Environmental Standards Scotland
Ìrean Àrainneachdail na h-Alba

[redacted]
Freedom of Information Officer
foi@environmentalstandards.scot
0808 1964000

[redacted]@Parliament.scot

23 July 2026

Dear [redacted],

Information request – full disclosure – Reference ESS.IR.042

Thank you for your email on the 01 July 2025 requesting information under the Freedom of Information (Scotland) Act 2002 (FOISA). The information which you requested is as follows:

1. How many incidences of whistleblowing has Environmental Standards Scotland recorded in each of the last five financial years (please break down by year, 2021/22, 2022/23, 2023/24, 2024/25, 2025/26)?
2. Does your whistleblowing policy encourage or direct whistleblowers to raise concerns with a "prescribed person" (as defined under the Public Interest Disclosure Act 1998)? If so, please specify which prescribed person(s) are referenced.
3. Does your whistleblowing policy or process guarantee anonymity to individuals who raise a concern? If so, please provide a copy of the relevant section of the policy addressing this.
4. Does your whistleblowing policy include a non-recrimination or non-retaliation provision, protecting whistleblowers from detriment or reprisal as a result of raising a concern? If so, please provide a copy of the relevant section of the policy addressing this.

5. Has your internal whistleblowing policy been subject to any external review, audit, or assessment (by an external body, auditor, regulator, or independent consultant) within the last five years? If so, please provide:
a. the name of the body/organisation that conducted the review;
b. the date of the review; and
c. a copy of any resulting report or summary of findings, subject to any applicable exemptions.

Our response

Background:

ESS has two roles with respect to whistleblowing. Firstly, ESS has an internal whistleblowing policy (titled, ‘Policy – Internal Whistleblowing Policy – 20230117’). This policy sets out how those who work within (or with) ESS can raise their concerns and how these will be investigated. I enclose a copy of ESS internal whistleblowing policy for reference.

Secondly, ESS is named as a prescribed person under the Public Interest Disclosure Act 1998 and began accepting external whistleblowing complaints from the 15 December 2022. ESS’ External Whistleblowing Policy is published on our website: Whistleblowing Policy - Environmental Standards Scotland. This policy sets out how ESS deals with reports from employees of Scottish public authorities (and others) who have concerns about how their organisation handles its environmental responsibilities.

Question 1:

Incidences of internal and external whistleblowing recorded by ESS over the past five financial years is provided in Table 1.

Table 1 – Incidences of whistleblowing

Financial Year	Incidences of **internal** whistleblowing recorded	Incidences of **external** whistleblowing recorded
2021/2022	0	Not Applicable - ESS did not begin accepting external whistleblowing complaints until 15 Dec 2022.
2022/2023	0	2
2023/2024	0	1
2024/2025	0	1
2025/2026	0	As of the date of your request ESS has not received any whistleblowing complaints this financial year.

ESS publishes incidences of external whistleblowing concerns in our annual whistleblowing report. Copies of this report for the past financial years are available at the following links:

Annual Whistleblowing Report 2022/23 - Environmental Standards Scotland
Annual Whistleblowing Report 2023/24 - Environmental Standards Scotland
Annual Whistleblowing Report 2024/25 - Environmental Standards Scotland

Question 2:

External Whistleblowing

Yes – for the purposes of ESS' external whistleblowing policy, ESS is the prescribed person as defined under the 1998 Act.

No other prescribed persons (other than ESS itself) are directly referenced in our external whistleblowing policy.

Environmental Standards Scotland
enquiries@environmentalstandards.scot
Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD
0808 1964000

Internal Whistleblowing

ESS' Internal Whistleblowing Policy does not encourage or direct whistleblowers to raise concerns with a "prescribed person". Rather, Section 5 of our internal whistleblowing policy sets out the actions to be taken by an individual if they have concerns about wrongdoing and who these concerns should be reported to, dependent on the severity of wrongdoing or actions taken.

Question 3:

External Whistleblowing

Section 10 of ESS' External Whistleblowing Policy sets out that any information provided to ESS in respect of a whistleblowing complaint and an individual's identity will be treated as confidential. Without consent, ESS will never explicitly reveal an individual's identity to their employer. Additionally, it can be requested that the report is recorded anonymously.

Internal Whistleblowing

Section 6 of ESS' Internal Whistleblowing Policy sets out that all concerns will be treated in confidence as far as possible, and every effort will be made not to reveal an individual's identity. The policy does however acknowledge that an individual may need to come forward as a witness.

Question 4:

External Whistleblowing

Section 3 of ESS' External Whistleblowing Policy sets out that as per the Public Interest Disclosure Act 1998, individuals are offered protection against any negative treatment they may suffer as a result of making a disclosure which is in accordance with and meets the relevant criteria of whistleblowing legislation.

