautionary principle - which states that if an activity poses potential risks of serious or irreversible harm to public health or the environment, then preventive measures should be taken even if scientific evidence is not conclusive - was described as well-established and important to commit to.

Openness and transparency were highlighted as core principles. Respondents, including those who have been subject to ESS scrutiny, said they would value greater transparency in investigations.

Concerns were raised about the principles to “engage widely” and “resolve issues through agreement wherever possible.” Several respondents felt there was a risk of conflating wide engagement with meaningful engagement, noting that focusing on smaller, disadvantaged communities may deliver greater impact than simply engaging broadly. One response encouraged ESS to apply the National Standards for Community Engagement to address this.

“We welcome the principle of engaging widely but caution that engaging widely should not be conflated with inclusive meaningful engagement with people and communities, including those that are marginalised, minoritised or face multiple disadvantage. We encourage you to refer to and apply the National Standards for Community Engagement.”

On resolving issues through agreement, respondents called for caution. While many supported this principle in appropriate circumstances, there was concern that it could become the default and dilute accountability. Respondents argued that early resolution can be proportionate and collaborative, but stronger enforcement will sometimes be necessary. Several proposed revising the principle to “resolve through agreement where appropriate and proportionate” to preserve flexibility while signalling ESS’ willingness to escalate when needed.

“It is important that every emphasis is made to meet the principle of resolving issues through agreement, however ESS must be prepared to move to more direct measures if agreement cannot be reached quickly to ensure any environmental damage is addressed and minimised as expediently as possible.”

“To state that - as a principle - ESS will work towards agreement ‘wherever possible’ risks creating a culture in which reaching agreement with underperforming public bodies is prioritised over the most effective enforcement of environmental law...We propose this is amended to state that issues should be resolved through agreement ‘where this is appropriate and proportionate’.”

Calls for greater clarity on the implementation of principles were common, particularly in relation to prioritisation. Respondents questioned what criteria ESS would use when applying the principle to “prioritise our efforts and resources to maximise our impact.” They asked, for example, whether prioritisation would be based on the magnitude of impact or the scale of non-compliance. Others stressed the importance of collaboration to avoid duplication, noting that SEPA and ESS should coordinate closely so that resources are used efficiently. Although raised in relation to the prioritisation principle, the concern about duplication was a recurring theme referenced in relation to all principles.

“Prioritise our efforts and resources to maximise our impact’: [We] are committed to working positively and proactively with ESS and to support it to deliver the strategy. We would welcome early engagement and discussions on key areas of work, where possible and appropriate, to enable us to put in place the right level of support and to avoid duplication: in order to best use both our limited resources we feel that discussions in advance would significantly help to reduce duplication.”

“To maintain efficiency and clarity for stakeholders, avoiding duplication with existing regulatory frameworks will be key.”

One respondent also proposed changes to the wording of the prioritisation principle. They suggested replacing the word “impact” with “benefit” to align more closely with the vision – e.g. “prioritise our efforts and resources to maximise our benefit to Scotland’s people and nature”.

“With regard to the principle of prioritising efforts and resources to maximise impact, we would suggest replacing the word “impact” with “benefit” to align with the language used in the vision (i.e. “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”).”

Finally, some respondents raised concerns about ESS’ resources and capacity. It was suggested that as a relatively new and small body, ESS may struggle to deliver all of the principles, especially in comparison with better resourced organisations such as the Office for Environmental Protection (OEP). Respondents suggested this challenge could become more pressing if ESS’ role expands, for example through the Natural Environment Bill, which proposes giving ESS responsibility as the lead body for the Independent Review Board to monitor Ministers’ performance.

Additional principles suggested for inclusion:

Several more additional principles, focussing on fairness, future focus, and ensuring environmental protections are effective, were also suggested. Respondents felt the following additions could strengthen the draft strategy:

- An environmental justice principle - ensuring that environmental protection benefits everyone and that no community is unfairly burdened or left behind.
- An equity and proportionality principle - recognising the needs of vulnerable or under-resourced communities (e.g. island populations) and tailoring action accordingly.
- A principle focussing on the future, long-term impacts of today's actions - to act in the interests of future generations.
- Preventative principle - tackling problems in a proactive way, rather than only responding after harm occurs.
- Polluter pays principle - ensuring that those responsible for environmental harm bear the cost of addressing it.
- Precautionary principle - as outlined above, to allow for action to be taken before conclusive evidence is collected, if there is the potential for serious harm to occur.
- Principles to commit to fairness, equity, innovation, continuous improvement, and policy coherence - embedding a culture of improvement and alignment across climate and biodiversity policy.
- A principle around upholding procedural rights - supporting the right to a healthy environment by ensuring access to information, participation in decisions, and access to justice.

3.3 Priorities

Questions:

Question 3 asked respondents to comment on ESS' priorities. The four priorities are shown in the box below, and respondents were asked the following two questions:

- On a scale of 'strongly disagree' to 'strongly agree', how much do you agree or disagree with ESS' approach to prioritisation, as set out in sections 3.1-3.5 of the draft strategy?
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree
- Do you have any comments about ESS' approach to prioritisation, as laid out in the draft strategy?
 - Open field for comments

Our Priorities - While 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

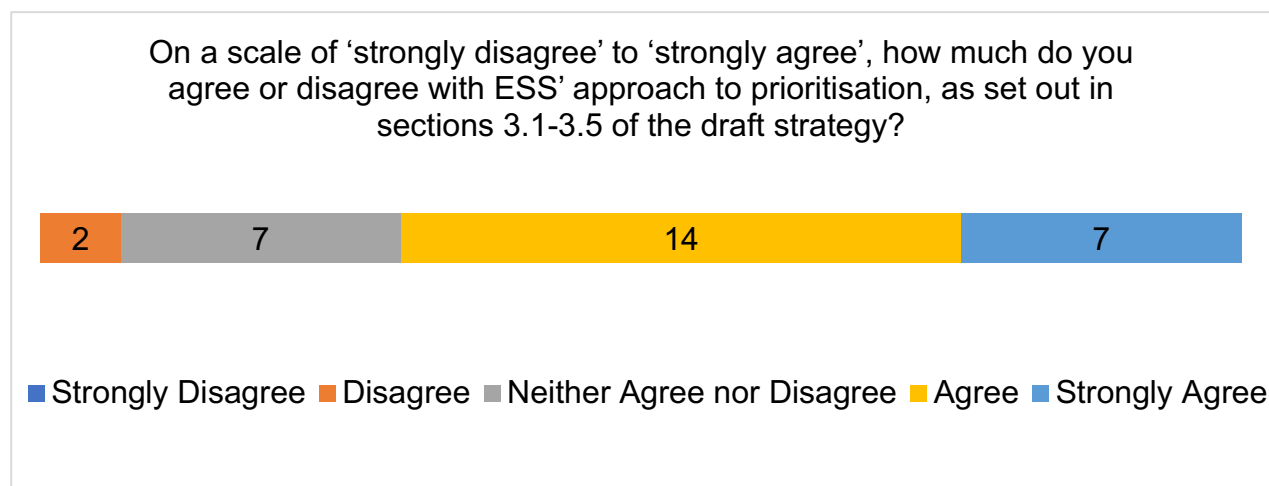
Nature: Scotland's approach to reversing the decline in biodiversity

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

Responses:

Figure 3: Agreement with ESS' approach to prioritisation



Base: 30 (5 not answered)

Respondents were broadly positive about the ESS' approach to prioritisation, as laid out in the strategy. Of the 30 respondents who rated the principles on the 'strongly disagree' to 'strongly agree' scale, 21 either agreed (14) or strongly agreed (7). Whilst two respondents disagreed, no respondents strongly disagreed. Seven (7) respondents neither agreed nor disagreed.

Illustrating the broad positivity around the prioritisation approach, many comments described the priorities as logical, timely and focused on Scotland's biggest challenges, identifying that the list "seems appropriate and reasonable," while welcoming

an integrated approach that also supports economic resilience and wellbeing to ensure Scotland achieves its net zero ambitions.

“The chosen priorities are sensible and urgent. Biodiversity loss in Scotland is accelerating, and I strongly support the focus on reversing it.”

“[We] believe these priorities reflect a clear and focused approach to addressing key environmental challenges in Scotland... it is important that actions under each priority are balanced to support environmental protection, economic resilience, and societal wellbeing. This integrated approach is essential to advancing sustainable development and achieving Scotland’s net zero ambitions.”

However, much feedback around this section of the strategy centred on concerns that the list of priorities read as a ranking. For example, presenting climate change as the ‘first’ priority could be read as giving this greater importance - which one respondent questioned relative to Scotland’s global impact.

“I hope this is not in order of priority. Climate change is important but our impact on the global issue is mathematically insignificant. We would be better prioritising significantly improving on our Electrical Infrastructure so as to harness the significant potential to deliver green energy, bring electric prices down so less than gas and hence make non carbon energy and vehicles a no brainer.”

Respondents asked for clarity on how criteria will be weighted and how representations are triaged, whilst ensuring that equity is built in. Respondents wanted ESS to explain the method for applying impact, urgency and scale, to confirm the list is not hierarchical, and to handle disproportionate impacts in any weighting. A respondent with a particular focus on island contexts highlighted that these communities specifically can face disproportionate impacts, and therefore island-specific data must be considered for prioritisation purposes.

“Prioritisation must be informed by accurate, island-specific data. Community-led monitoring should be integrated into ESS’ evidence base.”

“It is clearly necessary to prioritise efforts, but it is unclear how/if you will do that between the themes listed. In addition, another focus could be on ensuring accountability and equitability in environmental decision-making, to ensure improved public participation, accountability, and transparency.”

Overall, respondents asked for clearer boundaries and definitions around the prioritisation approach and the scope of the different priorities, to show how they will work in practice. As an example, the “resources” priority was singled out as especially broad, with respondents asking ESS to define the scope of this priority, distinguish it from “water”, and outline what it covers – e.g. the chemical management, the built environment, circular economy supply chains etc.

“The number of topics that could fall under the priority of “resources” is potentially very extensive and so it could be necessary to briefly delineate the boundaries of this category to avoid confusion; for example, “water” is arguably a resource, but it is also listed as a separate priority.”

One response raised questions around how ESS will strike a **balance between proactive and reactive activity, to work on the issues of most concern whilst building and maintaining public confidence.** For example, whilst several stakeholder respondents felt they would prefer ESS to conduct early work on systemic issues, it was noted that some very visible, high-profile issues with lower environmental impact (e.g. littering) can be important to build public trust – so ESS must make a call on this.

“We consider it appropriate that ESS should concentrate on the issues that have the greatest environmental impact. We also consider it equally appropriate that this prioritisation must not lead to overlooking matters that may be environmentally less significant but have a high public profile, such as litter. This is because such issues are where a visible response to a visible problem is essential for engagement with the public and for building trust and confidence in the work of ESS as a public body.”

How ESS will coordinate with other bodies around these priorities was also raised, with a request for ESS to be clearer about how it will avoid duplication of work and add value. In particular, there were calls for ESS to be clear about how it will work

alongside SEPA, NatureScot, and Audit Scotland, and to set out how climate-related scrutiny will avoid overlap with the UK Climate Change Committee.

Whilst there was broad agreement with the four priorities, there was a strong call for ESS to remain flexible and open to emerging issues in its approach to prioritising its work, and to not feel fixed to the four priorities set out. Respondents want ESS to be open to responding to new evidence, emerging risks, and shifting policy contexts. An open approach, paired with clear publication of the criteria, the triage process, and periodic review of priorities, would give respondents confidence that ESS will continue working towards its vision, working within its principles, and will avoid duplicating with other regulators. This also ensures that ESS can balance reactive enforcement with proactive work – which was called for by respondents in this and other questions.

Respondents also highlighted where they felt the four priorities could potentially be refined or expanded, including requests to include air quality and pollution, to strengthen attention to soils, and to consider separating marine and freshwater given distinct drivers and solutions – albeit that they recognised ESS did state in the report that it may also choose to scrutinise cross-cutting issues. One response also asked that “resources” reference a safe and ethical circular economy, including chemicals transparency and avoidance of offshoring emissions or waste.

“We welcome acknowledgement in the draft Strategy that ESS “may also choose to scrutinise thematic or cross-cutting issues that span more than one priority” and that ESS will continue to monitor past areas of focus (for example, soils and air quality), which will help to build on the current evidence base.”

“In addition the Resources priority should make reference to ‘developing a safe and sustainable circular economy’ as many of the current recycling practices result in toxic chemically-contaminated products, by products and waste materials as a result of poor regulation and management of chemicals.”

Additionally, resource pressures amongst public bodies were also highlighted.

Whilst considering ESS’ prioritisation of work, respondents asked ESS to recognise the potential impacts on other bodies who may be asked to conduct work in line with these

priorities. They requested ESS pair scrutiny with support, as some bodies may need support to build the capacity to deliver on any actions if held to account by ESS.

“Strongly supportive of these priorities but mindful of the need for ESS to fully understand the reality of reduced public body resources and expertise to deliver a healthy environment. Holding public bodies to account is necessary but we would request that ESS also use their powers to provide a productive way of helping to build capacity for public bodies to deliver a healthy environment.”

Overall, some practical improvements to this section of the strategy suggested by respondents to combat concerns were: explicitly stating that the order presented is not a hierarchy; giving worked examples of triage decisions; and publishing a timetable for periodic review to ensure priorities remain responsive to new evidence; being flexible to respond to emerging issues; and expanding on or implementing new priorities to cover perceived gaps (e.g. air quality and pollution, resources etc.).

3.4 Strategic Objectives

Section 4 of ESS’ draft Strategy presents five strategic objectives and describes the approach ESS proposes to take to deliver these objectives.

Questions:

Questions 4-8 asked respondents to indicate the extent to which they agreed or disagreed with ESS’ proposed approach to meeting their five strategic objectives using a scale of ‘strongly disagree’ to ‘strongly agree’. This was followed by an open comments box to allow respondents give further detail on any concerns they had about the objective, or ESS’ approach to delivering it.

The five strategic objectives are shown in the box below. Respondents could read more information about the proposed approach to these objectives in the draft Strategy document (which was linked). The questions asked to respondents were:

- On a scale of ‘strongly disagree’ to ‘strongly agree’, how much do you agree or disagree with ESS’ approach to delivering this objective?
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree

- Do you have any comments on ESS' vision, as laid out in the draft strategy?
 - Open field for comments

Our Strategic Objectives:

Objective 1. Securing compliance and improving effectiveness

Objective 2. Analysing and investigating environmental concerns

Objective 3. Monitoring and scrutinising environmental performance

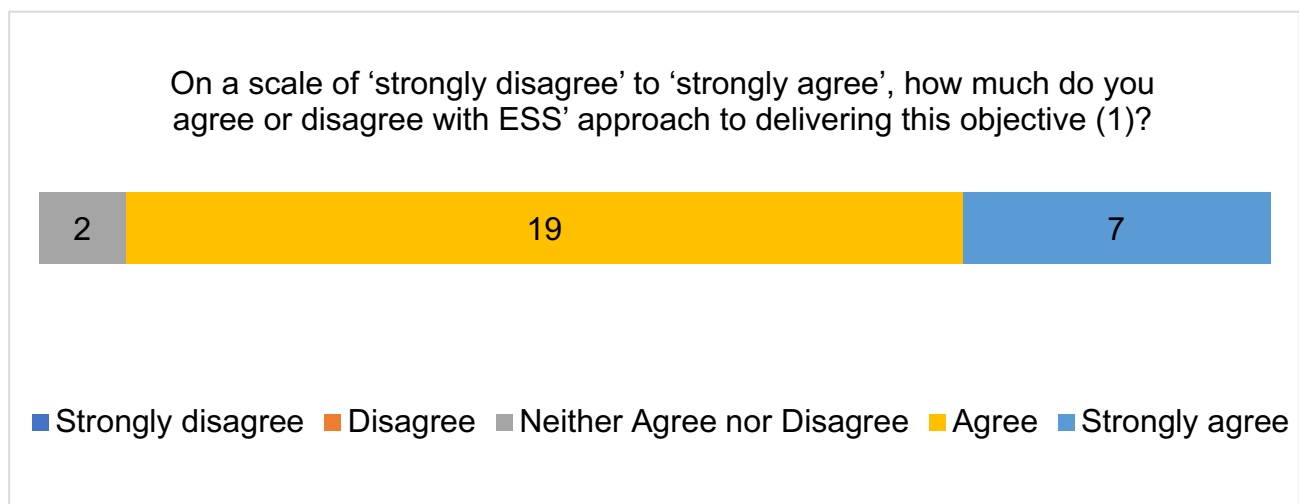
Objective 4. Engaging and communicating effectively

Objective 5. Being an efficient and effective organisation

Responses:

Objective 1. Securing compliance and improving effectiveness (Paragraphs 4.1-4.3)

Figure 4: Agreement with approach to delivery of Objective 1



Base: 28 (7 not answered)

Respondents were generally supportive of the proposed approach to delivering

Objective 1. Of the 28 respondents that rated their level of agreement on a scale from 'Strongly Disagree' to 'Strongly Agree', the majority of respondents either agreed (19) or strongly agreed (7). No respondents disagreed or strongly disagreed.

