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Dear Stuart,

Environmental Standards Scotland (ESS) investigation IESS.21.012 into Climate Change Delivery – Scottish Government's Response and Improvement Plan: Annual update on progress

In 2023, ESS concluded an investigation into the effectiveness of the systems in place to support Local Authorities in their duty to contribute to the delivery of climate change targets. Four of the five recommendations made by ESS were informally resolved over the course of the investigation. The fifth became the subject of an Improvement Report which was laid by ESS before the Scottish Parliament on 6 December 2023. In response, Scottish Government laid an Improvement Plan before Parliament on 3 September 2024. This was scrutinised by the NZET Committee and recommended for approval on 25 October 2024.

Annexes A and B, attached, provide further background to the investigation and statutory climate change duties reporting regime.

I am writing to you to provide an update on the progress made against ESS's five recommendations over the past year. Annex C sets out all recommendations and outlines the actions taken against each.

I trust that this update provides assurance that we are taking action on the informally agreed recommendations, in addition to the actions formally agreed as part of the Improvement Plan.

GILLIAN MARTIN

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ANNEX A

ENVIRONMENTAL STANDARDS SCOTLAND INVESTIGATION (IESS.21.012)

1. The Environmental Standards Scotland (ESS) investigation (IESS.21.012) looked at the effectiveness of the systems in place to support local authorities (LAs) in their duty to contribute to the delivery of climate change targets. The investigation concluded with five recommendations:

    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 the ESS 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.

2. Four of the recommendations were informally resolved (1, 2, 3 and 5). The remaining one (4) – the mandating of reporting of scope 3 emissions (indirect emissions from the wider value chain) by LAs – could not be informally resolved, and became the subject of an Improvement Report, published by ESS in December 2023.

3. In response, Scottish Government's Improvement Plan was laid before the Scottish Parliament on 3 September 2024. After consideration, including two evidence sessions held on 8 October 2024, the Net Zero, Energy and Transport Committee recommended that the plan be approved.

4. The Improvement Plan proposed a phased and pragmatic approach to the reporting of scope 3 categories of emissions. In the plan, the categories of scope 3 emissions are split into three groups, by relevance and complexity of reporting:

- **Group 1** – relevant, practical and feasible to report on. Includes emissions from waste, business travel, staff commuting and homeworking, and energy-related emissions (those not already included in scopes 1 and 2 – see Annex B).

- **Group 2** – more complex to report on than Group 1, but likely to contribute significant amounts of GHG emissions. Additional work is needed to determine relevant approaches which will enable emissions contributions to be estimated. Includes emissions from capital assets, purchased goods and services, up- and down-stream leased assets, and investments.

- **Group 3** – those categories considered unlikely to apply to LAs and most other public bodies, but where further research was required to confirm this. Emissions include those from the processing, use of, and end-of-life treatment of, sold products; downstream transportation and distribution; and franchises.

ANNEX B

PUBLIC BODIES' STATUTORY CLIMATE CHANGE DUTIES REPORTING AND CARBON ACCOUNTING APPROACH

Background and context

1. Section 44 of the Climate Change (Scotland) Act 2009 ('the 2009 Act') places climate change duties on relevant public bodies. The duties are set out in section 44(1) and require that a public body must, in exercising its functions, act –
   (a) in the way best calculated to contribute to the delivery of emissions reduction targets (i.e. mitigation)
   (b) in the way best calculated to help deliver the National Adaptation Programme
   (c) in a way that it considers most sustainable.

2. Section 44(2) defines a "public body" as a Scottish public authority within the meaning of section 3(1)(a) of the Freedom on Information (Scotland) Act 2002. Such bodies include colleges and universities, NHS Health Boards and integration joint boards, local authorities, regional transport partnerships, central government agencies and NDPBs. The duties also apply to Scottish Ministers.

