



REPORT TO: ECONOMIC DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE ON 6 FEBRUARY 2024

SUBJECT: INFORMATION REPORT: ENVIRONMENTAL STANDARDS SCOTLAND IMPROVEMENT REPORT

BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND FINANCE)

1. REASON FOR REPORT

- 1.1 To inform the Committee of the Improvement Report by Environmental Standards Scotland into the effectiveness of the systems in place to support local authorities in their duty to contribute to the delivery of climate change targets.
- 1.2 This report is submitted to Committee in terms of Section III (F) (34) of the Council's Scheme of Administration relating to providing, developing and monitoring the Council's Economic Development and Infrastructure Services.

2. BACKGROUND

- 2.1 On 6 December, Environmental Standards Scotland (ESS) published an improvement report to the Scottish Government, in respect of the investigation into the systems in place to support local authorities in the delivery of climate change targets. The Improvement Report is available [here](#).
- 2.2 ESS was established under the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 ("the Continuity Act") to fill the environmental governance gap caused by the UK's departure from the European Union. ESS is an independent body, accountable to the Scottish Parliament. The role of ESS is to ensure there is effective scrutiny of public authorities' compliance with environmental law, alongside the effectiveness of environmental law and the way it is being implemented and applied in Scotland. ESS may investigate matters in response to concerns brought to its attention (known as representations), or on its own initiative.

- 2.3 Public bodies have had a range of climate change duties since 2009 which aim to contribute to the delivery of net zero. ESS launched an investigation into a number of these duties, including the support and scrutiny provided by Scottish Ministers of how local authorities contribute to meeting climate change targets.
- 2.4 At a UK level, local authorities' direct emissions account for between three to five percent of an area's emissions. Of all UK emissions, 82 percent are estimated to be within the scope of influence of local authorities. Without adequate support and scrutiny, it would be difficult to achieve the net zero target.
- 2.5 Scotland has failed to achieve eight out of twelve of its targets, which will become increasingly difficult to meet in the 2020s. The consequences of not achieving climate targets are serious. It is crucial that local authorities demonstrate leadership by meeting their climate change responsibilities and that robust systems are in place to help realise this. In light of what was alleged within the representation and given the scale of emissions which local authorities are directly responsible for, or have levers to influence, ESS took the decision to launch an investigation into the effectiveness of the systems in place to support local authorities in their contribution to the delivery of climate change targets.
- 2.6 The purpose of this investigation was to consider: the duties placed on local authorities and Scottish Ministers in respect of the delivery of climate legislation; the support that is available to this end; and the reporting and monitoring of performance.

3. THE INVESTIGATION AND IMPROVEMENT REPORT

- 3.1 The following key points have been identified from ESS' investigation:
- there is inconsistency across the Public Bodies Climate Change Duties (PBCCD) reports. These are the annual carbon reports submitted by local authorities and public bodies to the Scottish Government. No definitive overview of how their activity has been calculated to achieve best effect.
 - the data maturity of emissions calculations is weak, and reported emissions data is unreliable.
 - there is no legal obligation on local authorities to report on Scope 3 emissions, which is the largest proportion of emissions. Scope 3 emissions are indirect emissions that occur in the upstream and downstream activities of an organisation, for example: emissions from wider supply chains; emissions from the use of local authority services; contracted out services; and investments.
 - clarity on the proportionate extent of Scope 3 emissions is missing.
 - there is no legal obligation for local authorities to produce climate plans.

- although there is evidence to show that Scottish Ministers are co-operating with public bodies, Scottish Government guidance to public bodies is out of date, or non-statutory, and there is no single, comprehensive, up-to-date, accessible source for climate practitioners.
- strategies for co-ordinating government policy with local authority plans is weak, and although support for co-ordination between local authorities is available and well-regarded, the reporting process does not fulfil its aim to encourage knowledge sharing between local authorities.
- there is no evidence that public bodies' climate change delivery is monitored against reported progress, evaluated or scrutinised, despite there being a legal mechanism to do so.

3.2 In view of the above, ESS made the following recommendations to Scottish Ministers:

1. Make climate, adaptation and sustainability plans at local authority level compulsory.
2. Ensure that the planned statutory guidance covers the full breadth of local authorities' climate change responsibilities and includes the changes which will be required as a result of the recommendations contained within this report.
3. Introduce a separate reporting framework for local authorities.
4. Make the reporting of Scope 3 emissions mandatory for local authorities.
5. Identify or introduce an appropriate monitoring body and give the monitoring body the necessary powers, including the powers to: scrutinise compliance; follow-up on climate plans; and recommend improvements in climate activity.