A total of 21 respondents left comments to explain their answer. Though there was broad support for the proposed approach to delivering Objective 1, as was asked in the question, respondents used the comments section to highlight concerns and make suggestions on how the approach could be improved.

Several respondents sought clarity and further detail on ESS' proposed approach to ensuring compliance with environmental law and improving the effectiveness of laws (and how they are implemented and applied). One respondent asked for clarity on whether Objective 1 includes systemic improvement of governance - i.e. identifying root causes of non-compliance, instead of solely focussing on individual breaches. Another asked for "effectiveness" to be more clearly defined, with detail on how the effectiveness of environmental law will be measured. Suggestions include developing "robust risk assessments" and "performance metrics" that hold all parties accountable, including the Scottish Government.

"Clarify whether this includes systemic improvement of governance (e.g. identifying root causes of non-compliance, not just individual breaches). Consider highlighting preventative work, not just reactive compliance."

"The following points need more clarity: - What is meant by effectiveness and how is it to be measured?"

"The devil is in the detail and you need to put in place (i) robust Risk Assessments to help you manage this and (ii) simple but meaningful performance metrics that really hold all parties including the SG to account. Real risk assessment and performance metrics are something Government, Councils etc. are not very competent at."

In addition, one respondent from a local authority highlighted that establishing a clear and consistent definition of "improving effectiveness" for use across strategies / legislation would be beneficial, as this terminology is also used elsewhere (e.g. in secondary legislation that will be published as part of the Circular Economy (Scotland) Act 2024). This would aid understanding of what is meant by this term.

“There is a lot of potential secondary legislation yet to come from the Circular Economy (Scotland) Act 2024 in relation to requirements being placed on Local Authorities with regards to how waste and recycling is to be collected, along with increase of reuse and recycling and reduction in waste. Therefore, it would be beneficial to Local Authorities that the terminology of “improving effectiveness” has the same meaning throughout all strategies/legislation.”

Some respondents, mostly those responding on behalf of a local authority or public body, highlighted the importance of contextualising what is meant by ‘compliance’ within such a dynamic and complex environment. The need to ensure that compliance expectations remain realistic in such environments was emphasised. This is to allow land managers and public authorities to adapt processes and procedures to ensure compliance. In line with this, it was also highlighted that compliance is increasingly challenging where regulatory frameworks are relatively static and that compliance frameworks should be flexible to adapt to new dynamic environmental conditions, such as increasingly extreme weather, disease outbreaks, and long-term ecological change.

“We agree with the proposed Strategic Objectives but note that ‘compliance’ (Objective 1) may need to be contextualised especially where the environment, or regulatory framework, is dynamic. For example, for Strategic Objective 1, it is important to note that recent and ongoing changes in legislation affecting Scotland’s land use sector are creating a significantly more complex regulatory environment”

“‘Compliance’ is also more challenging for a regulatory framework that is relatively static in an increasingly dynamic environment characterised by extreme events and ‘unusual’ patterns of weather.”

There were also some concerns around resourcing and capacity for public authorities, in relation to ensuring compliance. Some respondents from local authorities noted that funding and staff shortages severely limit their ability to comply with environmental targets (e.g. emissions reduction, waste management, environmental health). ESS was urged to consider resources and capacity before enforcing compliance,

otherwise enforcement could unfairly penalise bodies/organisations that simply lack support.

Many respondents, primarily third sector organisations and NGOs, agreed with ESS' proposed approach of seeking to reach agreement with public authorities in the first instance around actions needed to protect the environment. However, a number would welcome a firmer approach. Respondents tended to support this approach where it feels appropriate, but a number of commenters highlighted that agreement cannot replace enforcement, and they fully support ESS using "its full range of powers" where necessary. Preventative action was highlighted as equally important as reactive enforcement.

It was also suggested that ESS should set clear timescales for informal resolution, ensure follow-up, and escalate if progress is not made. One respondent cautioned against a culture of over-reliance on negotiation, which risks undermining ESS' authority and encouraging delays and risks creating a culture where public authorities don't take investigations seriously.

"While we respect ESS' principle of seeking to resolve issues through agreement or informal resolution wherever possible, we would welcome a more firm and public stance from ESS where non-compliance or implementation have been found."

"This objective has to be considered in the light of the concern, expressed above, about the risks of creating a culture in which reaching agreement with underperforming public bodies is prioritised over the most effective enforcement of environmental law. Thus, it should be stated unequivocally that ESS will use the full range of its powers to secure, as effectively as possible, compliance."

Transparency and accountability were common themes throughout the comments in relation to Objective 1, which are seen by respondents as crucial for both public confidence and for demonstrating the value of ESS compared to statutory enforcement. Within the comments, there were multiple calls for ESS to be more open

about informal resolutions and measures agreed with public bodies, including publishing summary reports, criteria, and outcomes of cases. Respondents believed this would demonstrate the effectiveness of independent environmental governance bodies such as ESS, and ensure that relevant bodies are held to account for non-compliance. Whilst it was recognised it may not be possible to publish all details of investigations, respondents are looking for ESS to be open about what actions they are taking, show visible follow-up to non-compliance, and potentially provide disaggregated reporting to illustrate who is being most impacted by non-compliance actions.

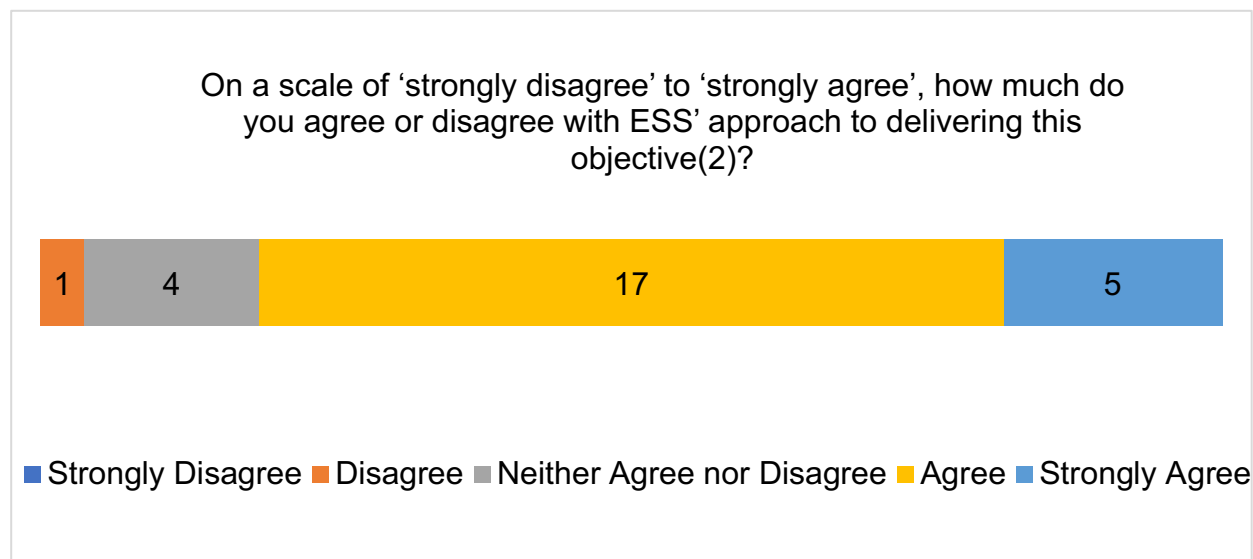
“It would be useful to see disaggregated reporting so that it is clear who is being impacted by poor environmental compliance.”

Some respondents, mostly Voluntary, Community, Social Enterprise (VCSE) or NGO organisations, also commented that transparency is vital to allow the public to hold the government to account when failures stem from political decisions. They suggested that, through its functions, ESS should be a part of holding governments to this account.

“We believe there is a public right to know when a government isn’t enacting legislation as it should be and when this comes from incompetence or political tactics. It is as important for voters to hold governments to account at the election box as it is for ESS to do so through their functions.”

Objective 2: Analysing and investigating environmental concerns (Paragraphs 4.4-4.7)

Figure 5: Agreement with approach to delivery of Objective 2



Base: 27 (8 not answered)

Respondents were broadly positive about ESS' approach to the delivery of Objective 2. On a scale of 'Strongly Disagree' to 'Strongly Agree', the vast majority either agreed (17) or strongly agreed (5) with the proposed approach. Only one respondent disagreed, while 4 neither agreed nor disagreed.

Comments were left by 19 respondents to further explain their answer. The key themes from these comments have been identified below.

Those who commented generally supported ESS's approach to the delivery of Objective 2, but strongly highlight a need for timely, robust, and evidence-based investigations towards environmental concerns. Respondents were clear that investigations should be evidence-based and informed by both local knowledge and best practice. In addition, it was also felt that the approach should go further than simply reacting to issues once they arise. A suggestion was made for the inclusion of early warning systems or signals to help identify risks before they escalate into serious problems. One comment from a respondent with a focus on island-specific issues asked for ESS to integrate 'island-specific data' to monitor issues that disproportionately affect islands.

“Fast, thorough, and science-based investigations are key. ESS must not delay action when harm is ongoing. A clear process for acting on public concerns is also important.”

“Investigations should be proportionate, evidence-based, and informed by both local knowledge and international best practice.”

“Could this objective also include early warning systems or signals, not just formal investigations?”

“ESS should integrate island-specific data and proactively investigate issues disproportionately affecting islands, such as marine industry litter.”

There was strong support of ESS’ dual role in both responding to representations from the public and undertaking its own proactive monitoring and analysis.

Respondents welcomed this balance but stressed the importance of setting out clearer processes to ensure a seamless link between Objectives 2 and 3 - so that concerns raised can move smoothly from initial representation, through monitoring and evidence-gathering, and ultimately into full investigations where appropriate.

“[We] agree ESS must have a dual approach to allow it to self-initiate analysis and investigations as well as take forward representations from others (or signpost where that is more appropriate).”

“The link between Objectives 2 and 3 could be made clearer, ensuring a seamless flow from receiving concerns, through to monitoring evidence, and ultimately towards investigations.”

Respondents welcomed the opportunity for the public to raise environmental concerns with ESS but emphasised the need for clear and transparent processes to manage priorities, and resolve these representations efficiently and effectively. One respondent requested further clarity around how single-interest lobbying and automated online petitions would be monitored. There was also a call for stronger protections for whistleblowers to ensure individuals feel safe when coming forward, alongside a request

that ESS be transparent about how it will handle and sort through multiple public concerns when many are raised at once. A further comment highlighted the importance of encouraging local people and communities to engage in related environmental activities and invite ESS to consider how to support this.

“Supportive but ask for further clarity as to how ESS will tackle the challenge of single interest lobbying and the use of automated, online petitions used as 'public concerns'.”

“There is broad support for this proactive approach. It is suggested that ESS should strengthen protections for whistleblowers and clarify the management/prioritisation of multiple representations.”

“We would welcome ESS considering how ESS could build the capacity and capability of local people and communities to engage in related environmental activities, for example, where appropriate, citizens science approaches to identifying, investigating and monitoring environmental concerns.”

Several respondents raised concerns regarding resource and capacity of ESS, to allow them to effectively analyse and investigate concerns, particularly in situations where public authorities fail to fully implement legislation. Questions were posed about how monitoring and investigations will be resourced, who will conduct them, and the criteria used to select experts. Linked concerns also emerged regarding the auditing of ESS itself and how the organisation can ensure independence and credibility in its expert selection. One comment highlighted their support for additional resources to be provided to ESS in order to help it resolve issues in a timely-manner.

“We do have concerns about ESS' current ability to investigate complex reported situations. It appears that Public Authorities, whether due to resource implications, poor training, lack of management direction or motivation, are failing to adequately implement environmental legislation in many areas. They may have plausible excuses, but the ESS was set up to hold public authorities to account, and if they do not who does?”

“We would support additional resources being put to ESS so that public representations can be resolved at a proportionately faster rate without compromising any independent investigations or analysis. We have found ESS consideration of representations we have made very slow - one such issue taking over 2 years to consider.”

“More clarity is needed on the following points:

- *How will the delivery of the objectives be resourced?*
- *What monitoring is ESS doing/planning to do and how will that be resourced?*
- *There is some mention of detailed investigatory work – what does this involve, who will do it and how is it to be funded?*
- *On transparency and efficacy:*
 - *Who will audit ESS? Is there a process in place for that?*
 - *Who will choose the experts and which criteria will be used to decide who they should be?”*

A small number of comments focussed on ESS’ role in relation to monitoring whether or not Scotland is keeping pace with EU law and standards. Some supported close monitoring of EU developments to ensure progress is maintained, while others questioned whether this was an appropriate political choice. To assess whether Scotland is aligned with EU law and standards, respondents recommended ESS provide details on evidence-gathering processes, EU stakeholder engagement, and tracking Scotland’s alignment with developments in EU policy.

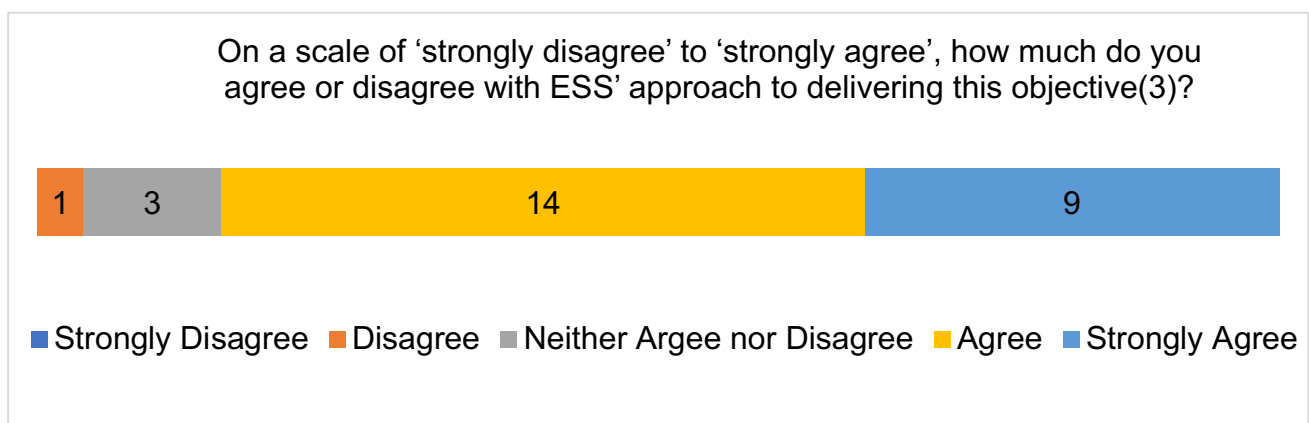
“As per Para 4.7 we find this overly political about keeping pace with EU law – the UK is not a member of the EU and keeping pace with the EU is a policy choice of the current SG, not a legal requirement.”

The one respondent that disagreed with ESS’ approach to delivering Objective 2 (analysing and investigating environmental concerns) raised a specific issue about the absence of a “No further action” column in Figure 3 (ESS’ process for scrutinising environmental concerns). They suggested it would be beneficial to add this option under the ESS Enforcement Action column, as currently the flowchart implies that all cases end in enforcement action of some kind.

“Figure 3 (page 15) is a flowchart for the ESS process for scrutinising environmental concerns however under [the] ESS Enforcement Action column we suggest there should be the option for “No further action”. As it currently stands, the flowchart implies that all investigations and analysis will result in enforcement action of some kind. Although paragraph 4.6 does state that issues raised may not be taken forward if not within ESS’s remit, etc. however this doesn’t appear to relate to those that have been investigated and analysed. By not having a “no further action” option, this implies that all investigations will end in enforcement.”

Objective 3: Monitoring and scrutinising environmental performance (Paragraph 4.8-4.13)

Figure 6: Agreement with ESS’ approach to delivering Objective 3



Base: 27 (8 not answered)

There was strong support for ESS’ approach to delivering Objective 3. Of the 27 respondents who rated their level of agreement on a scale from ‘Strongly Disagree’ to ‘Strongly Agree’, the majority agreed (14) or strongly agreed (9). Only 1 respondent disagreed, while 3 stated that they neither agreed nor disagreed.

Respondents were invited to elaborate on their answer, to which 16 respondents provided comments. These have been summarised below.

Respondents were in strong agreement with ESS’ approach to delivering regular, independent monitoring and scrutiny of environmental performances to hold government and public bodies to account. However, further clarity was sought on how

this would work in practice - in particular, how ESS will assess data quality, set thresholds for acceptability, and ensure minimum data requirements are met. One commenter suggested creating a list of approved data sources and implementing quality assessment protocols to ensure that evidence is both robust and consistent.

