

## **ANNEX C**

### **PARTIAL BUSINESS AND REGULATORY IMPACT ASSESSMENT (ref:)**

Climate Change Public Bodies Duties – Reporting Requirement  
January 2015

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### **1 TITLE OF PROPOSAL**

Required Reporting on Climate Change Public Bodies Duties

## **2 PURPOSE AND INTENDED EFFECT**

- (1) For each financial year, a listed body must prepare a report on compliance with its climate change duties.
- (2) The listed body must send the report to the Scottish Ministers within a period of 6 months from the end of that year.

### **2.1 Background**

The Scottish Government announced in July 2014 that the 2012 annual emission reduction target had been missed. This is the third consecutive year the annual target has been missed. Further action is required across a wide range of climate change activities, if our demanding climate change targets are to be met. The public sector in Scotland therefore has a leading role to play in combatting climate change and accurately reporting progress and activity.

Evidence gathered in support of Scottish Government Report on Proposals and Policies (RPP2) suggests that there is scope to significantly increase emissions reductions in the public sector. Statutory reporting, which relevant bodies are required to complete, is one area of climate change action where Scottish Government has powers to do more, but so far, has chosen not to formally use them.

### **2.2 Objectives**

This consultation is important, as the specifics of climate change reporting will involve a range of public sector personnel throughout each organisational structure. The main reasons for Ministers using the powers in the Act to introduce a statutory reporting requirement are to: support compliance with the Public Bodies Duties; consolidate climate change information from public sector; introduce standard methodology to improve data consistency; encourage continuous improvement and transparency; improve board engagement and leadership action and inform Scottish Government strategic reporting and future policy/support.

### **2.3 Rationale for government intervention**

Ministers now wish to introduce a statutory reporting requirement for “major players” only in the public sector. A robust reporting system could provide a more detailed picture of the sector’s overall performance, assessed and reported annually. Currently most of the sector already collects data on a voluntary basis. Shifting to a statutory reporting requirement (referred to as ‘Required Reporting’ hereafter) would enable a consistent approach to be adopted by using a standard climate change reporting template and therefore develop an improved reporting system over time.

## **3.0 CONSULTATION**

The consultation period will commence on February 2015 and close on 29 May 2015. Requests for printed copies of consultation papers, issued without charge, may be made direct to the Climate Change Public Bodies Duties Team of the Scottish Government. Contact details are appended.

### **3.1 Development Phase**

We are seeking views on the introduction of a statutory requirement on public sector major players to report compliance on the climate change public bodies duties. The key driver to introducing a reporting requirement is to improve the quality and consistency of climate change information available to Scottish Ministers as well as Scottish Government policy officials and the public sector community itself.

We are also seeking any thoughts you may have on the impact of the changes in reporting climate change progress and activity, including any concerns. We would also welcome views on how the climate change public bodies duties (“PBD”) reports should be annually validated, analysed and monitored in the future.

The consultation is not seeking views on the provisions of the 2009 Act, as this has already been approved by Parliament. This paper seeks to make clear what the statutory reporting requirement entails and which organisations are involved; this is the primary focus of the consultation.

### **3.2 Within Government**

Officials have consulted Energy, Transport, Built Environment, Heat, Climate Change, Behaviour Change, ICT and Procurement colleagues to help develop the standard reporting template. It captures information on key emission sources and supports emerging policy topics. Discussions have also taken place with Sustainable Scotland Network (“SSN”), Resource Efficient Scotland, Adaptation Scotland and Convention of Scottish Local Authorities (“COSLA”) on the level of data needed to inform future climate change policy, funding and support.

### **3.3 Public consultation**

The Scottish Government has identified a list of public sector major player organisations who would be required to report on compliance with the climate change duties. Those public bodies listed as major players have been directly alerted to this public consultation.

As well as directly contacting stakeholders with a known interest, the consultation is also promoted on the homepage of the Scottish Government website and via a Sustainable Scotland Network (“SSN”) members newsletter.

The full consultation package is published in different formats on the Scottish Government website (<http://www.scotland.gov.uk/Consultations/Current>).

## **4.0 OPTIONS**

### **4.1 Options proposed**

In considering how best to address the range of objectives identified in paragraph 2.2 above, three possible options were identified:

Option 1 – doing nothing;

Option 2 – continue with a voluntary approach to public sector climate change reporting and improve the reporting guidance;

Option 3 – use the powers in the Act to introduce a statutory requirement for relevant public bodies to report on compliance with the climate change public bodies duties.

## **4.2 Sectors and groups affected**

Sectors and groups affected include:

a) Public Bodies – major players managing the use of publically funded resources should not be subject to loss of amenity and facilities as a consequence of the policy proposals.

b) Sustainable Procurement – professional staff procuring products, services and properties could benefit from reduced overall costs as a result of striving for increased sustainability performance through improved policies, procedures and practices generated by the requirement to publically report annual progress and activity.

d) Scottish Government – the sponsorship of public sector support services such as Adaptation Scotland, Resource Efficient Scotland, Energy Saving Trust and the Sustainable Scotland Network may see an increase in service uptake for policy and technical support from major players.

c) Validation – public sector auditors may have to train staff in relevant areas of data capture and management to enable accurate and consistent information to be reported annually under the reporting requirement;

e) Consultancy Network in Scotland - Some major players may need to commission private sector consultants to help develop and produce climate change reports. The consultancy network in Scotland could find it difficult to respond to demands for specialist climate change services at peak times of the reporting year.

