

Memorandum of Understanding between the Committee on Climate Change and Environmental Standards Scotland

Dated 26 April 2024

Parties

1. Environmental Standards Scotland (ESS) of Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD and

2. The Climate Change Committee (CCC), 10 South Colonnade, Canary Wharf, London, E14 4PU

1. Background

- 1.1 The Committee on Climate Change (CCC) and Environmental Standards Scotland (ESS) share common interests in respect of addressing climate change. Accordingly, they wish to enter into this Memorandum to work together to maximise their respective contributions to addressing climate change and minimise scope for duplicating activity.
- 1.2 This Memorandum sets out a framework for how the parties intend to work together, for example through information sharing and communication in order to maximise the value of the resources available to both organisations.

2. Roles and Responsibilities

- 2.1 In summary, the roles and responsibilities of each organisation are as follows:
The CCC's role as set out in the Climate Change Act 2008
 - The CCC has two Committees and corresponding secretariats, one on climate change mitigation (reducing emissions) and one on adaptation (building resilience to climate change).
 - The Mitigation Committee advises the UK Government on the level of carbon budgets and scrutinises progress (reporting to the UK Government and Parliament) towards meeting the carbon budgets and the UK 2050 Net Zero target, reporting in June every year.
 - The Adaptation Committee advises the UK Government on the UK Climate Change Risk Assessment, reporting every five years, and scrutinises progress

(reporting to the UK Government and Parliament) on adaptation in England, including through delivering the National Adaptation Programme, reporting every two years.

- The CCC has a role when requested as an independent advisor on climate mitigation and adaptation to the devolved administrations. This role is to provide advice, analysis, information or other assistance in connection with: the authority's functions under the Act; the progress made towards meeting the objectives set by or under the Act; adaptation to climate change; or any other matter relating to climate change.
- The CCC also has responsibilities to provide advice under other legislation, including the requirement to provide regular advice on the likely impacts of onshore petroleum extraction on the UK's carbon budgets under the Infrastructure Act.

ESS's role is set out under the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021;

- ESS has duties to monitor, investigate and secure improvement in public authorities' compliance with environmental law, the effectiveness of environmental law, and the way it is being implemented and applied in Scotland.
- ESS will seek opportunities to work in partnership with others. This will help ensure that collective efforts deliver benefits for environmental protection, adding value and seeking to avoid unnecessary overlap in functions.
- Public authorities have a duty to cooperate with ESS. ESS can also issue notices requiring information from public authorities as needed to perform its functions.
- ESS can investigate and take enforcement action, including legal proceedings, in relation to public authorities' compliance with, and the effectiveness of, environmental law.
- ESS can issue a Compliance Notice where it considers steps are needed to address a failure to comply with environmental law and prevent or reduce the risk of further environmental harm. Improvement Reports can be prepared where ESS considers that there is a widespread impact on the environment, and systemic change is required by a public authority(s) to comply with environmental law.
- ESS is required to produce a strategy and report annually to Scottish Parliament on its activities. The first strategy - Environmental Standards Scotland Strategic plan 2022-25, was approved by Scottish Parliament and published in December

2022. It sets out how ESS will deliver its functions, including identifying priorities for analysis over the next three years.

3. Principles for joint working

3.1 The CCC and ESS will cooperate under the following principles that will underpin the working relationship:

- **shared purpose** in protecting and enhancing the environment in respect of mitigating and adapting to climate change
- **respect** for each other's functions, independent points of view, unique ability to act
- **openness** between each other, while working in accordance with any legal requirements that limit or prevent disclosure and handling of information
- a '**no surprises**' approach, in particular where publications and actions by a party could have implications for the other.
- **collaboration** in good faith, where the parties consider this beneficial, for example in areas where there are common interests and projects, to improve efficiency and avoid duplication

4. Engagement

4.1 The parties will each nominate a representative to act as their main point of contact for matters arising under this Memorandum.

4.2 The parties' representatives will meet every six months, or at such other frequency as the parties may agree, inviting to their meetings such colleagues as they consider appropriate. The aim of such meetings shall be to discuss the parties' overall collaborative working arrangements, including ongoing and planned projects, developments in the parties' respective work programmes and other matters of mutual interest. The meetings will be minuted and reported to the CCC and the ESS Chief Executives.

4.3 The parties' Chief Executives will meet at least once a year, with boards/ chairs meeting on occasion, as and when appropriate.

5. Data and Information sharing

- 5.1 The parties will share work plans and consult with each other when commissioning work with a shared interest and may choose to collaborate on or co-fund commissioned work.
- 5.2 The parties agree to share, relevant; data, models, information, analysis, methodologies and findings as appropriate, and whilst taking account of the needs related to different types of information. In addition to the principles set out in para 3.1 the parties will consider the following on a case-by-case basis:
- transparency and confidentiality
 - respecting third party rights
 - principles governing the sharing of personal data.
- 5.3 Where required, data sharing agreements will be agreed between ESS and CCC and used as appropriate, in order to ensure the parties meet their responsibilities under the Data Protection Act, and other relevant legislation.

6. Disagreements

- 6.1 Where there are disagreements or disputes between the CCC and ESS in connection with this Memorandum, these should firstly be resolved by consultation between the parties' representatives.
- 6.2 If disagreements or disputes cannot be resolved within a reasonable time at this level they should be escalated, if necessary, to their Chief Executives. However, if a disagreement or dispute cannot be resolved at Chief Executive level, it may be left unresolved (as a reflection of the parties' distinct legal identities and independence) and the different views of each organisation should be noted. In practice, Chairs and Chief Executives may discuss this through the regular engagement process.

7. Status

- 7.1 This Memorandum is not itself intended to be legally binding but forms the basis of an agreement to cooperate.

8. Review

- 8.1 This Memorandum shall commence on 26 April 2024 and shall be reviewed on or before 26 April 2026.
- 8.2 Following the review, the parties will update the Memorandum if considered appropriate. Any amendment to this Memorandum will only take effect once agreed in writing and signed on behalf of both parties.

9. Publication

- 9.1 The CCC and ESS shall publish this Memorandum, and any subsequent versions amended in accordance with paragraph 8.2 on their respective websites.

Signed on behalf of the CCC:



..... Date: 14 October 2024

Name and job title:

Signed on behalf of the ESS:



..... Date: 13 August 2024

Name and job title:

Mark Roberts, Chief Executive Officer