Another question raised was around the responsibility for filling evidence gaps and who would carry out additional research if existing data was not sufficient. It was suggested that ESS engage systematically with Scotland's research infrastructure, including RESAS, SEFARI, and the Centres of Expertise to enhance its capacity for research.

"The following points need clarification:

- How is data quality being established and assessed?*
- What is the threshold for acceptability and quality of data?*
- Who will carry out research if there is a view that this is needed?*

The intent is good, what is lacking is an explanation of the details for the implementation. For example, it would be useful to see a list of approved sources of data, details of data standards and minimum data requirements, and data collection quality assessment proposed."

"Regular, independent monitoring is the backbone of accountability. ESS should track long-term trends and not rely only on data from public bodies being assessed."

"Using a wide range of evidence and engaging with Scotland's research capacity (including RESAS, SEFARI, and Centres of Expertise) is highly valued. Emphasis should also be placed on ensuring data quality, accessibility, and collaborative evidence gathering. A more systematic mechanism for research bodies to raise or flag emerging issues would be beneficial."

Comments were consistently in agreement with the value of partnership working and collaboration and generally welcomed ESS' commitment to engaging with other environmental organisations. Respondents highlighted the benefits of working with public bodies, research institutions, and other stakeholders as it avoids duplication and

strengthens monitoring. Furthermore, sharing of organisational and sectoral data was encouraged to enhance collective understanding of environmental performance.

“We welcome ESS’ commitment to engaging widely with organisations such as SEPA which hold a wealth of environmental data. We also welcome, the commitment to work in partnership with others to drive improvements in how data and evidence on Scotland’s environmental performance is monitored and reported. We would be happy to provide whatever assistance we can to help ESS’ intention to drive improvements in data and evidence.”

“[We] welcome ESS’ approach to gathering data, evidence and research including those from a range of sources. We support ESS in initiating calls for evidence and engaging widely with other organisations that collect data on the environment and which scrutinise and evaluate environmental performance and the effectiveness of environmental law. [We] are happy to share data, evidence, analysis and insights we have gained from working on a range of environmental issues and laws relating to plastic and chemical pollution in Scotland and beyond.”

One comment suggested that monitoring should include Scottish islands and another suggested that monitoring should integrate land management expertise. A greater use of citizen science data was also suggested by one respondent.

“Expand monitoring to include Scottish islands, establish OSPAR sites, and formally adopt SIF-MLWG citizen science data.”

“Monitoring should integrate land management expertise (including accredited data sources e.g. WES) and reflect the interconnections between sectors.”

Another theme was the importance of ESS’ role in scrutinising delivery of statutory targets, particularly those to be introduced through the National Environment (Scotland) Bill. One respondent raised concerns about the lack of clarity in existing strategies, such as the Scottish Biodiversity Strategy delivery plans (2024-2030), where responsibility for delivery is often unclear. They suggested ESS could play a role in

ensuring plans and strategies set clear, achievable targets and provide scrutiny at the policy development stage, not just after implementation.

“A pivotal objective given the Scottish Government's drive to Net Zero, and it is most important that environmental performance is adequately monitored and scrutinized effectively.”

“Ensuring scrutiny of the delivery of statutory targets to be brought forward in the Natural Environment (Scotland) Bill is an important new area of work. It is also not clear how the aims in the current Scottish Biodiversity Strategy delivery plans (2024-2030) are to be scrutinised. For example, strategies (such as the Scottish Biodiversity Strategy Delivery Plans) set targets, but it is often unclear where responsibility for delivery is focused and what Public Authorities responsibilities are in relation to delivery of some specific targets. Could ESS have a role in ensuring plans and strategies set targets that are clear in their extent of influence on the organisation? Is there a route by which this support is available from ESS before the development of National environmental policy/strategy/plans?”

One respondent proposed that ESS review the effectiveness of existing environmental strategies and plans, including the UK Marine Policy Statement under the Marine and Coastal Access Act 2009, the National Marine Plan under the Marine (Scotland) Act 2010, and any reports on fisheries statements or fisheries management plans under the UK Fisheries Act 2020. They suggested the review should assess duplication, missed opportunities, or conflicts, and to make recommendations to parliament for improvement.

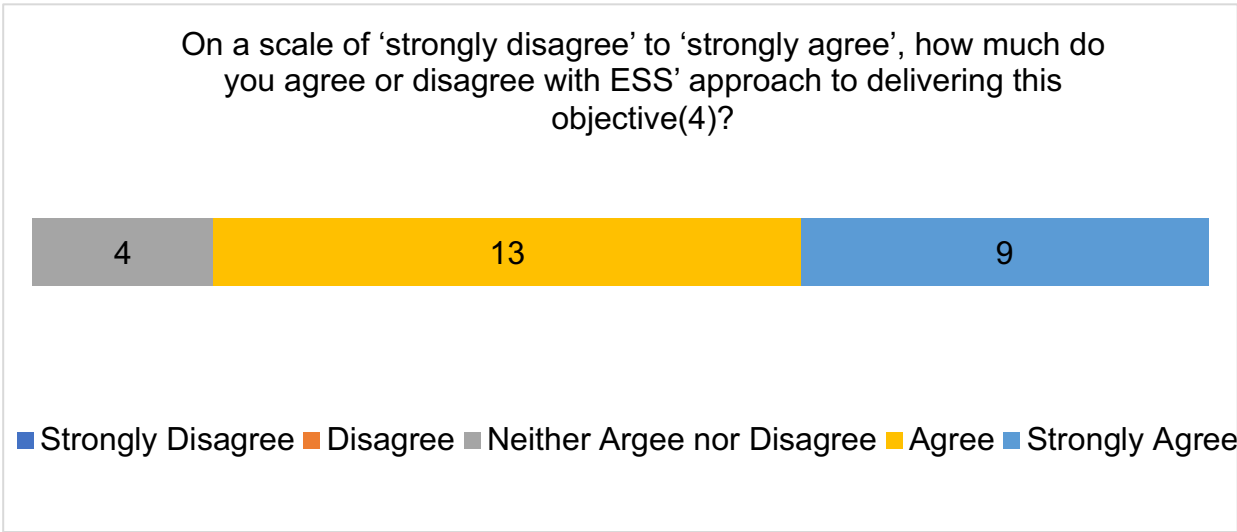
The new role of ESS as Independent Review Body for statutory nature recovery targets (subject to the Natural Environment Bill) was recognised as significant.

Though respondents welcomed this new role, some stressed that it must be supported by additional resources, staff expertise, and access to robust data to avoid undermining ESS' existing responsibilities. One respondent also expressed concern that ESS' new functions risk shifting it from a “watchdog” role to an advisory one, potentially minimising its independence. Further clarity of ESS' remit and balance of work was requested.

“We would highlight that with the new monitoring roles noted at 4.13 and this commitment to responding to calls for views, there is a risk of some drift in the position of ESS, from being primarily an external watchdog to being more of an advisory body more closely engaged with government. We consider this represents a shift from the original vision for ESS. Furthermore, we consider that the impact of the new functions on the balance of work within ESS seems possibly underplayed.”

Objective 4: Engaging and communicating effectively (Paragraphs 4.14-4.17)

Figure 7: Agreement with ESS’ approach to delivering Objective 4



Base: 26 (9 not answered)

Respondents were in support of ESS’ approach to delivering Objective 4. Of those who rated their level of agreement on a scale from ‘Strongly disagree’ to ‘Strongly agree’, no respondent disagreed and 22 either agreed (13) or strongly agreed (9).

There were 16 additional comments from respondents who chose to expand on their answer. Key insights from these comments have been summarised below.

Respondents were largely in agreement with the approach to Objective 4, however did use the comments to make some suggestions for improvements on how communication could be made more effective to ensure further engagement. Many comments stressed that ESS’ work should be made more transparent and visible to the public. As part of this, ESS was encouraged to raise its profile significantly as awareness

of its role, remit, and processes was understood to remain low among communities and public authorities.

There was support for an annual programme of proactive work as mentioned in paragraph 4.26. Other suggestions include making more information available on the website and using social media to reach a wider audience. Providing quarterly reports on investigations, including those resolved informally, was also suggested to strengthen transparency.

“Understanding of ESS work and remit and process for/what can be submitted in representations does not appear to be well known/understood within our communities. The overall visibility and work undertaken by ESS does not currently appear to be well promoted or publicised to communities or to Public Authorities that are being monitored and scrutinised...as per paragraph 4.26 providing an annual programme of the pro-active work to be undertaken each year would be beneficial to communities and also to Public Authorities that could be impacted by the pro-active work. Once the annual programme is published, it would be beneficial to have this promoted to communities and sent out to all Public Authorities to consider/promote. Public Authorities could play a pivotal role in promoting the work of ESS.”

“[We] would welcome further emphasis on ensuring the public, communities, NGOs and other organisations are fully aware of ESS’s role and functions, and any successes...To do this ESS must resource engagement plans including maintaining a social media presence alongside ensuring resources and contents on the ESS website remain up-to-date and accessible with as much information as possible publicly available in a timely fashion.”

One respondent highlighted the importance of ensuring communications are accessible, inclusively designed, and culturally and linguistically sensitive. Easy-read reports, clear timescales for responses, feedback to members of the public, and signposting to advocacy and advice services were all suggested to make engagement more inclusive. The potential value of webinars and regular public-facing events

showcasing ESS' work and allowing two-way dialogue was also highlighted by a number of respondents.

“Communication should be accessible, inclusively designed, and culturally and linguistically sensitive to meet diverse needs of Scotland’s people and communities. Consideration should be given to those who may experience communication barriers and forms of exclusion, including digital exclusions. Processes should be easy to access with clear timescales for response and feedback provided to members of the public who raise a concern. Consideration should be given to signposting to advocacy and advice to support people and communities engage with the process.”

“Independent, Trusted, Transparent, and Effective are all lofty ideals which any organisation would be justifiably proud of. To ensure that these goals are constantly upheld effective communication is necessary. We do wonder if a webinar programme to highlight the work of the ESS might be a useful way to encourage further participation.”

Stronger collaboration with academic, civic, and community actors was widely supported, with citizen science, again, specifically highlighted as a valuable tool to bring local knowledge and strengthen monitoring. There was agreement that regular engagement with public authorities is important and there was also support for ESS aligning its engagement with wider national strategies, such as Net Zero Nation and the Scottish Government’s Public Engagement Strategy for Climate Change, positioning ESS as a trusted messenger on climate change and environmental governance.

“ESS’ ongoing commitment to transparent public engagement is commended. Further effort is needed to reach underrepresented groups and improve the accessibility of complex information. Stronger collaboration with academic, civic, and community actors, including citizen science initiatives, is encouraged.”

“We support the approach to communications and engagement and its potential alignment with Net Zero Nation, the Scottish Governments Public Engagement Strategy for Climate Change and ESS’ role as a ‘trusted messenger’ on climate change in Scotland.”

“We agree that it is important to engage regularly with the public authorities ESS scrutinises. [Organisation] and ESS have established regular liaison meetings at different levels across our organisations. We value this liaison and note the importance of continuing to build good working relationships to achieve the outcomes set out in paragraph 4.15 of the draft strategy.”

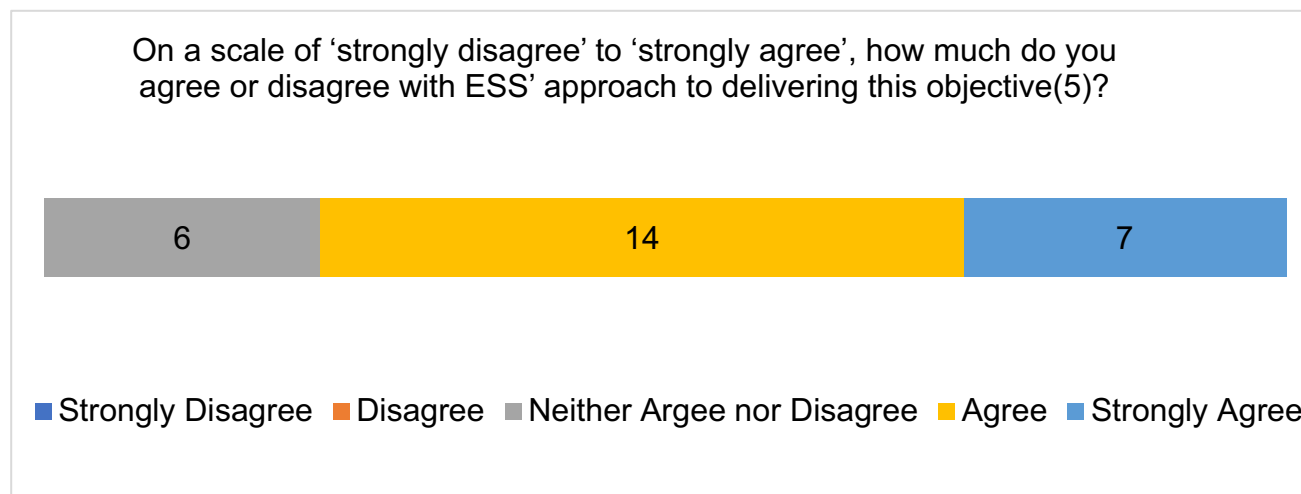
Stakeholder feedback reinforces the importance of ESS’ aim under Objective 4 of being a ‘well-connected and networked organisation’. Respondents highlighted the need for ESS to connect with and amplify environmental voices and ensure diverse perspectives are represented. Rural stakeholders and land managers were mentioned as essential partners who should be engaged early in policy and enforcement design. Concerns were raised by one respondent that limited resourcing could lead ESS to rely too heavily on readily available and easily accessible evidence from certain bodies, e.g. NGOs, which could create an unbalanced playing field in how concerns are raised and acted upon, while excluding other voices. Additionally, a respondent also warned against relying on a narrow set of sources, as this could present an incomplete picture of Scotland’s environmental performance - highlighting that scrutiny should be comprehensive, balanced, and evidence-based.

“Engagement must include rural stakeholders early in policy and enforcement design.”

“...If resourcing is suboptimal, the risk is that the work will be done by relying on external sources which may be easy to reach and to harvest but potentially not sufficiently rigorous or unbiased. We know that a lot of NGOs for example, are scrutinising conflicts and non-compliance with targets that are statutory but are also de facto unachievable. It is foreseeable that they will be preparing easy to digest issues for the ESS to harvest and will also be the main requestor for actions on each and every matter they will feel well prepared. For other sectors, deeply entangled in the day-to-day activities and firefighting in an increasing hostile landscape, there won’t be opportunities to implement the same level of engagement, creating an unlevelled and unjust playing field.”

Objective 5: Being an efficient and effective organisation (Paragraphs 4.18-4.26)

Figure 8: Agreement with ESS' approach to delivering Objective 5



Base: 27 (not answered 8)

Overall, respondents were largely positive about ESS' approach to the delivery of Objective 5. Respondents rated their level of agreement with this approach on a scale from 'Strongly Disagree' to 'Strongly Agree'. The majority either agreed (14) or strongly agreed (7). No respondent disagreed with this objective, although six neither agreed nor disagreed.

To further explain their response, 10 respondents left comments. Key insights from these comments have been summarised below.

Respondents generally agreed that efficiency is an important objective, but emphasised that it should not come at the expense of depth or meaningful environmental outcomes. Efficiency was considered valuable where it enables practical delivery and reduced unnecessary administration, but not if it undermines scrutiny, credibility, or impact. Comments highlighted that resources should be used wisely, with an emphasis on achieving tangible results for the environment rather than focusing on internal processes or producing narrative reports.

“Efficiency is important, but must not come at the cost of depth or impact. Resources should be used wisely, with a focus on outcomes for the environment, not just internal processes.”

“Efficiency is welcome if it supports practical delivery and avoids unnecessary administrative burdens.”

The availability of resources was again highlighted, with some questioning whether ESS has sufficient resources to deliver its wide remit. Respondents expressed concern that constrained public finances could limit effectiveness, particularly as ESS’ responsibilities expand further under the forthcoming Natural Environment Bill. One comment also highlighted the need for adequate resources to demonstrate delivery through clear, measurable outcomes, using tools such as KPIs and theory of change models (as highlighted by ESS as tools they use to measure performance in the strategy – see [Section 3.5](#))

“Overall, the objectives are well-expressed and the approaches to delivering them seem appropriate. However, the issue of resourcing remains pertinent to this discussion. The first three objectives arguably comprise ESS’s raison d’être (with the latter two objectives focused on continuous improvement and operational excellence). However, these three objectives alone demonstrate the massive breadth of ESS’s remit. If ESS is to realise these objectives, it must have access to the appropriate funding, which, in a time of increasingly constrained public finances, could prove challenging. The draft Strategy does reference ESS submitting an annual letter to the Scottish Parliament commenting on the adequacy of its budget, but it is unclear whether this translates into any sort of budgetary flexibility in the short-term that would allow ESS to be more responsive and effective. This becomes more pressing with the prospect of ESS taking on additional responsibilities as set out in the provisions of the Natural Environment Bill.”