3.3 In line with ESS' Strategic Plan, ESS invited the Scottish Government to work with it to resolve the issues identified. The Scottish Government has agreed to put in place measures which implement recommendations 1, 2, 3 and 5. In respect to recommendation 4, where informal resolution has not been achieved, the improvement report has been laid in the Scottish Parliament under ESS' statutory powers and Scottish Ministers must respond to this recommendation in the form of an improvement plan to the Scottish Parliament.

4. POSSIBLE IMPLICATIONS OF RECOMENDATIONS

4.1 The five recommendations from ESS may have the following implications as the Council progresses Climate Change works:

1. *Make climate, adaptation and sustainability plans at local authority level compulsory.* The Council already has a climate plan and officers are working on baselining adaptation works to enable the production of an adaptation plan. A Biodiversity Strategy is being developed which should

cover a lot of what may go in a sustainability plan. In addition, NPF4 has significant requirements for climate change and biodiversity to be delivered through the planning system which will be incorporated in the updated Local Development Plan. At present the production of climate, adaptation, and sustainability plans are not compulsory and there is flexibility on what each Local Authority produces. If the production of plans is to be compulsory, this may require nationally approved methodologies or templates to help make these plans more uniform and ensure compliance with the legislation.

2. *Ensure that the planned statutory guidance covers the full breadth of local authorities' climate change responsibilities.* Comprehensive statutory guidance on Climate Change legislation for Local Authorities is currently being created at a national level. Officers are contributing to the development of this guidance.
3. *Introduce a separate reporting framework for local authorities.* This means there will likely be different PBCCD forms for LAs and for other public bodies to complete annually.
4. *Make the reporting of Scope 3 emissions mandatory for local authorities.* This recommendation has not been accepted by Government Ministers at the present time. If the reporting of Scope 3 emissions becomes mandatory it would be a substantial piece of work for officers to calculate this on an annual basis. At present there are no agreed methodologies and reporting frameworks for Local Authorities to carry out this work. There are also concerns that carrying out this substantial piece of work to get more accurate data will not in itself ensure that there are enough follow up actions to reduce these levels of carbon emissions. Rather even without mandatory reporting, resources could continue to be focused on scope 3 emissions where there are more opportunities to control and therefore reduce, for example commuting and waste.
5. *Identify or introduce an appropriate monitoring body to scrutinise LA climate plans and give the monitoring body the necessary powers.* This was accepted by ministers and the body is likely to be the ESS.

5. **SUMMARY OF IMPLICATIONS**

(a) **Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

The Council's Corporate Plan 2019-2024 aims for Moray Council to be:

“A resource efficient, carbon neutral council that works with partners to mitigate the worst effects of Climate Change, to create a resilient, fair and more sustainable future for everyone within Moray”.

(b) Policy and Legal

The Climate Change (Scotland) Act 2009 places a duty on public bodies to act in the way best calculated to contribute to the delivery of Scotland's climate change targets; in the way best calculated to help deliver any programme for climate change adaptation laid before the Scottish Parliament; in a way it considers most sustainable.

(c) Financial implications

There are no financial implications.

(d) Risk Implications

There are no risk implications.

(e) Staffing Implications

There are likely to be additional pressures on Climate Change staff to report on our progress on carbon mitigation, adaptation and sustainable action.

(f) Property

There are no property implications.

(g) Equalities/Socio Economic Impact

There are no equalities/socio economic impact implications.

(h) Climate Change and Biodiversity Implications

There are likely to be no climate change or biodiversity implications directly resulting from this report. The upcoming revision to the Council's Routemap to Net Zero Carbon Emissions and future updates to the Climate Change Strategy will take account of the data within this report.

(i) Consultations

Depute Chief Executive (Economy, Environment and Finance), the Head of Economic Growth and Development, the Legal Services Manager, the Equal Opportunities Officer, and L Rowan, Committee Services Officer.

6. CONCLUSION

6.1 The Improvement Report by ESS into the effectiveness of the systems to support local authorities in their duty to contribute to the delivery of climate change targets will have various implications to the Council, as highlighted in the report, as the recommendations are carried out.

Author of Report: Rod Lovie, Principal Climate Change Strategy Officer
Background Papers: As referred to in this report.
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