Section 5 of ESS' External Whistleblowing Policy establishes that the protections offered by whistleblowing legislation apply to workers, or former workers, as well as other individuals such as agency workers and contractors.

Internal Whistleblowing

Section 4 of ESS' Internal Whistleblowing Policy sets out the circumstances and criteria when individuals are afforded protection under the Public Interest Disclosure Act 1998. Additionally, Section 2 sets out that employees have the protections set out in the Civil Service Code.

Question 5:

As part of ESS' annual assurance audit, all of our internal policies (including ESS' Internal Whistleblowing Policy) are subject to review, although we cannot confirm if the content has been reviewed. Deloitte LLP has been appointed by Audit Scotland to carry out this audit annually since 2023 and our Annual Report and Accounts for each of those years can be found on our website. Our policy has also been included in internal audits carried out by the Scottish Government internal audit assurance team who provide a service to ESS to ensure that our policies and procedures are fit for purpose. No reports are provided by either body that specifically discuss the internal whistleblowing policy as results are more general.

If you are unhappy with this response to your request under FOISA, you may ask us to carry out an internal review of the response by writing to:

Mark Roberts
Chief Executive Officer
Environmental Standards Scotland
Thistle House
91 Haymarket Terrace
Edinburgh
EH12 5HD
Email foi@environmentalstandards.scot

Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the due date when you received this letter. We will complete the review and tell you the result within 20 working days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your appeal rights is available on the Commissioner's website at: https://www.foi.scot/appeal

Yours sincerely,
[redacted]

[redacted]
Freedom of Information Officer
Environmental Standards Scotland

ENVIRONMENTAL
Standards Scotland
Ìrean Àrainneachdail na h-Alba

Whistleblowing Policy

Contents

Version control

Version number	Author	Purpose / changes	Date
0.1	[redacted]	Draft Version	05/10/2021
1.0	[redacted]	First Version	17/01/2023
2.0	[redacted]	Review	08/01/2026

1. Introduction and Scope

1.1 Environmental Standards Scotland (ESS) is committed to achieving the highest possible standards of service and ethical practice in its activities. For civil servants, these standards are reinforced by the Civil Service Code.

1.2 The purpose of this policy is to ensure ESS has procedures in place to enable all those who work with or within ESS to raise their concerns about wrongdoing at an early stage and in the right way, and how those concerns will be investigated. This includes permanent, temporary and agency staff, contractors, and third parties.

1.3 Further advice on whistleblowing is available in the:

- Whistleblowing for employees guide published by gov.uk.
- Whistleblowing: list of prescribed people and bodies to whom wrongdoing can be reported.
- Environmental Standards Scotland's Counter Fraud Policy.

2. Policy Overview

2.1 The Public Interest Disclosure Act 1998 enables staff who 'blow the whistle' about any of the instances of wrongdoing set out in the Act to complain to an employment tribunal if they suffer any form of detriment for doing so, or in the case of a dismissal.

2.2 Alongside the provisions of the Public Interest Disclosure Act 1998, employees have the protections set out in the Civil Service Code.

3. What is Whistleblowing?

3.1 Whistleblowing is when an employee suspects wrongdoing at work. To qualify for protection under the Public Interest Disclosure Act 1998, two criteria must be satisfied:

- the **type of information** being disclosed must fall within the specified criteria below (paragraph 3.2)

- the **manner in which the disclosure is made**, and whom it is made to, must fall within the specified criteria below (paragraph 4.1).

3.2 The legislation does **not** introduce a general protection for whistle-blowers in all circumstances. A disclosure will qualify for protection if you reasonably believe that it tends to show that one or more of the following specified criteria has occurred, is occurring or is likely to occur:

- A criminal offence.
- A failure to comply with a legal obligation.
- A miscarriage of justice.
- The endangering of an individual's health and safety.
- Damage to the environment.
- Deliberate concealment of information tending to show any of the above.

3.3 It is important to understand that if by making a disclosure you would commit a criminal offence (for example under the Official Secrets Acts), that disclosure will not be a qualifying disclosure under the Public Interest Disclosure Act.

4. When are Disclosures Protected?

4.1 You qualify for protection under the Act if your disclosure is a qualifying disclosure (under one of the headings listed above in paragraph 7), and is made to one or more of the following:

- In good faith to ESS.
- In good faith, where you reasonably believe that the relevant failure relates solely or mainly to the conduct of a person other than your employer or where the matter is one for which your employer does not have legal responsibility, to that other person.
- To a legal adviser in the course of obtaining legal advice.

- To a person or body prescribed by the Secretary of State (Statutory Instrument 1999 No 1549) ('a prescribed person'), such as the Health and Safety Executive.