3. Section 46(1)(a) of the 2009 Act makes provision for Scottish Ministers to require relevant public bodies to prepare reports on their compliance with the climate change duties. Since reporting period 2015-16, the Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Order 2015, as amended, has required over 180 listed public bodies to report annually.

Carbon accounting approach

4. The 2015 Order is based on the principles of the GHG Protocol and requires public bodies to carry out their carbon accounting and reporting in line with the internationally recognised standard for greenhouse gas accounting.

5. The GHG Protocol splits emissions into three scopes:

   - **Scope 1**: direct emissions from sources owned or controlled by the reporting body. For public bodies these typically include emissions from gas boilers and fossil-fuelled fleet vehicles. Scope 1 emissions also include fugitive emissions such as refrigerant gases from cooling systems; and sector-specific emissions such as medical gases.

   - **Scope 2**: indirect emissions associated with the generation of purchased energy. For most public bodies, scope 2 emissions are limited to those associated with mains electricity, but may also include those related to purchased heat, steam or cooling.

   - **Scope 3**: indirect emissions from the wider value chain, not already included under scope 2. Scope 3 emissions are divided into 15 categories and include waste, business travel, staff commuting and homeworking, purchased goods and services, capital assets and investments.

Annual update on progress

Recommendation	Update
1 – Make climate, adaptation and sustainability plans at local authority level compulsory. *(This recommendation was informally resolved.)*	During the investigation, it was agreed that Scottish Government (SG) would develop standard plan template(s) and include these in the new statutory guidance (Recommendation 2). Including the templates in the guidance does not make them compulsory – although bodies are required to have regard to the guidance by law. Consultation on the draft guidance and templates was carried out between February and May 2025, followed by an independent analysis of the consultation responses. The updated Statutory Guidance was published on 6 March 2026. A simple carbon management plan template for smaller and less mature public bodies is included in the guidance at Annex C; and a Climate Change Action Plan template for local authorities is included at Annex D. This covers the three climate change duties from both a corporate and area wider perspective: Annex D: Climate Change Plan template for local authorities - Climate change duties: statutory guidance for public bodies - gov.scot We intend to consult on introducing a duty to make climate change action plans at local authority level compulsory, as part of a wider public consultation on changes to the public bodies climate change duties reporting template and the Reporting Order, early in 2027 (see Recommendation 4, Action 2). Drafting of the consultation paper by officials is underway. The consultation will include specific questions on the proposed new duty for local authorities and related reporting. Making climate change action plans compulsory for local authorities would necessitate an additional duty being created under section 44 of the 2009 Act, by Order. This Order would be subject to the affirmative procedure in the Scottish Parliament. We intend to undertake the work to put this Order in place - subject to consultation feedback and subsequent Ministerial decision making - concurrently with the Reporting Amendment Order, to come into effect before end March 2028. The establishment of the Scottish Climate Intelligence Service, and the use of the data platform ClimateView, has established a consistent approach to area-wide mitigation planning across Scotland's local authorities (see Recommendation 3). The ClimateView dashboards are, in effect, 'live' area-wide emission reduction plans.