“There is support for the objective, but its success depends on demonstrable delivery above narrative or process. Ensuring adequate resources, particularly around performance monitoring (theory of change), is vital; expertise and clarity in KPIs will foster trust and impact.”

Respondents also stressed the importance of strong governance, independence, and transparency in how ESS operates, particularly given its role in making judgements on contentious matters. Some raised concerns about whether recruitment processes are sufficiently transparent and auditable, urging ESS to demonstrate how it guarantees objectivity and avoid bias in appointments of both executive staff and Board members. Others, however, praised ESS' progressive culture, sound governance, and qualified leadership. To further strengthen ESS' capacity, it was suggested that recruitment should focus on bringing in individuals with broader expertise - particularly in public authority operations.

“Attracting and keeping the right people is not a measurable statement. Considering the importance of this body, is the hiring process transparent and auditable against the needs identified by ESS? What is it their task load and focus? ESS is a body that needs to judge and rule on potentially contentious matters. It is critically important that ESS can do this objectively and without any individual or personal bias. How can this be guaranteed, verified and made transparent? This applies both to staff within the executive and to non-executive Board members.”

“The strategy sets out the importance of governance, financial control, and operational integrity as the key responsibilities of the Board. Those tasked with achieving the objectives appear suitably qualified, motivated, and experienced. The working culture is progressive and supportive.”

A small proportion of respondents highlighted the need for ESS to strengthen its skills in specific areas. One gap identified by a respondent was the lack of reference to climate adaptation and the Scottish National Adaptation Plan (SNAP 3), which calls for staff expertise to assess and challenge Public Bodies Climate Change Duties (PBCCD) reports. One respondent recommended that ESS adapt its approach to island contexts by allocating resources and developing partnerships that reflect the distinct challenges faced by island communities.

“We note that paragraph 4.23 does not mention adaptation, the Scottish National Adaptation Plan (SNAP 3), or the objectives associated with climate and the natural

environment. We note this in relation to the skills required regarding the assessment of the submitted PBCCD reports and the process by which ESS can scrutinise, analyse and challenge PBCCD submissions.”

“ESS should allocate resources and develop partnerships to support tailored interventions for islands.”

Across different questions respondent referenced the importance of working efficiently with other relevant stakeholder organisations. It was highlighted that a diagram showing how ESS’s objectives intersect with other regulatory and enforcement bodies such as Audit Scotland, SEPA, COPFS, and the OEP, would be helpful to improve understanding of its role and resourcing needs.

“It might be helpful to include a diagram that graphically depicts how ESS’s objectives intersect with other regulatory or enforcement bodies, such as Audit Scotland, SEPA, the Crown Office and Procurator Fiscal Service (COPFS), and OEP.”

3.5 Measuring Performance

Question

Question 9 asked respondents to comment on ESS’ approach to measuring its performance and evaluating its impact. The question asked to respondents is shown below:

- Do you have any comments about ESS’ proposed approach to evaluating its impact and measuring its performance, as outlined in Section 5 of the draft Strategy?
 - Open field for comments

ESS’ approach to measuring performance, outlined in the draft strategy, uses a theory of change model, key performance indicators (KPIs), and performance management indicators (PMIs). **Respondents were broadly supportive of ESS’ plan to evaluate impact and measure performance through these three methods.** Several welcomed a clear framework that tracks whether ESS is driving real-world improvement, citing this as a fundamental determinant of the strategy’s success.

“Supportive of approach outlined.”

“Accurately measuring performance and setting targets for improvement will be the most important determinant of the strategy’s success.”

However, whilst respondents clearly support this approach, many comments requested greater clarity on the different KPIs and PMIs that will be used, to help readers better understand how this approach to measurement will work in practice.

“It might have been beneficial to include (or at least signpost to) a few illustrative KPIs and PMIs to better understand the kinds of outcomes that will be assessed.”

There was also an appetite to see ESS consulting with others to determine KPIs/PMIs, to ensure the metrics used are relevant, robust, and evaluate core factors of importance. Consultation with others around these metrics also builds trust and credibility in the performance measurement system, by showing that ESS is open to responding to feedback. Some commenters also highlighting the importance of regularly reviewing performance metrics, to ensure these continue to be relevant over time.

“KPIs should also be subject to consultation - as per the strategy - as they are intrinsic to the strategy's implementation.”

“A large focus of evaluating performance should be on listening to and responding to those who have engaged with ESS.”

“Ensure KPIs are impact/outcome focussed, clear, interpretable, and meaningful to a broad audience, with regular review for relevance.”

The use of theories and models to support measurement of performance - particularly a theory of change model - was welcomed, with requests for regular publication and adaptability over time. Again, respondents highlighted the importance of reviewing this model regularly to ensure ongoing relevance and robustness.

“It would be helpful to state that ESS will regularly review and adapt its performance framework - recognising that what you measure in Year 1 may not be what’s most useful by Year 5.”

Some respondents used the open comment space to outline their belief that ESS’ measurement approach should focus on outcomes rather than outputs. In other words, they were keen to ensure that ESS look at what has been achieved, not how many reports have been published, or meetings have been held. Outcomes and indicators should instead be clear and demonstrably linked to accountability to be part of a robust measurement framework. One respondent suggested use of SMART criteria to support this (i.e. KPIs are specific, measurable, achievable, realistic and timely).

“Measuring performance is essential, but it must go beyond outputs like reports published or meetings held.”

“Performance measurement is critical and metrics must be: 1) Meaningful 2) Simple 3) Quantifiable 4) Not too many of them 5) Actually demonstrates accountability.”

“It is important that KPI’s are specific, measurable, achievable, realistic and timely.”

Transparency and accountability again emerged as an important theme. As outlined above, engagement and consultation with others to determine measures of success, and regularly reviewing measurement frameworks, are critical to ensuring this. As part of this, stakeholders were also keen to ensure ESS is committed to publishing reports on progress so others can see how ESS is measuring performance, and how it is performing against those metrics.

“We welcome the approach to evaluating the impact of major investigations... and we recommend that such evaluations are routinely published by ESS.”

“KPIs should be published, as well as the annual reports on progress. KPIs should also be subject to consultation.”

Additionally, equity and disproportionate impacts were cited again, and respondents highlighted the need for these to be built into the framework. This was specifically in relation to island outcomes - with a requirement for disaggregated reporting and island-specific metrics.

“ESS’ performance evaluation should include metrics for equity of outcome. Disaggregated reporting on island outcomes is essential.”

In summary, respondents support ESS’ approach to measuring performance, but want greater clarity on how metrics work in practice, and have requested a transparent, outcome-oriented and adaptive framework, crafted in consultation with others.

3.6 Interim Conclusions on the Impact Assessments

Questions

Question 10 asked respondents to comment on ESS’ interim conclusions on the various impact assessments (IAs).

The information provided to respondents, within the questionnaire, regarding the IAs is shown in the box below:

ESS recognises the importance of considering the potential impact of its work and upholding the rights and wellbeing of everyone in Scotland. In preparing the draft strategy, ESS has undertaken screening (or equivalent) for a number of assessments to consider the potential impact of the strategy in a number of areas, and any mitigation actions that may be required. The table below shows a summary of the preliminary conclusions drawn in relation to each impact assessment. More detail on ESS’ conclusions can be read here (LINK). Please read this information before completing the following questions.

Summary of impact assessment interim conclusions

- **Equality:** Potential for impact – further evidence needed
- **Business & Regulatory:** Not required
- **Strategic Environment:** Not required
- **Child Rights and Wellbeing:** Not required
- **Island Communities:** Unlikely to be required – but further evidence being sought

- **Consumer Duty:** Positive impact identified – assessment to be finalised following consultation
- **Data Protection:** Data will be processed and protected as required.

The questions below ask about your opinions on ESS' interim conclusions for each impact assessment. The relevant paragraphs from the webpage regarding the conclusions for each impact assessment are highlighted.

The questions asked to respondents were as follows:

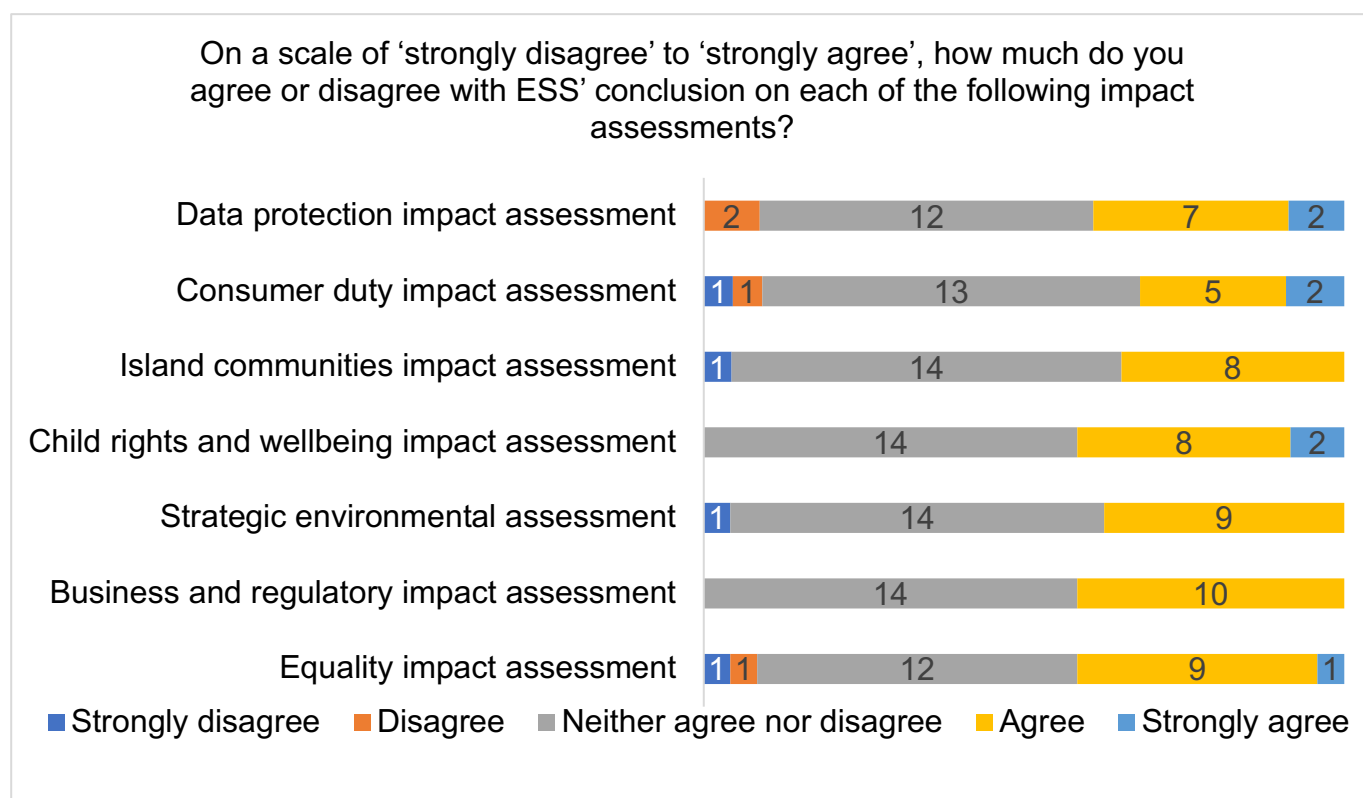
- On a scale of 'strongly disagree' to 'strongly agree', how much do you agree or disagree with ESS' conclusion on each of the following impact assessments?
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree
- Do you have any comments on ESS' approach to, or interim conclusions for the various impact assessments? Please specify which impact assessment you are commenting on below.
 - Open field for comments

Responses:

General responses across the IAs are outlined first below, with more detailed responses to individual IAs outlined following this.

Overall Feedback

Figure 9: Agreement with ESS' interim impact assessment conclusions (all)



Base: Various 22-24 (See below for bases for each individual IA)

Respondents were cautiously positive about the draft impact assessments overall.

Across the seven assessments (EQIA, BRIA, SEA, CRWIA, ICIA, CD and DPIA), most ratings sat in the middle, with respondents giving neutral ratings. After neutral ratings, it was most common for respondents to indicate agreement with the conclusions to the impact assessments, and much less common for disagreement to be indicated. This shows a general, if cautious, support for ESS' conclusions.

Thirteen (13) respondents left comments. Overall, the tone across the comments was broadly supportive but pragmatic, with some expressing caution around certain IA elements, and providing suggestions for review or improvement.

Core to responses was that IAs should be kept under review as new evidence emerges, and current assessments should not be considered final.

Whilst there were a number of comments relating to specific IAs, several respondents used the open comments space to give an overall response to the IA conclusions.

There were some comments in relation to ESS' role in terms of carrying out the impact assessments, with one commenter querying why ESS has taken on this role, and another suggesting further validation with research partners would strengthen these assessments – particularly where there are complex and indirect impacts. One comment requested that ESS is clearer about the rationale behind its impact assessments. This respondent suggested more details about this rationale would be required for them to provide any further feedback.

“The approach to impact assessment is recognised as sound; however, further validation with research partners is recommended to ensure the flexibility and practicality of methods, especially for complex/indirect impacts.”

“There needs to be something much more to back up your conclusions and statements for any meaningful and useful comment to your questions.”

One comment also highlighted this respondent's belief that **the impacts of the strategy itself are less important than the impacts of the actions and decisions that come from the strategy – and that they would be much more interested in assessments of this.**

“We trust ESS to have evaluated properly the necessity of running certain impact assessments. [We are] not so concerned with the impacts of the strategy, but the impacts of the actions and decisions that will stem from the strategy. As specified above, there needs to be some consideration with regard to wider implications on social and socio-economic impacts related to the issues considered for ESS intervention and their prioritisation.”

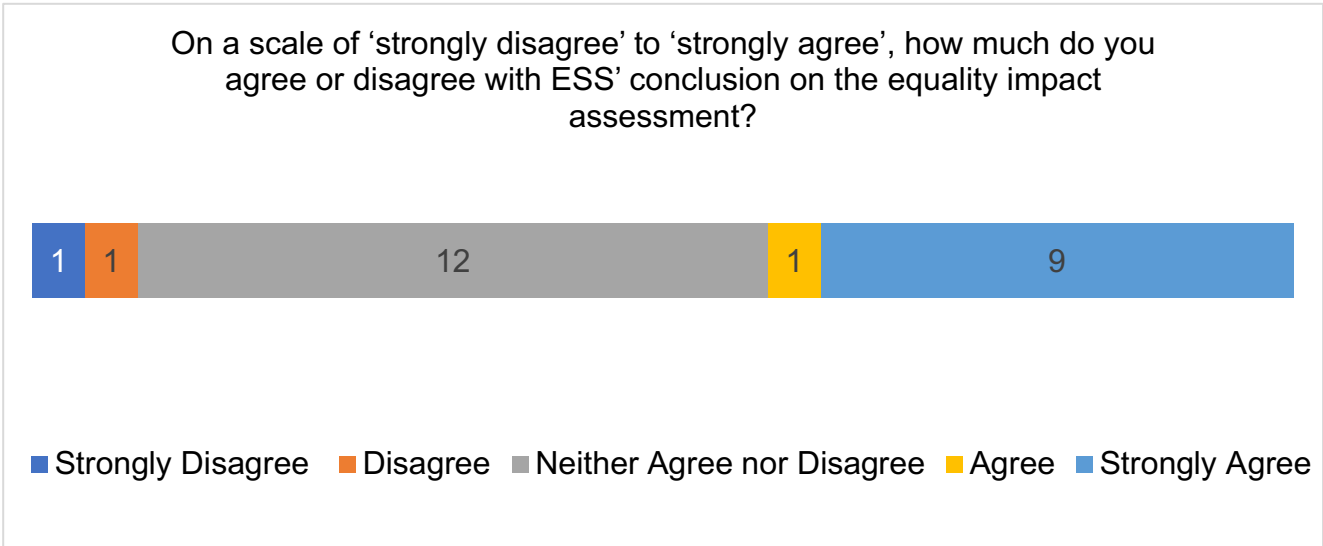
One other comment also suggested the inclusion of a Health Impact Assessment (HIA) which, whilst not required, could contribute to other impact assessments and support ESS to meet its duties and enhance its decisions. This respondent highlighted that a guide to

HIAs from the Scottish Health and Inequalities Assessment Network (SHIAN) will shortly be available.

“Health Impact Assessment (HIA) is not a mandatory requirement but can contribute to other impact assessments and help meet relevant legal duties and enhance decisions. PHS has produced A Guide to Health Impact Assessment and will shortly publish on behalf of the Scottish Health and Inequalities Impact Assessment Network (SHIAN) a consensus statement on the minimum consideration of health in integrated impact assessment.”