4.2 In the case of the final bullet point above you must make the disclosure in good faith and reasonably believe that the information and any allegation in it are substantially true. In addition you must reasonably believe that the matter falls within the description of matters for which the person has been prescribed.

4.3 Qualifying disclosures will also be protected if they are made other than described above, **provided that** the individual makes the disclosure in good faith, reasonably believes that the information and any allegation contained in it are substantially true, and does not act for personal gain. **One or more of the following conditions must also apply**:

- The individual reasonably believed that he or she would be victimised if he or she had made the disclosure to the employer or to a prescribed person.
- There was no prescribed person and the individual reasonably believed that disclosure to the employer would result in the destruction or concealment of evidence.
- The individual had already disclosed substantially the same information to the employer or a prescribed person.

4.4 It must also be reasonable for the individual to make the disclosure. In deciding the reasonableness of the disclosure, an employment Tribunal will consider all the circumstances, including:

- The identity of the person to whom the disclosure was made.
- The seriousness of the concern.
- Whether the failure is continuing or likely to occur.
- Whether the disclosure breached a duty of confidentiality which the employer owed a third party.
- What action has been taken or might reasonably be expected to have been taken if the disclosure was previously made to the employer or a prescribed person.

- Whether the worker complied with any approved internal procedures if the disclosure was previously made to the employer.

4.5 A disclosure about an "exceptionally serious" failure made other than described in paragraph 4.1, will be protected:

- If the individual makes the disclosure in good faith and reasonably believes the information disclosed and any allegation contained in it are substantially true and does not act for personal gain.
- Provided that it is **reasonable** for the individual to make the disclosure, having regard in particular to the identity of the person to whom the disclosure is made.

4.6 It will be for the employment Tribunals to consider whether any particular failure is "exceptionally serious"; this is a matter of fact, not just an individual's personal belief.

5. What should I do if I become aware of wrongdoing?

5.1 If you have a concern about wrongdoing or a breach of the Civil Service Code, in the first instance you should normally report the matter to your immediate **line manager**. If you feel unable to raise the matter with your line manager, you should contact another line manager or a senior member in the management chain.

5.2 If this does not resolve the issue, or if there is a good reason for not raising a concern within the line management chain, you should report the matter to the **Chief Executive** (acting as ESS's Nominated Officer for the purposes of this Policy) who will investigate your concerns and let you know what action should be taken.

5.3 If you believe that the response from ESS's Nominated Officer does not represent a reasonable response to your concerns, you may report the matter to the **Chair** of ESS.

5.4 If you have a particularly serious and urgent concern, which cannot be raised via the management chain or Nominated Officer, you may report the matter to the **Chair** of ESS.

5.5 If you believe that the response from the Chair about any breaches of the Civil Service Code does not represent a reasonable response of your concerns, you may report the matter to the **Civil Service Commission**. Further information on the role of the Commission can be found at: [About The Commission - Civil Service Commission (independent.gov.uk)]

5.6 It is for you to decide what action to take, taking account of the provisions of the Public Interest Disclosure Act 1998 and of the Civil Service Code. It is preferable, and this is at the heart of the Act, to raise the matter internally if appropriate and practical. To safeguard the interests of both ESS and its staff, it is important to air these issues and concerns in this way. If you are in any doubt, you should speak in confidence to the Nominated Officer.

5.7 You should also use these procedures if you wish to make any other disclosure not covered by the Public Interest Disclosure Act 1998.

6. Confidentiality

6.1 All concerns will be treated in confidence as far as possible, and every effort will be made not to reveal your identity if you so wish. However, you may need to come forward as a witness.

6.2 You are encouraged to put your name to your concern whenever possible. Please note that employees must:

- Believe that the disclosure of information is in the public interest.
- Believe it to be substantially true.
- Not act maliciously or make false allegations.
- Not seek any personal gain.

7. Where can I get independent advice?

7.1 If you would like independent advice at any stage, you can speak to your trade union, if applicable, or contact the independent charity Protect (formerly Public Concern at Work) for confidential advice on 020 3117 2520 (* option 1) or by email at whistle@protect-advice.org.uk. Alternatively, visit their website at https://protect-advice.org.uk/

8. Responsibilities

Role	Responsibility
Senior Information Risk Owner	Ensure that staff are aware of the process set out in this Policy for reporting and responding to whistleblowing.
Line Manager	Ensure that the Policy is known and understood by all staff and that action is taken in line with the policy if necessary.
Nominated Officer – Chief Executive	Follow the principles set out in this policy and act as an impartial intermediary between any individual raising a concern and other parties.
Chair of your concerns, you may report the matter to the **Chair** of Environmental Standards Scotland	Follow the principles set out in this policy and act as an impartial intermediary between any individual raising a concern and other parties.