

Dr Richard Dixon
Chair
Environmental Standards Scotland
Ìrean Àrainneachdail na h-Alba

ENVIRONMENTAL Standards Scotland

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Edward Mountain MSP
Convenor
Net Zero, Energy and Transport Committee
Scottish Parliament
Edinburgh
EH99 1SP

05 February 2026

Dear Mr Mountain,

I am writing to confirm that Environmental Standards Scotland (ESS) has today laid its updated proposed Strategy for the period of 2026-2031 before the Scottish Parliament for approval. This is in line with the requirements of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021.

As you will be aware, ESS submitted a proposed Strategy to the Parliament in October 2025. Following consideration by the Delegated Powers and Law Reform Committee we took the decision to withdraw the Strategy and to update it to address concerns that the Committee had about coverage of certain aspects of ESS' functions, as specified in the Continuity Act. We have carefully considered the provisions of the Continuity Act and are confident that the updated Strategy now addresses all of the these. For ease of reference we have set out in **Annex A** to this letter where within the Strategy the requirements of Schedule 2 are addressed.

Our new Strategy reflects the feedback received through our public consultation on a draft Strategy that we ran between June – August 2025, and a second consultation on an updated draft that we ran between December 2025 – January 2026.

Alongside the proposed Strategy, an accompanying statement has been submitted which sets out:

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- a summary of the views expressed on the drafts through the two public consultations and how these views are reflected in the proposed Strategy
- a summary of the impact assessments conducted alongside the proposed Strategy
- ESS' final response to the recommendation made by Scottish Ministers in November 2024 following their review of environmental governance

Finally, we have also published a summary of responses to our latest consultation, alongside the summary of responses that we commissioned for the first Strategy consultation.

I note that the Continuity Act includes a period for parliamentary approval of our Strategy of up to 40 days and I look forward to the Parliament's consideration of it.

We would be delighted to appear before the Committee to answer questions on the new Strategy.

Yours sincerely,

Dr Richard Dixon
Chair

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Annex A: Coverage of Continuity Act Requirements within the Proposed Strategy

Schedule 2 of the Continuity Act Reference	Relevant Section(s) of Proposed Strategy
<p>1 (1) The strategy prepared and published under section 22(1) must set out how Environmental Standards Scotland intends to—</p> <ul style="list-style-type: none"> (a) monitor— <ul style="list-style-type: none"> (i) public authorities' compliance with environmental law, and (ii) the effectiveness of environmental law and of how it is implemented and applied, 	Chapter 4 – paragraphs 4.17 – 4.29
<p>(b) provide for persons (including members of the public, non-government organisations and other bodies) to make representations to it about any matter concerning—</p> <ul style="list-style-type: none"> (i) whether a public authority is failing (or has failed) to comply with environmental law, (ii) the effectiveness of environmental law or of how it is (or has been) implemented or applied, 	Chapter 4 – paragraphs 4.17 – 4.23
<p>(c) handle those representations, including how it will keep persons informed about its handling of their representations,</p>	Chapter 4 – paragraphs 4.17 – 4.23
<p>(d) exercise its functions in a way that respects and avoids any overlap with—</p> <ul style="list-style-type: none"> (i) other statutory regimes (including statutory provision for appeals) or administrative complaints procedures, (ii) the exercise of functions by the Scottish Public Services Ombudsman, the Commissioner for Ethical Standards in Public Life in Scotland, the Scottish Information Commissioner, Audit Scotland or the Committee on Climate Change, (iii) the exercise of functions by any committee of the Scottish Parliament for the time being appointed by virtue of standing orders, whose responsibilities include considering matters relating to environmental law, 	Chapter 1 – paragraphs 1.7 – 1.8
<p>(e) determine whether to carry out an investigation into any matter concerning—</p>	Chapter 4 – paras 4.17 – 4.18

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<ul style="list-style-type: none"> (i) whether a public authority is failing (or has failed) to comply with environmental law, (ii) the effectiveness of environmental law or of how it is (or has been) implemented or applied, 	
(f) carry out and prioritise any such investigations,	Chapter 4 – paragraphs 4.19 – 4.24
(g) engage with the public authorities it investigates with a view to — <ul style="list-style-type: none"> (i) swiftly resolving (so far as possible without the need to issue a compliance notice or prepare an improvement report) any matter concerning a failure to comply with environmental law, to make effective environmental law or to implement or apply it effectively, and (ii) reaching agreement on any appropriate remedial action to be taken for the purpose of environmental protection, and 	Chapter 4 – paragraphs 4.3 – 4.6
(h) identify and recommend measures to improve the effectiveness of environmental law or of how it is implemented or applied.	Chapter 4 – particularly paragraphs 4.4, 4.8 – 4.10, 4.17 – 4.18, and 4.25 – 4.30
(2) In addition, the strategy must set out— <ul style="list-style-type: none"> (a) the general factors that Environmental Standards Scotland intends to consider before exercising its functions (including its power to require public authorities to provide information), 	Chapters 3 and 4 – particularly paragraphs 3.1 – 3.8, 4.3 – 4.4, 4.20 and 4.25
(b) how Environmental Standards Scotland intends to— <ul style="list-style-type: none"> (i) take account of different kinds of information (for example, evidence, research, independent and expert advice and developments in international environmental protection legislation) for the purpose of exercising its functions, 	Chapter 4 – particularly paragraphs 4.20, 4.24 and 4.25 – 4.29
<ul style="list-style-type: none"> (ii) determine what constitutes a systemic failure for the purpose of section 26(2), 	Chapter 4 – paragraphs 4.8 – 4.10
<ul style="list-style-type: none"> (iii) determine whether a failure to comply with environmental law could be addressed more effectively by issuing a compliance notice (rather than by preparing an improvement report) for the purpose of section 26(3), 	Chapter 4 – paragraphs 4.7 – 4.8

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<p>(iv) determine whether a failure to comply with environmental law is serious for the purposes of section 38(1)(a) and (4)(a),</p> <p>(v) determine whether environmental harm is serious for the purposes of section 38(1)(b) and (4)(b), and</p>	<p>Chapter 4 – paragraphs 4.11 – 4.14</p>
<p>(c) any other information that Environmental Standards Scotland considers is appropriate to include.</p>	<p>Chapters 1, 2, 4 and 5 – particularly paragraphs 4.33 – 4.48</p>

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