Feedback to individual IAs:

*Figure 10: Agreement with ESS' interim conclusion on the equality impact assessment.
Conclusion: Potential for impact – further evidence needed*



Base: 24 (11 not answered)

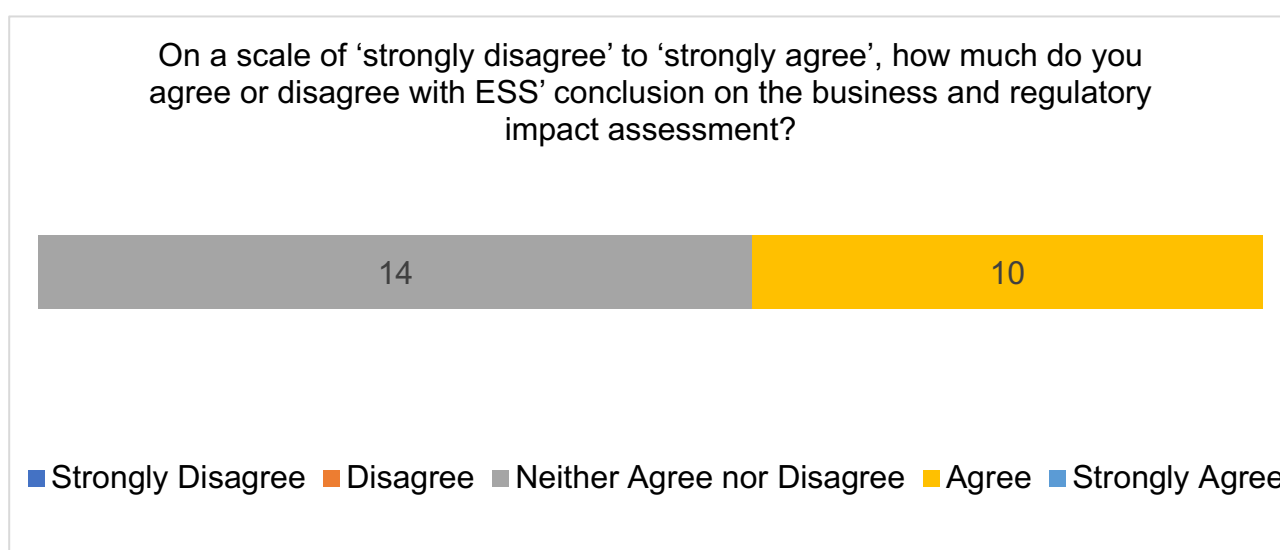
It was most common for respondents to rate ESS' conclusion on this impact assessment neutrally, selecting 'neither agree nor disagree' (12), however after this it was most common for respondents to agree (9), showing generally more support for, than disagreement with, the impact assessment. Four respondents specifically mentioned the EQIA in their comments. Amongst these respondents:

- Two agreed that equality impacts should be kept under review, citing support with ESS' cautious approach to this impact assessment. These respondents back ESS'

suggested actions to address any impact and agree that it is better to investigate any issues further than assume there is no impact.

- One requested that ESS openly outline that, whilst it works mainly in Scotland, some environmental impacts can harm people outside Scotland - including those who did the least to cause them.
- The other comment highlighted public sector bodies' legal requirement to undertake EQIAs.

Figure 11: Agreement with ESS' interim conclusion on the business and regulatory impact assessment. Conclusion: Not required



Base: 24 (11 not answered)

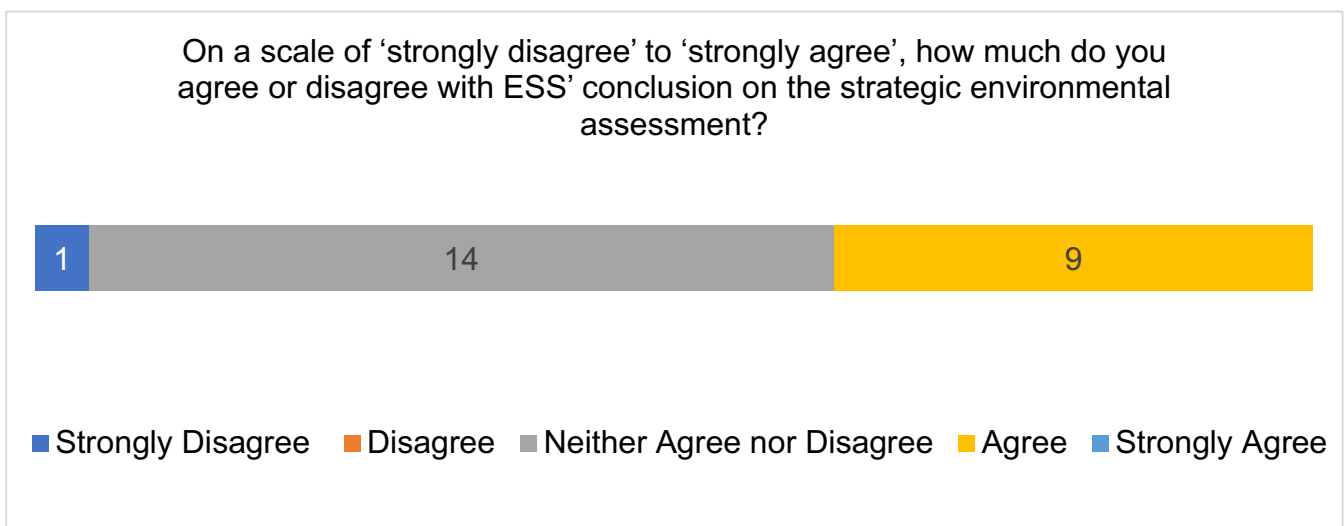
All respondents who rated ESS' conclusion on this impact assessment either rated it neutrally (14) or agreed with the IA (10) - so there was no specific disagreement with this assessment. Four respondents commented specifically on the BRIA.

These four respondents all advised caution around ESS' conclusion that the BRIA is not required. Whilst they note that ESS outlines that its role and function have not changed since the first Strategic Plan (2022-25 – where it was determined the Strategy was unlikely to place demands on the public, private or third sector that may have financial implications - there is a suggestion to keep this impact assessment 'under review' rather than permanently considered to be not required. One commenter suggested changing the

wording in the impact assessments from ‘not required’ to “No direct impact identified at this stage” – keeping the door open if later impact seemed to occur.

“While [we] note the preliminary conclusion that a BRIA is not required for the revised Strategy, it's important to ensure that Business and Regulatory Impact is actively considered. The absence of identified impacts to date - whether due to previous experience or limited stakeholder feedback - should not be the basis for exclusion. A proportionate assessment helps safeguard against unintended consequences and ensures transparency, especially where future implications for businesses may emerge.”

Figure 12: Agreement with ESS' interim conclusion on the strategic environmental assessment. Conclusion: Not required

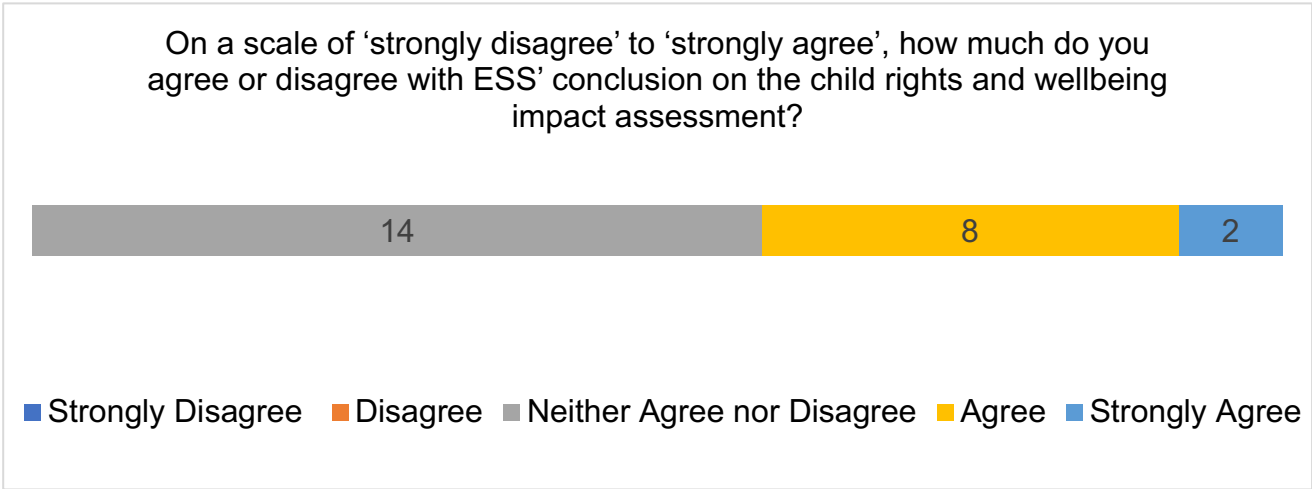


Base: 24 (11 not answered)

Most respondents who rated ESS’ conclusion on this impact assessment rated it neutrally (14). Following this, the greatest proportion agreed with the conclusion (9). One respondent indicated strong disagreement. Two respondents commented specifically on the SEA.

These comments highlighted that, even if ESS has determined a full SEA is not required as the strategy will not have any direct impacts on the environment, they welcome ESS’ consideration of indirect impacts from the strategy. There was also a request for ESS to consider human health and the determinant of health and health inequalities in the SEA screening.

Figure 13: Agreement with ESS' interim conclusion on the child rights and wellbeing impact assessment. Conclusion: Not required

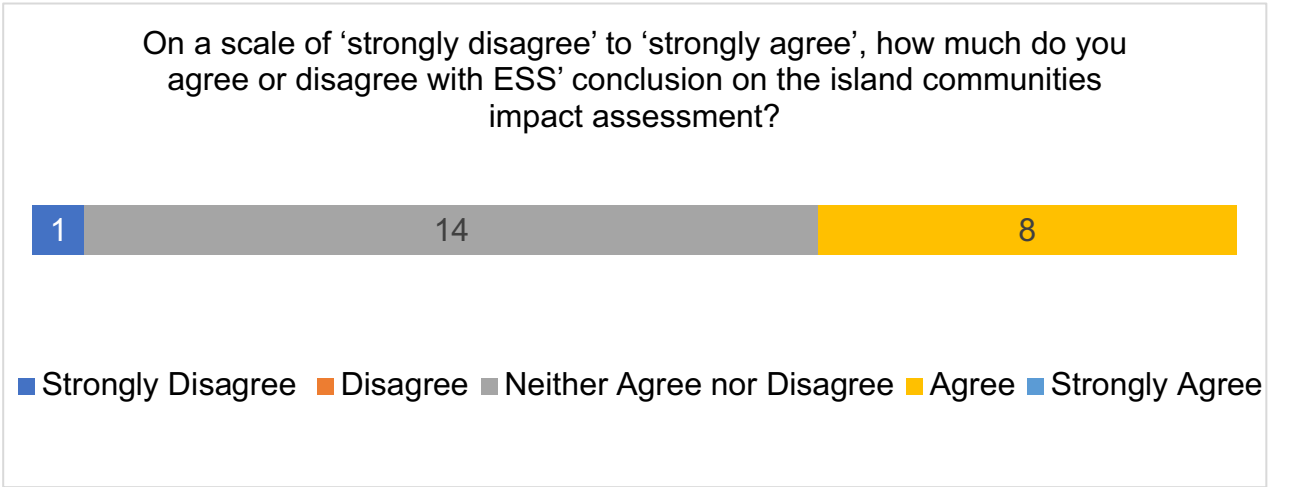


Base: 24 (11 not answered)

Most respondents who rated ESS' conclusion on this impact assessment rated it neutrally (14). Following this, the greatest proportion agreed with the conclusion (8), and two strongly agreed with the conclusion (2). This shows a good level of support for ESS' conclusion on the CRWIA (that it is not required), as there was no documented disagreement.

No respondents left any comments specifically linked to this assessment.

Figure 14: Agreement with ESS' interim conclusion on the island communities impact assessment. Conclusion: Unlikely to be required – but further evidence being sought.



Base: 24 (12 not answered)

Most respondents who rated ESS' conclusion on this impact assessment rated it neutrally (14). Following this, the greatest proportion agreed with the conclusion (8). However, one (1) strongly disagreed with ESS' conclusion that this is unlikely to be required.

Four respondents left comments specifically on the ICIA. **Comments suggested that ESS' preliminary conclusion that the ICIA is unlikely to be required should be treated with caution and left under review, as new evidence may emerge and circumstances may change.** This included a response highlighting that if one of ESS' priorities is to improve Scotland's freshwater and marine environments it is inevitable that this will have an impact on island communities - although with the right approach, this could be a positive and sustainable impact. Another commenter highlighted the legal requirement of public bodies to carry out an ICIA.

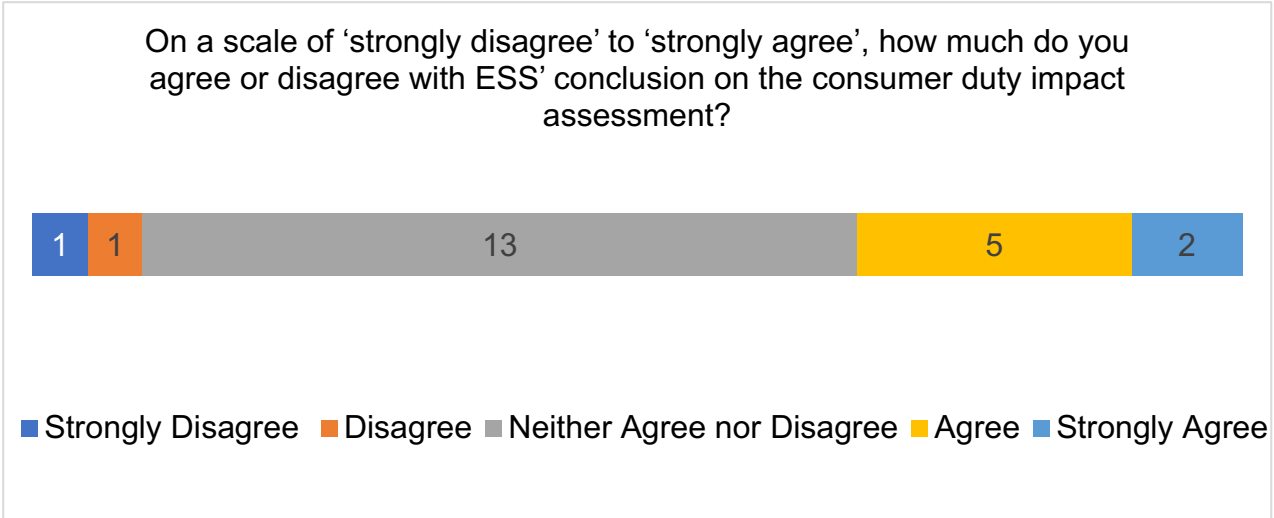
The respondent that strongly disagreed with the ICIA conclusion is specifically linked with Scottish Islands, and highlighted that they provided a response to the consultation by drawing on evidence from multiple relevant sources. **This response argues that ESS' conclusion overlooks substantial evidence regarding the environmental burdens and resource constraints on islands - often due to the underrepresentation of island data in monitoring.**

They suggest that, rather than concluding the ICIA is unlikely to be necessary, ESS should:

- Explicitly recognise disproportionate impacts.
- Commit to integrating island-specific monitoring and supporting capacity-building.
- Engage directly with island stakeholders in finalising the assessment.

"We strongly disagree with the preliminary conclusion that the strategy will have "no impact" on island communities. The assertion overlooks substantial evidence of disproportionate environmental burdens and resource constraints on islands."