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 the ESS report. *(This recommendation was informally resolved.)*	Section 44 of the Climate Change (Scotland) Act 2009 lays climate change duties on relevant public bodies. Section 45(1) requires Scottish Ministers to give guidance to those bodies in relation to the climate change duties, and requires those bodies to have regard to the guidance. Scottish Ministers must, under sections 45(2) and 45(3), consult with relevant bodies before publishing statutory guidance, as is required under section 45(5). A full public consultation on the draft guidance was carried out between February and May 2025, followed by an independent analysis of consultation responses. The consultation analysis report was published in September 2025: Public bodies climate change duties - draft statutory guidance: consultation analysis - final report - gov.scot. Updated Statutory Guidance was published on 6 March 2026: Executive Summary - Climate change duties: statutory guidance for public bodies - gov.scot Under section 45(1) of the 2009 Act, relevant public bodies "must have regard to" the statutory guidance. This places a firm duty on relevant public bodies and requires that the statutory guidance must be given appropriate weight by decision makers, in deciding how they can best meet the climate change duties. While relevant public bodies are not obliged to follow the guidance in every case, they must actively consider the guidance and give it genuine thought and attention when determining, for example, how to exercise their functions in the way best calculated to contribute towards the delivery of Scotland's emissions reduction targets. A failure to do so will result in the relevant public body failing to comply with their statutory duties. This recommendation has now been met in full.
3 – Introduce a separate reporting framework for local authorities. *(This recommendation was informally resolved.)*	This recommendation focuses on the need for an enhanced reporting framework for LAs to accommodate the additional reporting requirements agreed through the investigation process, namely scope 3 reporting (see recommendation 4) and a move towards area-wide emissions reporting. SG intends to achieve this through an expansion to the existing reporting framework, and the introduction of LA-specific elements. SG plans to take forward an Order in 2027 under section 46(1) of the 2009 Act amending the Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Order 2015. This Order, amongst other changes, would set out the new questions/data that LAs are required to report on. The nature of these changes will be dependent upon the outcome of actions being taken forward through the Improvement Plan (see recommendation 4).

	Reporting system: The existing system of climate change duties reporting, which utilises Excel templates, is being replaced by an online digital portal with enhanced analysis capabilities. The contract for this work was awarded in September 2025, and will run to end March 2028 with two optional 1-year extensions to March 2029 and 2030. It is expected that the new portal will launch in April 2027, for the 2026-27 reporting period (submission deadline of November 2027). The specification of the digital portal allows for expansion to include future changes to the mandatory climate change duties reporting regime; and potentially for other related reporting regimes to utilise the portal. **Scottish Climate Intelligence Service (SCIS):** SCIS has been established to support LAs on reducing area-wide emissions. It provides a digital platform (ClimateView) that collates area-wide emissions data to build a baseline of emissions and calculate and visualise the emissions reductions of the actions and projects that local authorities have planned and implemented. Over the course of the past year, SCIS has continued to build local authority capacity to measure, analyse and reduce area-wide emissions. It has continued to support more consistent use of emissions data through the ClimateView platform and engagement with local authorities on aligning area-wide emissions data with Public Bodies Climate Change Duties Reporting, helping to reduce duplication and improve the usefulness of reporting. Further detail on SCIS activity and progress is available in the SCIS Annual Impact Report: SCIS Annual Impact Report 2025/2026 | SCIS
4 – Make the reporting of Scope 3 emissions mandatory for local authorities. *(This recommendation could not be informally resolved and became the subject of an Improvement Notice.)*	This was the sole recommendation that was unable to be informally resolved during the investigation. It became the subject of the Improvement Report laid by ESS before the Scottish Parliament on 6 December 2023. SG had 9 months in which to respond (including 3 to enable appropriate consultation), and an Improvement Plan was laid before Parliament on 3 September 2024. This Plan was considered by the NZET Committee and recommended for approval on 25 October 2024. The Improvement Plan proposed splitting scope 3 emissions into three groups, with reporting on each progressing and in a phased and pragmatic way: • Group 1 emissions – those considered to be practical and feasible to report on currently, including emissions from business travel, waste, staff commuting and homeworking

