

Submission from Environmental Standards Scotland – Wednesday 26 August 2026

What is ESS?

1. The UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 ('the Continuity Act') established ESS. It began operating on 1 October 2021. It is a non-ministerial office, independent of the Scottish Government and is accountable to the Scottish Parliament.

What does ESS do?

2. ESS' job is to scrutinise public authorities' compliance with environmental law and how effectively they are implementing it. It also evaluates the effectiveness of environmental law. Its remit includes biodiversity, climate change, environmental quality (across land, air and water) and waste management.

How does ESS work?

3. ESS can receive representations raising concerns about environmental law from individual members of the public or from organisations. ESS decides whether to investigate these concerns. Since October 2021, ESS has received a total of 102 representations. About a third of these (34) are currently open. ESS also conducts work based on its horizon-scanning, monitoring and intelligence gathering about environmental policy and legislation.
4. ESS can make recommendations for change following its scrutiny and investigative work. ESS has significant enforcement powers including issuing: an information notice, an improvement report, a compliance notice or seeking a judicial review.
5. ESS works closely with its counterparts elsewhere in the UK: the Office for Environmental Protection which works in England and Northern Ireland and the Interim Environmental Protection Assessor for Wales (which will be replaced by the Office for Environmental Governance Wales).
6. Information on ESS' objectives, priorities and the principles that guide how it undertakes its work can be found in its [Strategy 2026 – 2031](#).

Who are ESS?

7. ESS' Board oversees its work and operations. The Board has [seven members](#) and is chaired by Dr Richard Dixon. Scottish Ministers appoint ESS Board members, following the approval of the Scottish Parliament. ESS currently has a staff of 33 led by chief executive Mark Roberts, and, in 2026/27, a budget of £3.7 million. Its staff are based across Scotland and work on a hybrid basis from an office in Edinburgh shared with other public bodies.

What does ESS not do?

8. ESS is not an appeals body for individual regulatory decisions made by other organisations (for example, relating to planning decisions, environmental licences or permits or regulatory enforcement in specific cases).

What work has ESS done?

9. ESS has worked on a range of aspects of environmental law, including air and water quality, climate change, marine issues, biodiversity and soils. A full list of ESS' work is available on its [website](#). Previous work includes:
10. in 2022, ESS [investigated](#) arrangements in place to support local authorities' climate change duties and made recommendations to strengthen oversight and reporting. As a result, ESS is taking on responsibility for scrutinising local authorities' planning, delivery and reporting against those duties (see below)
 - ESS has produced several pieces of work on air quality: a [2022 investigation](#) on nitrogen dioxide, a [2024 report](#) on particulate matter and most recently, an [improvement report on engine idling](#)
 - in 2024, ESS published a report on [storm overflows in Scotland](#), making recommendations to strengthen monitoring, regulatory oversight and operational practices. As a result of this scrutiny work, storm overflow data is now more widely available and accessible through an online interactive map, Scottish Water has committed to expanding its monitoring network and the dry weather spill protocol is currently under review. We believe our scrutiny work has contributed significantly to the pace and breadth of these improvements
 - during 2025, ESS contributed to parliamentary scrutiny of the previous Scottish Government's climate change plan both in terms of what a ["good" plan would look like](#) and on the [draft plan](#). This work drew on previous work following from receipt of a representation
 - in 2026, ESS published a [report on seafloor integrity](#), finding that Scottish Ministers had been both non-compliant and ineffective in fulfilling their duties under the Marine Strategy Regulations 2010 to protect and restore the seafloor. The Scottish Government has [written](#) to ESS to confirm that it will engage constructively with it to agree an appropriate action plan to address ESS' recommendations by the end of 2026
 - in 2026, ESS published a [report on invasive non-native species](#) (INNS) that concluded the current regulations fall short in the face of the growing threat from INNS. As a result, ESS has made recommendations for the Scottish Government to update the existing guidance, expand and strengthen the regulatory tools for INNS management and bring greater transparency and accessibility to data on INNS management. The Scottish Government has [written](#) to ESS to confirm that it will work with it to agree an appropriate action plan to address ESS' recommendations

11. ESS seeks to resolve issues through agreement with public authorities wherever possible. ESS has reached informal resolutions with public bodies on a variety of issues, including: the [protection of Ramsar sites](#), [wrasse fisheries](#), the [prevention of excess incineration capacity](#), the [designation of bathing waters in Scotland](#) and the Scottish Environment Protection Agency (SEPA) [public registers](#).
12. These outcomes have delivered tangible environmental benefits. For example, our work on Ramsar sites has strengthened protections for important wetlands in Scotland, while our investigative work on wrasse fisheries has reduced the areas where wrasse can be fished, helping to better protect sensitive marine habitats and species. Our work on bathing waters has led to an improved application process and better transparency on how bathing waters are designated in Scotland.

What work is ESS currently doing?

13. ESS is working with the Scottish Government and other public bodies to ensure implementation of recommendations from previous pieces of work including some of those listed above.
14. Following investigations into the classification of special protection areas for threatened birds and bycatch and discards from fishing, ESS is now working with public authorities to resolve the issues identified.
15. In June 2026, [ESS launched an investigation into local authorities' delivery of their duties relating to contaminated land](#) and the effectiveness of the regime. Fieldwork for this investigation is now underway.
16. ESS has begun early work on its new priority area of resources which includes waste management, with a public call for evidence expected this autumn. ESS has on-going work on river basin management and a range of work relating to the water environment stemming from representations received.
17. Since its establishment, ESS has assumed two new functions:
 - scrutinising local authorities' delivery and reporting of their climate change duties under the Climate Change (Scotland) Act 2009
 - acting as the Independent Review Body scrutinising progress towards delivery of Scotland's statutory targets (the Natural Environment (Scotland) Act 2026) for nature recovery
18. Work is underway to recruit staff to deliver these functions.
19. ESS will publish its Annual Report and Accounts for 2025/26 in October and is implementing actions from its [People Strategy](#) and its updated [Communications and Engagement Plan](#).

Where to find further information about ESS

20. During session six, ESS provided the Committee's predecessor with written updates on its work every six months. ESS would propose to continue this practice with the Committee.
21. ESS can be contacted directly at: enquiries@environmentalstandards.scot. You can keep in touch with ESS by following us on LinkedIn, X and Bluesky. You can also download the '[ESS on a Page](#)' infographic and watch a [short video](#) on the ESS Strategy 2026 – 2031. We would encourage MSPs to [sign up](#) to receive the ESS email update.