Figure 15: Agreement with ESS' interim conclusion on the consumer duty impact assessment. Conclusion: Positive impact identified – assessment to be finalised following consultation

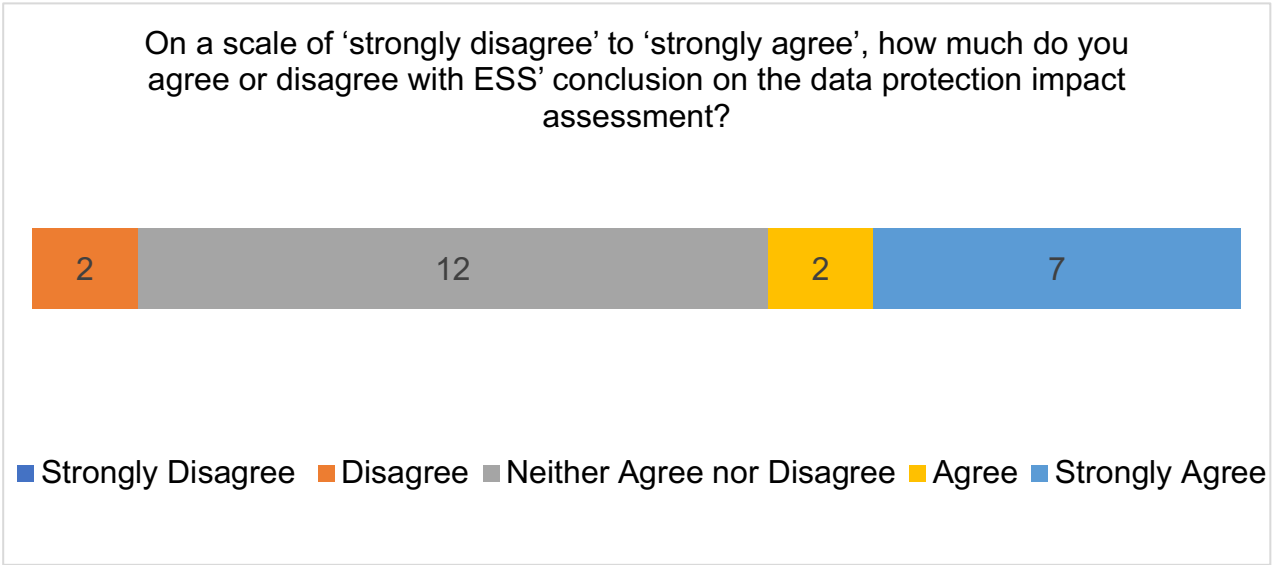


Base: 22 (13 not answered)

Whilst most respondents who rated ESS' conclusion on this impact assessment rated it neutrally (13), there were mixed responses to ESS' conclusion that the consumer duty impact would be positive. Whilst five (5) respondents agreed with this and two (2) strongly agreed, one (1) disagreed and one (1) strongly disagreed.

Only one comment made explicit reference to the CDIA, and this respondent highlighted their strong support for the commitments made by ESS. There were no comments linked specifically to the CDIA to explain any disagreement.

Figure 16: Agreement with ESS' interim conclusion on the data protection impact assessment. Conclusion: Data will be processed and protected as required.



Base: 23 (12 not answered)

Whilst most respondents who rated ESS' conclusion on this impact assessment rated it neutrally (12), there were mixed responses to ESS' conclusion that a DPIA will be undertaken in any case to support compliance and demonstrate respect and protection for the interests of the public, and that final decisions will be made when in a position to adequately assess information being collected. Whilst nine (9) respondents agreed/strongly agreed, two (2) indicated disagreement.

Only two comments were specifically linked with the DPIA. One comment showed support for the commitments made by ESS.

The other comment, which was from a respondent that disagreed with the assessment, stressed that data protection is paramount and core to ESS' purpose. This respondent suggested that by consulting on this impact assessment ESS shows a lack of understanding for its own purpose.

“Data protection should be paramount. The fact that you are asking is further evidence of incompetence and lack of understanding of what the ESS' purpose is.”

3.7 Response to Scottish Government Recommendations Following the Environmental Governance Review

Questions:

Questions 11-13 asked respondents to rate the extent to which they agreed or disagreed with ESS' response to the Scottish Government recommendation. Respondents were then invited to comment on selected parts of ESS' response to the Scottish Government recommendation in relation to the environmental governance review. For contextual purposes, the selected parts of ESS' response have been highlighted within the relevant sections below.

The information provided to respondents in the consultation regarding the SG response is shown in the box below:

In June 2023, Scottish Ministers published and consulted on a report on the effectiveness of environmental governance in Scotland.

In November 2024 the Scottish Government made a statement to the Scottish Parliament summarising feedback from the consultation and set out the recommendations that Scottish Ministers made in response to the views received. The statement recommended that ESS should: "give further consideration to the conditions where it would be appropriate to investigate the individual circumstances of a local area, group or community, given the restrictions on the exercise of its functions" and that "the Parliament considers this matter in their oversight of ESS' activities and in particular when reviewing a draft revised strategy in due course".

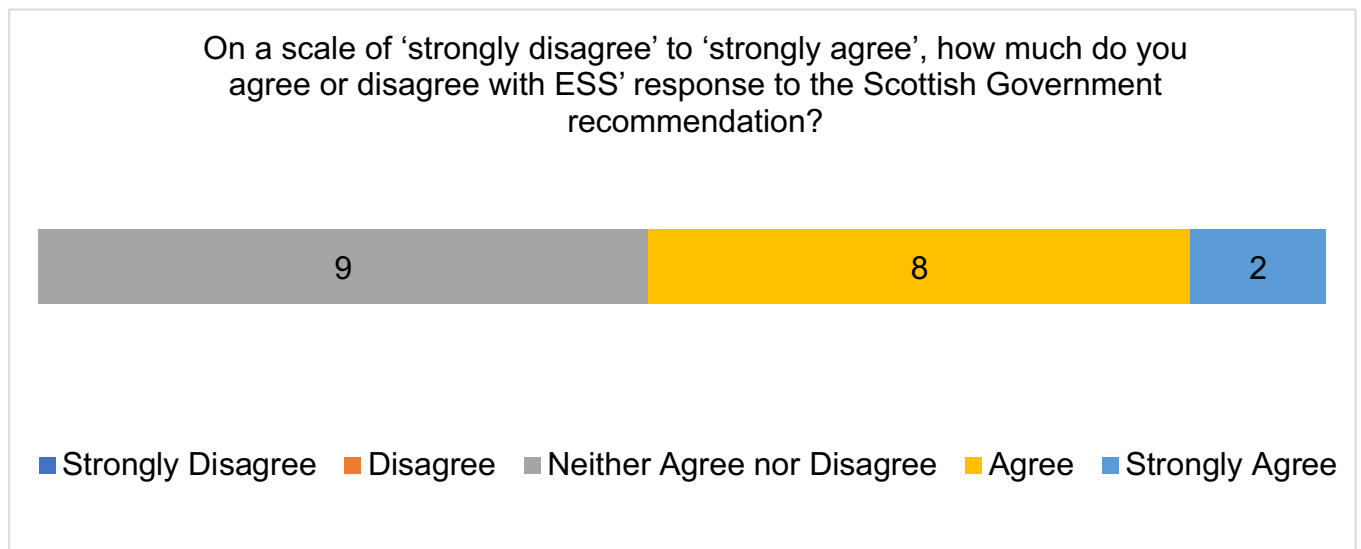
The questions asked to respondents were as follows:

- On a scale of 'strongly disagree' to 'strongly agree', how much do you agree or disagree with ESS' response to the Scottish Government recommendation?
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree
- Do you have any comments about the following parts of ESS' response to the Scottish Government recommendation in relation to the environmental governance review?
 - Paragraphs 4.5-4.7: Setting out the statutory limitations on the exercise of ESS' functions (e.g. ESS' inability to act as an appeals body or take enforcement action against public authorities on individual regulatory decisions):
 - Open field for comments

- Paragraphs 4.8-4.11: Setting out how ESS can consider the individual circumstances of a local area, group or community:
 - Open field for comments
- Paragraphs 4.12-4.14: On the gaps in the environmental governance landscape not filled by the establishment of ESS:
 - Open field for comments

Responses:

Figure 17: Agreement with ESS' response to the SG environmental governance review



Base: 19 (16 not answered)

A total of 19 people rated ESS' response to the Scottish Government recommendations, on a scale of 'strongly disagree' to 'strongly agree'. While a large proportion of respondents did not answer (16), of those that did answer the majority agreed/strongly agreed with ESS' response (10). Nine (9) responded neutrally.

Response to SG 4.5-4.7

4.5 The decision as to which matters ESS will investigate or prioritise for analytical work is driven by the terms of the Continuity Act and the principles and factors outlined in our Strategy.

4.6 Section 1.6 of our draft Strategy explains that ESS cannot act as an appeals body and take enforcement action against public authorities on their individual regulatory decisions. Section 27(a) and section 32(1)(a) respectively of the Continuity Act state that ESS cannot

issue an improvement report or a compliance notice (our main enforcement mechanisms) in respect of “a failure to comply with environmental law arising out of any decision taken by a public authority in the exercise of its regulatory functions in relation to a particular person or case (for example, a decision on an application for a licence or a decision on regulatory enforcement in a specific case)”.

4.7 Section 1.6 of our draft Strategy therefore explains that we will consider whether individual decisions might indicate systemic or cumulative problems with compliance or with the effectiveness of environmental law.

Overall, 13 comments were left in response to paragraphs 4.5-4.7: setting out statutory limitations on the exercise of ESS’ functions (e.g. ESS’ inability to act as an appeals body or take enforcement action against public authorities on individual regulatory decisions).

In general, the feedback on ESS’ response to the Scottish Government was positive, specifically when acknowledging the limitations of its remit. Some commenters highlighted that the Scottish Government’s recommendation appears to have failed to consider / recognise ESS’ remit, and ESS’ response makes it clear what it can and cannot do.

“[The Scottish Government’s] recommendation misunderstands the limitations placed on ESS’ work by the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021... ESS’ proposed response explains that it will consider whether individual decisions indicate broader problems which might allow for its intervention and that it is constrained from doing anything further by the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021. We support ESS’ proposed response. It appears to restate what we understand to be existing policy and practice at ESS.”

“We agree with ESS’ response regarding the limitations of its remit.”

Although in general respondents agreed with ESS’ response and showed understanding of its statutory limits, **there was a call for some examples / explanations to illustrate what is and is not within its remit to improve public understanding.**

“[We welcome] the clarity about statutory limitations on ESS’ role. Examples of what falls inside/outside remit would help public understanding, as well as engagement with research organisations.”

“Sections 4.5-4.7 clearly explain the approach. I would suggest that if ESS finds a complaint to be not within its remit or decides not to pursue the complaint, it makes the explanation for either publicly available to ensure transparency in line with objective 4.”

Whilst statutory limitations are understood, several comments did request that ESS retain flexibility to consider issues that could point to systemic failings - although it was acknowledged that not all individual cases can be investigated comprehensively given ESS’ relatively small size, and potential overlaps with SEPA, NatureScot, and local authorities.

“The statutory limitations are understood, but ESS should retain flexibility to examine local circumstances where systemic issues arise.”

“It is likely that, if ESS were involved in individual cases, there would be insufficient resources to cover this extended remit at present. We do agree that it is useful to examine individual or more local cases where it is an example of a wider systematic issue.”

“Clearly ESS is currently too small to investigate each and every individual issue related to the environment. This would also overlap with bodies like SEPA, NatureScot and local authorities.”

Some concerns were raised about gaps that have arisen due to ESS’ lack of enforcement powers, emphasising the need for robust processes to ensure enforcement action is taken when necessary. Commenters asked for ESS to recognise these gaps and explain how it will take action to mitigate these gaps through referrals, scrutiny, public reporting, and advising ministers. One comment highlighted the effectiveness of “soft powers”, noting that influence through transparency and recommendations can often drive change more effectively than formal enforcement.

“It could be considered an oversight that ESS does not have enforcement powers. If this is the case, then are there robust processes to ensure that enforcement action is taken forward?”

“The current explanation may appear overly neutral. A more robust response would acknowledge that this statutory limitation does create a gap in environmental accountability - and describe how ESS will mitigate this, e.g. through: referrals to appropriate bodies, public scrutiny and reporting, advising ministers on legislative reform if systemic weaknesses emerge.”

“There is a risk that the phrasing could make ESS appear powerless in the face of poor decisions. The strategy should emphasise that ESS can still use soft powers effectively - like scrutiny, public reporting, and recommendations - which often influence change more effectively than formal enforcement.”

Response to SG 4.8-4.11

4.8 Provided a matter raised with us is within our remit in terms of the Continuity Act and aligns with the principles and factors outlined in our Strategy, there is nothing to prevent ESS from considering the individual circumstances of a local area, group or community. ESS can (and does) consider such cases where they indicate systemic or cumulative problems with compliance or with the effectiveness of environmental law.

4.9 For example, we have considered representations relating to the handling of a licence and the appropriate assessment stage of a [Habitats Regulations Appraisal](#) under The Conservation (Natural Habitats, &c.) Regulations 1994 and regarding concerns over how reports of [sewage related debris from Waste Water Treatment Works](#) had been handled under the Water Environment (Controlled Activities) (Scotland) Regulations 2011.

4.10 In both cases our pre-investigation enquiries identified concerns about how these types of decisions were generally handled by the relevant authorities. We therefore engaged with the public authorities concerned and made recommendations about how guidance and procedures could be improved to ensure better environmental protection. The public authorities accepted and implemented our recommendations.

4.11 We are also required to exercise our functions in a way that avoids duplication or overlap with other statutory regimes and administrative complaints procedures and

functions exercisable by other bodies such as Audit Scotland, the Scottish Public Services Ombudsman and the Climate Change Committee.

There were a total of eight (8) comments in response to paragraphs 4.8-4.11: Setting out how ESS can consider the individual circumstances of a local area, group or community. Some of these comments reiterate previous responses.

There is strong support for ESS to take local and community insights seriously, recognising that communities provide valuable information and early warning signs about environmental concerns. It was highlighted that local communities can often feel “disempowered” in environmental decision-making, and respondents called for ESS to commit to actively listening to communities, including those who face barriers to engaging with environmental decision-making, and ensure their concerns are reflected in ESS’ work.

“Local communities often feel disempowered in environmental decision-making. ESS should commit to levelling the playing field by actively listening to those affected by decisions, even if they are not formal stakeholders.”

“ESS should sit up and take seriously issues reported by communities. They are your eyes, ears and noses.”

“We support ESS considering local area/group impacts when proportionate and relevant to wider environmental governance.”

“In considering areas to investigate or analyse there would be value in considering local and community insights more widely as they relate to the environment and areas of concern.”

One commenter suggested that ESS should add a statement to its response to outline that it will take steps to ensure that the concerns of communities that may face barriers are heard:

“Suggest adding: ‘ESS recognises that some communities may face barriers to accessing or influencing environmental decision-making and will take steps to ensure their concerns are heard, understood, and reflected in our work.’”

One comment recommended that ESS develop clear criteria and processes for considering the circumstances of specific communities, specifically island communities.

“ESS should develop clear criteria and processes for considering the individual circumstances of island communities, ensuring flexibility and responsiveness to local realities.”

Response to SG 4.12-4.14

4.12 We will continue to work within the framework of the Continuity Act and our Strategy when undertaking our work. However, as noted in our response to the Scottish Government’s 2023 consultation, ESS was not established to fill all the environmental governance gaps left following the UK’s exit from the European Union.

4.13 In particular, Scotland, as part of the UK, is party to the United Nations Convention on Access to Information, public participation in decision making and access to justice in environmental matters (the Aarhus Convention) and has specific obligations under it. Scotland has been found to be in breach of the Aarhus Convention in consecutive findings since 2014 by the United Nations Economic Commission for Europe Aarhus Convention Compliance Committee.

4.14 ESS believes that compliance with the Aarhus Convention is essential. In our response to the Scottish Government’s 2023 consultation, we said that a court or tribunal, whether new or a development of existing structures, would help support better compliance with the Aarhus Convention and access to environmental justice for Scotland, provided it was well constituted and issues such as standing, cost and merit-based review were also addressed.

Overall, nine (9) comments were left in response to paragraphs 4.12-4.14: On the gaps in the environmental governance landscape not filled by the establishment of ESS. Some of these comments reiterate previous responses.

Again, respondents acknowledged that ESS cannot fill gaps in environmental governance, partly due to its limited size and overlaps with other bodies. Several comments emphasised that ESS should clearly identify and signal gaps and work with relevant organisations to ensure they are addressed, without overstepping its statutory remit or overburdening the public sector. However, one comment called for ESS to be sufficiently resourced to ensure it can act promptly when appropriate.

“Gaps in governance should be clearly identified, and solutions explored in partnership with delivery bodies and land managers.”

“Provide brief examples or themes where ESS has observed gaps, without overstepping ESS’ remit...Suggest adding: While ESS cannot fill every gap in environmental governance, we will actively identify and signal such gaps to government and work with relevant bodies to ensure they are addressed. Where gaps persist, especially in enforcement and access to justice, it’s worth linking this to environmental rights and principles, and Scotland’s broader human rights and just transition agenda.”

“Agree, however, this should be done in such a way as to not overburden an already stretched public sector and should seek to utilise as much existing reporting and evidence as possible.”

“We would highlight our previous response to the Scottish Government’s consultation ‘Review into the Effectiveness of Environmental Governance’. We noted that given the important role that ESS plays in the current framework of environmental governance, we consider it necessary that ESS is suitably resourced, able to thoroughly consider representations made to it, and willing to act promptly to take effective enforcement action where necessary.”

One respondent raised concerns about ESS’ independence, noting its political influence or government alignment could compromise impartiality. However, this was a continuous theme for this respondent throughout the consultation. That being said, another comment did highlight that ESS should operate independently of government to ensure its long-term effectiveness and credibility, particularly in relation to enforcement and oversight.