	• Group 2 emissions – a more complex group of emissions, including those from procurement activity, construction and investments, where further resource and collaboration is required to develop a consistent approach to reporting • Group 3 emissions – a group of emissions that were considered unlikely to be material to LAs or most other public bodies, but where further research was required to confirm this. These emissions include those from the use and end-of-life treatment of sold or 'gifted' products and franchises. Actions outlined in the SG Improvement Plan: 1. voluntary reporting of scope 3 Group 1 emissions by LAs 2. taking forward an amendment to the Reporting Order to mandate reporting on Group 1 emissions 3. research into reporting of Group 2 emissions 4. develop and implement a training programme on emissions reporting for LA officers 5. research into reporting of Group 3 emissions Work on each of the Actions are set out below: <u>Action 1 (reporting of Group 1 emissions)</u>: the updated Statutory Guidance lays out an expected minimum of scope 3 emissions that all public bodies are encouraged, as best practice, to voluntarily include in their reporting (the Group 1 categories identified in the Improvement Plan). Sustainable Scotland Network (SSN) has updated the practical reporting guidance for reporting year 2026-27 to ensure alignment with the Statutory Guidance. All scope 3 emission categories can be recorded in the Excel reporting template as it currently stands. <u>Action 2 (take forward an amendment to the Reporting Order):</u> the outputs from the work on the Group 2 and Group 3 Scope 3 emissions, together with the analysis from the consultation on the draft Statutory Guidance and the new national Climate Change Plan and annual SNAP3 reports are required to inform the development of the consultation paper on the Reporting Amendment Order. We intend to undertake a full public consultation on the proposed amendments early in 2027 - given the substantial changes expected to the Reporting Order, a full public consultation is planned to ensure that all relevant stakeholders have the opportunity to comment. Drafting of the consultation paper is underway. The changes to the Reporting Order are expected to include the introduction of new questions on sustainability, adaptation, building and fleet decarbonisation, and land-based projects; and the refining of existing questions to improve data quality and enhance analysis capabilities. The consultation will seek feedback on these proposed

	changes, plus changes related to reporting of scope 3 emissions: mandating the reporting of Group 1 emissions; and whether reporting on additional scope 3 emissions beyond Group 1 should be mandated. We aim to introduce the Amendment Order by end 2027 to ensure it is in effect by end March 2028. Any changes applying from the date of effect would first be seen in reporting year 2028-29 (reporting deadline November 2029). Action 3 (research into Group 2 emissions): the related action in the Improvement Plan recommended establishing a focus group involving LAs, academics, climate change professionals, procurement professionals and those with experience in reporting. This work is now being taken forward through commissioned research as opposed to via a focus group. The same range of experts will be engaged in the work, ensuring that the necessary outcome is achieved. The contract was awarded to Aether Ltd in June 2026, following a competitive tender process. The project commenced at the beginning of July 2026 and is expected to conclude in April 2027. Stage 1 of the project has, to date, included desk-based research, the issue of a questionnaire on Group 2 emissions reporting to lead reporters, and interviews with key stakeholders. Initial research outputs from Stage 1, due in November 2026, and early outputs from Stage 2, will feed in to the development of the consultation paper on the Reporting Order amendments. Action 4 (training programme): work to take develop and implement the first phase of the training programme (reporting of Group 1 emissions) will take place in 2027-28. SCIS provides training and support to all LAs in relation to area-based emissions reduction planning. Action 5 (research into Group 3 emissions): A research contract was awarded to Aether Ltd in March 2026; the project concluded in September 2026. The research report was published on the Scottish Government website on 19 October 2026: Greenhouse gas emissions reporting: Scope 3 Group 3 - research - gov.scot The research identified a number of activities carried out by public bodies that fall into Group 3. These include: selling products, food and timber; distributing inhalers and medical equipment; delivering online learning; and student travel. Due to variation within the public sector, a given

	activity may be material to one body but not to another. Therefore, the research was unable to make reporting recommendations based solely on the type of activity or the category of emissions. The key recommendations are for public bodies to formally define their organisational boundary, and to undertake 'materiality assessments' – a process used to identify which GHG emissions sources are material, and, therefore, which should be included in the GHG inventory for reporting purposes and prioritised for action. The research will feed in to the development of the consultation paper on the Amendment Order.
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. *(This recommendation was informally resolved.)*	ESS will on this monitoring and scrutiny function for public bodies, using existing powers granted by the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021, from 2026-27. The updated Statutory Guidance, section 2.2.4, outlines the role of ESS in scrutinising compliance with the climate change duties. This recommendation has now been met in full.