“The ESS is influenced by politicians so is not impartial and therefore irrelevant.”

“Scottish Government is far too pro-industry. ESS should strive to be independent of them, as the ESS work has a far longer impact than any government.”

3.8 Final Comments

Question:

Question 14 asked respondents to provide any final comments on ESS’ draft strategy. They were asked the following question:

- Do you have any final comments on our draft strategy?
 - Open field for comments

Responses:

A total of 21 final comments were left, many of which reiterated comments made throughout the consultation. Though many respondents were positive about the draft Strategy and used the comments to demonstrate this, there were numerous suggestions for improvements and additions to ensure clarity and transparency. Some respondents used this section to highlight more general requests of ESS.

Many respondents welcomed the draft strategy. It was noted that it was clear, well-structured, and grounded in important priorities such as biodiversity, climate change, marine protection, and accountability. **However, a number of respondents proposed additions or refinements to the strategy.** These include: a clearer opening statement; stronger recognition of environmental justice and fairness; explicit commitments to ESS’ own sustainability as a public body; how ESS’ work will avoid overlap with other statutory bodies; clear criteria for identifying systemic failures; and exercising enforcement powers under the Continuity Act. One commenter requested highlighting the economic impact of nature degradation to the chair’s forward.

“The draft strategy is clear and well-structured. I support the focus on biodiversity, climate change, marine protection, and accountability. However, I’d like to see more emphasis on practical outcomes and stronger inclusion of citizen science and local knowledge,

especially from isolated or less-represented communities. These perspectives are valuable and often overlooked in environmental governance.”

“Avoiding overlap and duplication: It would be a helpful addition to the strategy if ESS could set out that its functions will be exercised in a manner that avoids any overlap with the appeals provisions of other statutory regimes. Detail on exercising enforcement powers: We would welcome the addition of reference to the provisions of Schedule 2 of the Continuity Act, paragraph 1(2)(b)(ii)”

“1. The strategy would benefit from a clearer opening statement or narrative that reaffirms: Why ESS exists, what gap it fills post-Brexit, and how it will tangibly improve environmental outcomes for people and nature in Scotland...2. Environmental justice is not yet strongly featured in the strategy. ESS could do more to show it will: Champion fairness in environmental outcomes, ensure no group is left behind in decisions or protections, support community voices, especially from those least able to navigate environmental systems. This is especially important in Scotland, which is committed to a Just Transition and the right to a healthy environment. 3. The strategy could include a brief section on how ESS will operate as a sustainable public body e.g. by: Minimising its own environmental footprint, embedding sustainability into procurement, governance, and culture, aligning with net zero and circular economy principles. This reinforces credibility”

“We suggest that recognition of the economic impact of nature degradation is added to the fifth paragraph of the chair’s foreword to reflect the importance of early action to tackle both the climate and nature crises.”

Respondents also emphasised the importance of accurate, up-to-date data in ESS’ reporting within the strategy. One respondent noted that recycling and water statistics cited in the draft were outdated or inconsistent across the UK nations, and that marine protection figures risked misrepresenting the true level of protection. The same respondent also made requests for clearer definitions of climate-related terms to aid public understanding, and for greater feedback to public authorities and stakeholders to show how their reporting and engagement contributes to environmental outcomes. A further comment advised to be cautious of the statistic quoting the protection of Scotland’s seas citing concerns over misrepresentation.

“We would advise ESS to be careful in its use of the statistic that 37% of Scotland seas were protected as of 2024 (as quoted in your Figure 1). This is a nuanced misrepresentation frequently quoted by the Scottish Government to detract attention from their failure to deliver their legal obligations under the Marine (Scotland) Act 2010. In fact, 37% of Scotland’s seas have been designated but still remain largely unprotected with no management measures in place at all.”

“With regards to Waste statistics (page 8), we note that the recycling rate being used is in relation to 2022 however the 2023 recycling rate was published in October 2024 therefore it would surely be more relevant to use the most recent recycling rate published?...the 2022 rate would be very out of date by the time this document is published. We note the comment that Scotland is lowest of all 4 nations and whilst this may be true for 2022, there does need to be additional context to advise that the recording of data across all 4 nations is not consistent or uniform therefore not a true like for like comparison...incorporating more current data, where available, would enhance the relevance and effectiveness of this Strategy.”

“It would be beneficial for ESS to offer clear definitions of the various terms associated with climate action. Providing this clarity through their communications would help make these concepts more accessible to the general public in their ongoing work.”

Several respondents made calls for improved transparency, for example, by sharing the evidence base behind strategic priorities, providing more detail on annual activity and impact, and adopting more regular and open forms of public engagement. Further detail was also requested to clarify how ESS plans to address gaps in environmental protection and to make publicly available examples of where individual regulatory decisions have indicated problems with compliance to highlight where representations have indicated wider compliance failures.

“It would be useful to see more detail on the evidence that supported some of the assertions made and positions taken, for example if any evidence was used to decide the priorities or if these are subjective decisions.”

Other comments used this section to raise concerns about ESS' expertise and capacity, rather than commenting directly about the Strategy. One respondent argued that the current balance of legal and technical personnel is inadequate and risks limiting effectiveness. Other respondents stressed the importance of ensuring ESS has sufficient resources to exercise its enforcement powers robustly to secure compliance. Further responses also highlight the potential for collaborating with public authorities, and one comment reiterates that ESS should ensure it acts within its remit to avoid duplication. Linked to this, one respondent acknowledges that ESS' role will likely overlap with the potential role of the Future Generations Commissioner (FGC) and proposes that ESS and the FGC collaborate to ensure their work compliments each other but also to avoid duplication.

"From our experience, we acknowledge the practical difficulties that the ESS staff encounter in endeavouring to investigate compliance with environmental legislation. The collaborative approach in persuading public authorities to co-operate, engage, and change when necessary, may help to achieve some objectives. The difficulty from our perspective is that without robust consequences lasting improvement and compliance is unlikely."

"It is essential that Environmental Standards Scotland remains cognisant of its defined remit to avoid any potential overreach or duplication of regulation, which could lead to unintended consequences and create uncertainty. Recognising the challenge in balancing efforts and resource while ensuring strategic priorities are met, [we] would encourage a continued focus on strategic resource management, recognising the need to deliver across multiple priorities without diluting impact or effectiveness."

A range of sector-specific perspectives were also reflected. Land managers and rural groups/communities urged proportionate regulation and recognition of their positive contributions. A stakeholders with a link to island communities again reiterated the need to use data-driven, island-proofed approach to approach the unique challenges faced by Scotland's various communities.

"The strategy should embed a whole-landscape approach, integrating climate change mitigation, biodiversity enhancement, sustainable food/timber production, and rural

economic viability. Partnership working with land manager, proportionate regulation, and recognition of positive delivery on the ground are essential for success.”

“ESS’ strategy must move beyond generic commitments to actively address the unique and disproportionate challenges facing Scotland’s islands. This requires data-driven, “island-proofed” approaches, integration of community-led monitoring, and a commitment to equity and shared stewardship.”

3.9 Satisfaction with Consultation

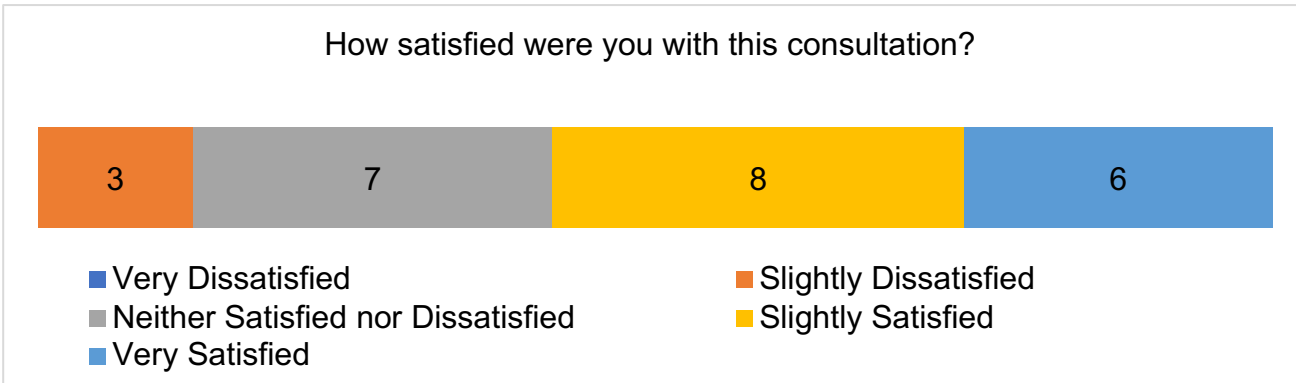
Question:

Question 15 asked respondents to provide feedback on their level of satisfaction with the consultation. The question asked to respondents was:

- How satisfied were you with this consultation?
 - Very Dissatisfied, Dissatisfied, Neither Satisfied nor Dissatisfied, Slightly Satisfied, Very Satisfied
- Open field for comments

Responses

Figure 18: Satisfaction with consultation



Base: 24 (11 not answered)

Most respondents felt positively about the consultation. Respondents rated their level of satisfaction on a scale of ‘Very Dissatisfied’ to ‘Very Satisfied’ and the majority were either

very satisfied (6) or slightly satisfied (8). Only 3 respondents felt slightly dissatisfied, while 7 were neutral. Only 4 comments were provided, to explain the responses.

For those who were slightly dissatisfied, their comments reflected those found throughout the responses, highlighting a need for further detail within the strategy. It was suggested that links be provided to reference where information was gathered, as well as fuller summaries of some of the findings to avoid respondents having to refer to the embedded links.

“Earlier comments are applicable. I felt there was a lack of detail and or links to where you drew your information etc from. Also, it lacked any teeth with woolly headlines like Vision etc.”

“A more fuller summary of some of the findings would have made it easier to fill in some questions without needing to refer to embedded links.”

For the one respondent who provided a comment and was very satisfied with the consultation, they felt it to be *“Easy and straightforward to engage with, useful summary materials provided.”*

3.10 Satisfaction with Citizen Space

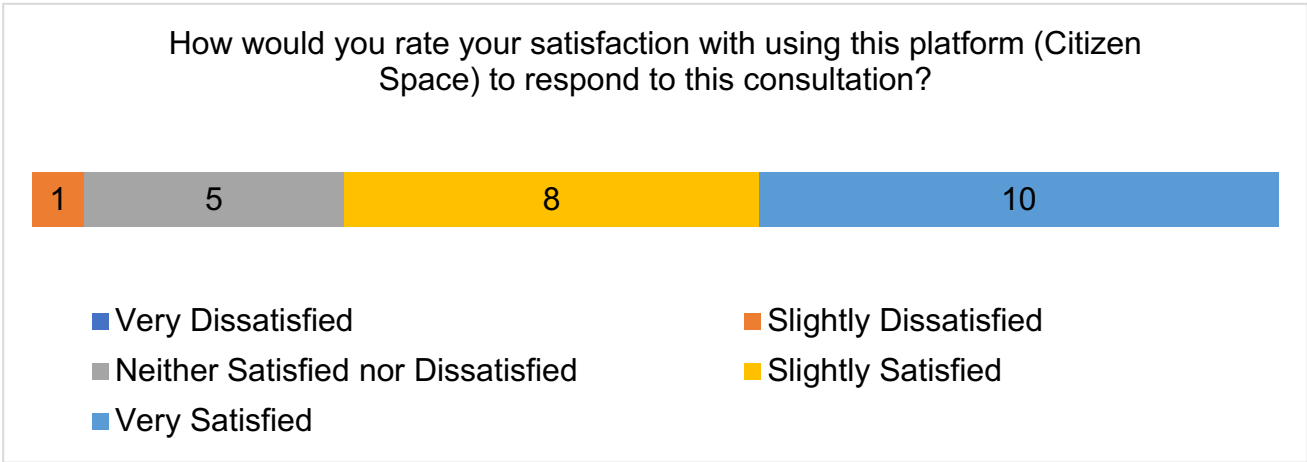
Question:

Question 16 asked respondents to rate their level of satisfaction with Citizen Space.

- How satisfied were you with using this platform (Citizen Space) to respond to this consultation?
 - Very Dissatisfied, Dissatisfied, Neither Satisfied nor Dissatisfied, Slightly Satisfied, Very Satisfied
- Open field for comments

Responses:

Figure 19: Level of satisfaction with platform (Citizen Space)



Base: 24 (11 not answered)

Respondents were broadly positive about using Citizen Space as a platform to respond to ESS’ draft strategy. Overall, 24 people rated their satisfaction on a scale of ‘Very Dissatisfied’ to ‘Very Satisfied’. The majority were either slightly satisfied (8) or very satisfied (10). Only one person was slightly dissatisfied, and no respondents were very dissatisfied.

Of the 24 respondents who answered this question, only 4 left a comment to explain their answer. The key themes within the limited comments related to practical frustrations with the platform. This includes:

- The absence of direct links back to the consultation paper, making the process more time-consuming and inefficient.
- Difficulties switching between consultation tab and the strategy paper.
- Uncertainty about whether responses could be saved before submission.

“It is fine, I seem to recall previous consultations sometimes gave you link back to the actual text in the paper, this one lacked it and so was far more time-consuming saving page and going back - inefficient and ineffective process!!!”

“Issues with leaving and returning to this tab to look at consultation”

“Hoping that I can save a copy before hitting Submit!”

One comment highlighted the ease of using Citizen Space.

“Easy to use, no issues”

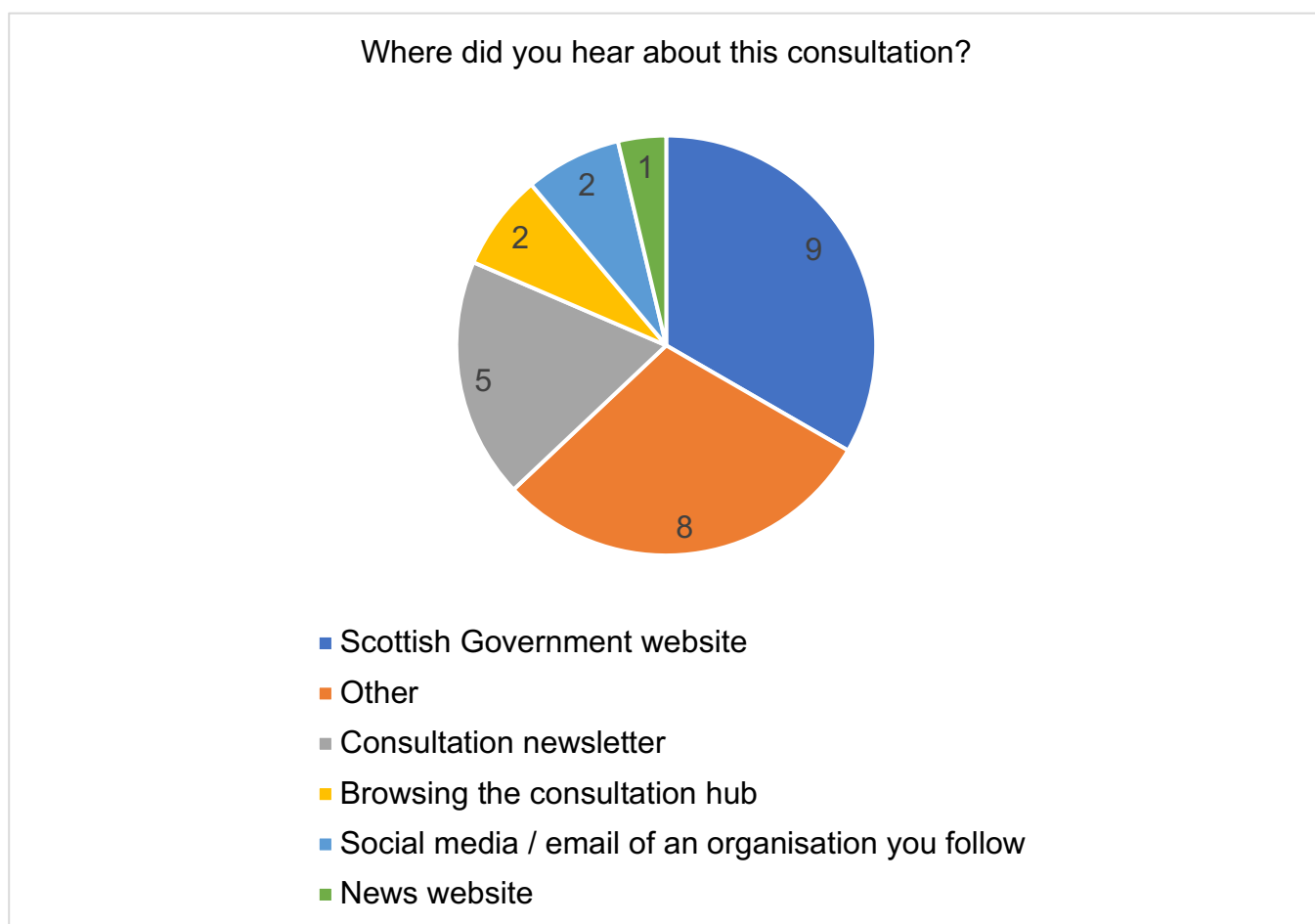
3.11 Method of Hearing about the Consultation

Respondents were asked to specify how they had found the consultation. They were able to select more than one answer from a menu provided. As shown in Figure 20 below, it was most common for respondents to hear about the consultation on the Scottish Government website (9), followed by the consultation newsletter (5). It was less common to hear about the consultation through browsing on the consultation hub, social media or email of an organisation they follow, or a news website.

Eight (8) respondents indicated finding out about the consultation in another way. They specified finding out via:

- Direct email from ESS (3)
- Coastal Communities Network
- Email from friend
- Direct interaction with ESS
- Scottish Greens forums
- Sustainable Scotland Network

Figure 20: Where respondents heard about the consultation



Base: 24

3.12 Further Information about Response

There was a total of 35 responses to the consultation. Respondents were given the opportunity to provide further information about their response, through the following question.

- Further information about your organisation's response - OPEN

Responses:

Respondents that left details had informed their responses in one of these two ways:

- **They had gathered information and evidence from elsewhere to help inform the response.** E.g. similar documents from other organisations, internal consultations, evidence from multiple sources.

“Our response was compiled and summarised from a wide internal consultation within the [Institute] that had representation from all organisational levels.”

“[We have] undertaken significant research to inform this consultation response, drawing upon evidence from multiple sources.’

“Our response was compiled and summarised from a wide internal consultation within the [Institute] that had representation from all organisational levels.”

“[We are] the forum for Scotland’s voluntary environment community, with 50 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

This response was prepared by [our] Governance Group and is supported by:

- Keep Scotland Beautiful*
- Scottish Wildlife Trust*
- Chartered Institute of Ecology and Environmental Management (CIEEM)*”

- **Their response was informed by ongoing investigations between the organisation and ESS into environmental concerns.**

“We have an ongoing environmental concerns being investigated by ESS since November 2024 which have formulated our opinions on both the service and strategy. We have also experienced significant environmental legislation breaches and areas where further amendment is necessary to protect the environment from damage.”

APPENDIX – CONSULTATION QUESTIONNAIRE

Environmental Standards Scotland

Draft Strategy Consultation Questionnaire DRAFT

21st May 2025

Introduction

Environmental Standards Scotland (ESS) has published a draft of its revised strategy for 2025-2030. The draft strategy sets out its proposed approach to delivering its statutory functions over the next five years. The draft strategy is available for anyone to read and can be accessed here [LINK]. The webpage where the draft strategy is hosted also has information about the consultation, with further detail about the strategy, consultation, and ESS' response to Scottish Government recommendations following the environmental governance review.

To support ESS to develop a finalised strategy, which would then go to the Scottish Parliament for input and approval, this consultation has been designed to collect the views and opinions of individuals and organisations that engage with ESS or have an interest in its work, as well as members of the public who may have read the strategy. Independent research consortium JRS have been commissioned to conduct the consultation on behalf of ESS.

The consultation will be available to complete until August 29th 2025. The questionnaire takes around 15 minutes to complete. Please ensure you have the information on the consultation webpage and the revised strategy before completing this survey (LINK HERE). Where possible, relevant extracts from the draft strategy have been included alongside questions; where this is not possible, the sections of the strategy relevant to the question are highlighted for reference.

JRS work in accordance with the General Data Protection Regulation and the Market Research Society (MRS) Code of Conduct. All responses will remain confidential and anonymous, and no personally identifiable information will be collected as part of this survey. If you have any questions about the survey please contact the JRS project lead - Megan Gordon (megan@socialmarketinggateway.co.uk).

Consent

Are you happy to continue with the survey?

- Yes
- No

Questions

Vision

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.

- On a scale of 'strongly disagree' to 'strongly agree', how much do you agree or disagree that this vision, as presented in ESS' draft strategy, is the right vision for the organisation to be working towards?
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree
- Do you have any comments on ESS' vision, as laid out in the draft strategy?
 - OPEN FIELD FOR COMMENTS)
 - No comments

Principles

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

- On a scale of 'strongly disagree' to 'strongly agree', how much do you agree or disagree that these principles, as presented in ESS' draft strategy, are the right principles for the organisation to be working with?
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree
- Do you have any comments on ESS' principles, as laid out in the draft strategy?
 - (OPEN FIELD FOR COMMENTS)
 - No comments

Priorities

Our Priorities - While 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

- On a scale of 'strongly disagree' to 'strongly agree', how much do you agree or disagree with ESS's approach to prioritisation, as set out in sections 3.1-3.5 of the draft strategy?
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree
- Do you have any comments about ESS' approach to prioritisation, as laid out in the draft strategy
 - (OPEN FIELD FOR COMMENTS)
 - No comments

Strategic Objectives

Section 4 of ESS' draft strategy presents five strategic objectives and describes the approach ESS proposes to take to deliver these objectives:

Our Strategic Objectives:

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

For each objective, please indicate how much you agree or disagree with the approach to meeting the objective. If you have concerns about each objective or ESS' approach to delivering any of the objectives, please outline these in the open comment field of the relevant question. If you have no concerns about the approach to delivering the objective, please select 'no concerns'.

Objective 1. Securing compliance and improving effectiveness (Paragraphs 4.1-4.3)

- On a scale of 'strongly disagree' to 'strongly agree', how much do you agree or disagree with ESS' approach to delivering this objective?
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree
- Do you have any concerns about this objective, or ESS' approach to delivering this objective?
 - Yes (OPEN FIELD FOR COMMENTS)
 - No concerns

Objective 2. Analysing and investigating environmental concerns (Paragraphs 4.4-4.7)

- On a scale of 'strongly disagree' to 'strongly agree', how much do you agree or disagree with ESS' approach to delivering this objective?
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree
- Do you have any concerns about this objective, or ESS' approach to delivering this objective?
 - Yes (OPEN FIELD FOR COMMENTS)

- No concerns

Objective 3. Monitoring and scrutinising environmental performance (Paragraphs 4.8-4.13)

- On a scale of 'strongly disagree' to 'strongly agree', how much do you agree or disagree with ESS' approach to delivering this objective?
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree
- Do you have any concerns about this objective, or ESS' approach to delivering this objective?
 - Yes (OPEN FIELD FOR COMMENTS)
 - No concerns

Objective 4. Engaging and communicating effectively (Paragraphs 4.14-4.17)

- On a scale of 'strongly disagree' to 'strongly agree', how much do you agree or disagree with ESS' approach to delivering this objective?
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree
- Do you have any concerns about this objective, or ESS' approach to delivering this objective?
 - Yes (OPEN FIELD FOR COMMENTS)
 - No concerns

Objective 5. Being an efficient and effective organisation (Paragraphs 4.18-4.26)

- On a scale of 'strongly disagree' to 'strongly agree', how much do you agree or disagree with ESS' approach to delivering this objective?
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree
- Do you have any concerns about this objective, or ESS' approach to delivering this objective?
 - Yes (OPEN FIELD FOR COMMENTS)
 - No concerns

Proposed approach to measuring performance

- Do you have any comments about ESS' proposed approach to evaluating its impact and measuring its performance, as outlined in Section 5 of the draft strategy?
 - (OPEN FIELD FOR COMMENTS)
 - No comment

Interim conclusions on the various impact assessments of the strategy

ESS recognises the importance of considering the potential impact of its work and upholding the rights and wellbeing of everyone in Scotland. In preparing the draft strategy, ESS has undertaken screening (or equivalent) for a number of assessments to consider the potential impact of the strategy in a number of areas, and any mitigation actions that may be required. The table below shows a summary of the preliminary conclusions drawn in relation to each impact assessment. More detail on ESS' conclusions can be read here (LINK). Please read this information before completing the following questions.

Table 1: Summary of impact assessment interim conclusions

Impact assessment	Preliminary conclusion
Equality	Potential for impact – further evidence needed
Business & Regulatory	Not required
Strategic Environment	Not required
Child Rights and Wellbeing	Not required
Island Communities	Unlikely to be required – but further evidence being sought
Consumer Duty	Positive impact identified – assessment to be finalised following consultation
Data Protection	Data will be processed and protected as required.

The questions below ask about your opinions on ESS' interim conclusions for each impact assessment. The relevant paragraphs from the webpage regarding the conclusions for each impact assessment are highlighted.

Equality impact assessment

- On a scale of 'strongly disagree' to 'strongly agree', how much do you agree or disagree with ESS' conclusion on the equality impact assessment? (Paragraphs 1.6-1.12)
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree

Business and regulatory impact assessment

- On a scale of 'strongly disagree' to 'strongly agree', how much do you agree or disagree with ESS' conclusion on the business and regulatory impact assessment? (Paragraph 1.13-1.15)
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree

Strategic environmental assessment

- On a scale of 'strongly disagree' to 'strongly agree', how much do you agree or disagree with ESS' conclusion on the strategic environmental assessment? (Paragraphs 1.16-1.21)
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree

Child rights and wellbeing impact assessment

- On a scale of 'strongly disagree' to 'strongly agree', how much do you agree or disagree with ESS' conclusion on the child rights and wellbeing impact assessment? (Paragraphs 1.22-1.26)
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree

Island communities impact assessment

- On a scale of 'strongly disagree' to 'strongly agree', how much do you agree or disagree with ESS' conclusion on the island communities impact assessment? (Paragraphs 1.27-1.30)
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree

Consumer duty impact assessment

- On a scale of 'strongly disagree' to 'strongly agree', how much do you agree or disagree with ESS' conclusion on the consumer duty impact assessment?
(Paragraphs 1.31-1.33)
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree

Data protection impact assessment

- On a scale of 'strongly disagree' to 'strongly agree', how much do you agree or disagree with ESS' conclusion on the data protection impact assessment?
(Paragraphs 1.34-1.36)
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree

Impact assessment comments

- Do you have any comments on ESS' approach to, or interim conclusions for the various impact assessments? Please specify which impact assessment you are commenting on below. - This is a text box for any comment or response you have.
 - OPEN FIELD FOR COMMENTS

Response to Scottish Government recommendation following the environmental governance review

In June 2023, Scottish Ministers published and consulted on a report on the effectiveness of environmental governance in Scotland.

In November 2024 the Scottish Government made a statement to the Scottish Parliament summarising feedback from the consultation and set out the recommendations that Scottish Ministers made in response to the views received. The statement recommended that ESS should: "give further consideration to the conditions where it would be appropriate to investigate the individual circumstances of a local area, group or community, given the restrictions on the exercise of its functions" and that "the Parliament considers this matter in their oversight of ESS' activities and in particular when reviewing a draft revised strategy in due course".

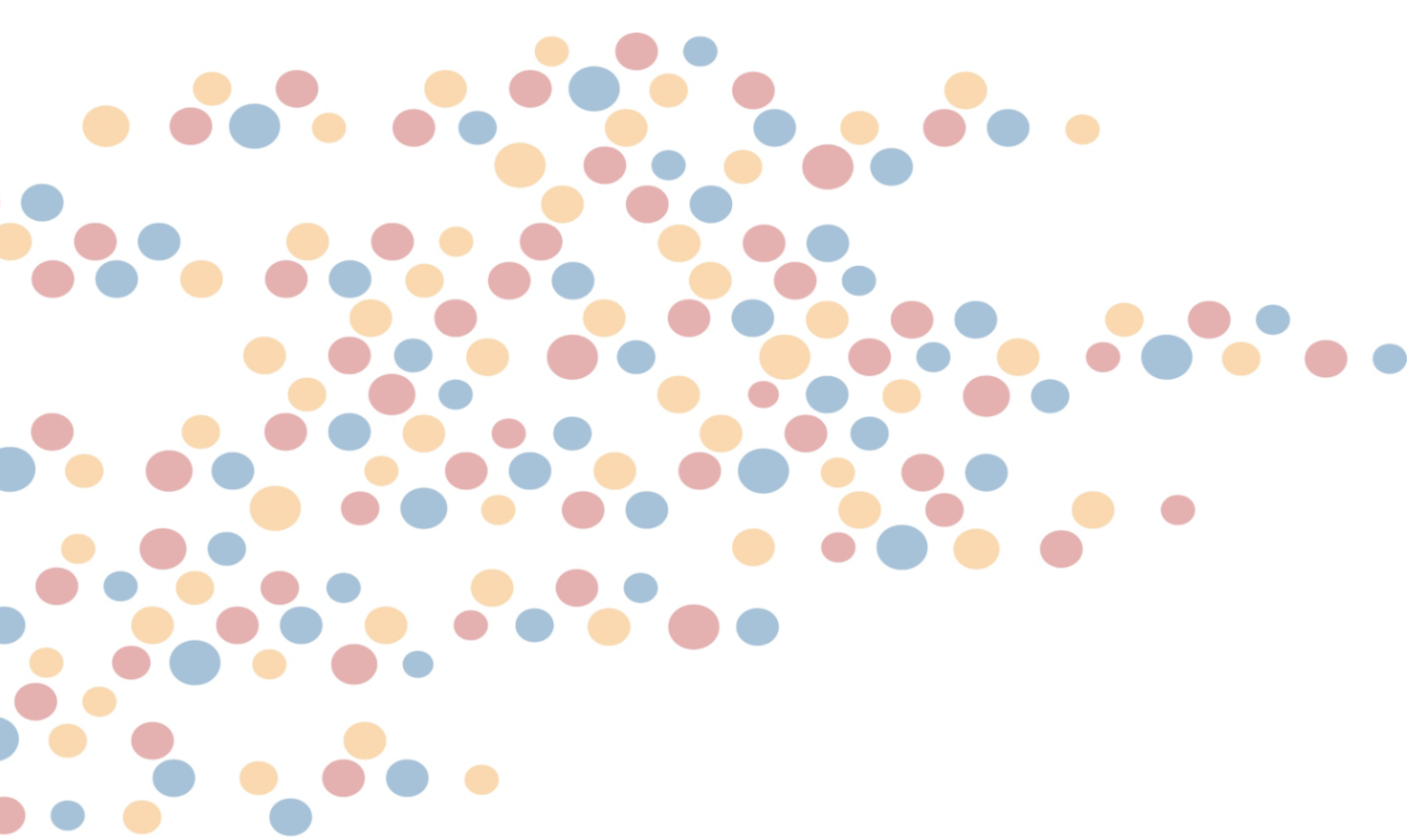
The information on the consultation webpage ([LINK HERE](#)), published alongside the draft strategy, outlines ESS' response to the Scottish Government recommendation shown above.

- On a scale of 'strongly disagree' to 'strongly agree', how much do you agree or disagree with ESS' response to the Scottish Government recommendation?
 - Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree
- Do you have any comments about the following parts of ESS' response to the Scottish Government recommendation in relation to the environmental governance review?
 - Paragraphs 4.5-4.7: setting out the statutory limitations on the exercise of ESS' functions (e.g. ESS' inability to act as an appeals body or take enforcement action against public authorities on individual regulatory decisions):
 - Yes (OPEN FIELD FOR COMMENTS)
 - No comments
 - Paragraphs 4.8-4.11: Setting out how ESS can consider the individual circumstances of a local area, group or community:
 - Yes (OPEN FIELD FOR COMMENTS)
 - No comments
 - Paragraphs 4.12-4.14: On the gaps in the environmental governance landscape not filled by the establishment of ESS:
 - Yes (OPEN FIELD FOR COMMENTS)
 - No comments
- Do you have any other comments on our draft Strategy? - This is a text box for any comment or response you have.
 - OPEN FIELD FOR COMMENTS
- Are you responding as an individual or an organisation? - Are you responding as an individual or an organisation?
 - Organisation
 - Individual
- What is your organisation?
 - OPEN FIELD FOR COMMENTS
- Further information about your organisation's response.
 - OPEN FIELD FOR COMMENTS

- Environmental Standards Scotland would like your permission to publish your consultation response. Please indicate your publishing preference.
 - Publish response with name
 - Publish response only (without name)
 - Do not publish response
- Do you consent to Environmental Standards Scotland contacting you again in relation to this consultation exercise?
 - Yes
 - No
- Where did you hear about this consultation?
 - Scottish Government X (Twitter)
 - Scottish Government Instagram
 - Consultation newsletter
 - Browsing the consultation hub
 - Scottish Government website
 - News website
 - Social media/email of an organisation you follow
 - Social media/email of a friend/family member
 - Internet search
 - Other (please specify)

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published).

- How satisfied were you with this consultation?
 - Very dissatisfied, Slightly dissatisfied, Neither satisfied nor dissatisfied, Slightly satisfied, Very satisfied



Contact details:

research@smgateway.co.uk

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