## **5.0 BENEFITS**

The policy proposals relate to changes to the existing climate change reporting that supports required reporting of climate change duties compliance. When assessing the effectiveness of the three options above to achieve the desired outcomes indicated in paragraph 2.3 the following observations were made:

### **5.1 Option 1 – Benefits**

This option offers no benefits. There would be no improvement or other gains to climate change reporting information and techniques. No significant improvements would be evident in climate change information available to Ministers. This option would not address any of the issues identified in 2.3.

## **5.2 Option 2 – Benefits**

Any benefits gained by a continued voluntary approach and the introduction of updated and improved guidance would be wholly dependent on the level of use of that guidance. Benefits would, at best, be identical to those possible under option 3, but only in respect of those practitioners who chose to adopt new methods in line with the guidance.

## **5.3 Option 3 – Benefits**

The achievement of the objectives set out in paragraph 2.2 could be realised. Multiple benefits through improved practices could be accrued as a result of a statutory reporting requirement being introduced. Although most major players already report climate change or sustainability information annually, a small minority do not publish any climate change information. This policy proposal will enable all major players to formally report their compliance with the climate change public bodies duties in an open and transparent fashion and demonstrate robust management of public funds and climate change action.

## **6.0 COSTS**

### **6.1 Option 1 – Do nothing**

This option would not change the position of public bodies. Inconsistency would remain with regard to application of the reporting guidance and as such stakeholders would not have the 'level playing field' they would want. Such an arrangement is considered untenable by Scottish Ministers and members of the Public Sector Climate Leaders Forum.

### **6.2 Option 2 – Continue with a voluntary approach to public sector climate change reporting and improve existing reporting guidance.**

Where a person chooses to follow any advice in the reporting guidance, the cost implications would be similar to those of option 3. However, it would be difficult to envisage how effective this option would be and what improvements would result that would meet the objectives in paragraph 2.2.

### **6.4 Option 3 - Use the powers in the Act to introduce a statutory requirement for relevant public bodies to report on compliance with the climate change public bodies duties.**

For the majority of public bodies who already report climate change information there should be little or no increased cost implications. Collection of climate change information should be regarded as a core management task and therefore be

absorbed into the daily business operations. However, some less capable bodies may decide to employ private sector services to assist in the production of the annual report. These services will come at a cost depending on the rate charged by each consultant. This cost would be incurred during the first year of reporting but would not be required thereafter once the data capture and recording systems were set up.

## **6.5 Cost of statutory reporting and new guidance**

In the past Scottish Government produced the reporting guidance in-house. However, the development of new guidance is to be delegated to Sustainable Scotland Network (SSN) staff who may also call upon the services of contractors under existing framework arrangements.

There are approximately 150 public bodies identified as major players each of whom would be expected to report annual climate change information. The time impact per major player is estimated at around 20 hours on familiarisation and data capture. Therefore, based on average hourly rates in the public sector, the total costs annually to the sector would be around £64,500.

However, for some practitioners, this aspect may be offset against Continued Professional Development (CPD) requirements. For example, professional energy, environment, audit, ICT, procurement and estate/facilities management staff may incur no additional costs as professional institutions demand at least 20 – 40 hours Continued Professional Development as part of their professional membership criteria.

It is recognised that some public bodies may choose to enlist the free 3<sup>RD</sup> party assistance of the Sustainable Scotland Network or Resource Efficient Scotland advisory services, or alternatively, commission a private sector consultant at cost to provide technical support to develop their annual climate change report.

From a Scottish Government policy perspective, any staff costs incurred in the monitoring and analysing of the submitted climate change reports or contributing to the further development of reporting guidance, would be absorbed into the running costs of the Climate Change Hub of Scottish Government.

## **7.0 SCOTTISH FIRMS IMPACT TEST**

The Scottish firms impact test regards all firms with fewer than 50 full time employees as being small businesses and those with less than 10 as micro businesses. Guidelines state that a concerted effort should be made to consult small and micro businesses over policy proposals. As stated above in 3.3, this public consultation will mainly focus on public sector stakeholder involvement in meeting the proposed reporting requirement.

However, the public consultation will also enable other interested parties, including small and micro business to respond during the public consultation period. Consultation responses will be considered as part of the final BRIA.

It is not envisaged that the introduction of the proposed reporting requirement will have a detrimental impact on businesses, in fact, there is a strong possibility that public bodies may choose to employ consultants to undertake support work to produce climate change reports. This could result in an increased uptake of business services at specific preparatory times of the reporting year.

### **7.1 Competition Assessment**

It is not envisaged that any of the aspects identified in clause 2.3 of this assessment will impact on competition between companies.

### **7.2 Timing**

In support of this policy proposal, Ministers wish to introduce a standard climate change reporting template for major players on a trial basis for their 2014/15 reports. Following consultation, and if Parliament approves, the reporting requirement would then apply to 2015/16 reports which would be due by 30 October 2016.

### **8.0 LEGAL AID IMPACT TEST**

It is not envisaged that there will be any additional demands placed on the legal system by this proposal. Accordingly, it is not considered that there will be any effect on individuals' right of access to justice through availability of legal aid or on possible expenditure from the legal aid fund.

### **9.0 ENFORCEMENT, SANCTIONS AND MONITORING**

All matters relating to enforcement, sanctions and monitoring will be considered within the powers in the Climate Change (Scotland) Act 2009.

#### **9.2 Enforcement and sanctions**

The future introduction of penalties for non-compliance by a major player with the Climate Change Public Bodies Duties would be considered based on the provision in the Climate Change (Scotland) Act 2009 and the views of consultation respondents.

#### **9.3 Monitoring**

The Scottish Government would monitor the effectiveness of Required Reporting based consultation responses received and the analysis of the findings of major player climate change reports submitted. An annual readout report would be produced and presented to Ministers, prior to being published on the Scottish Government website annually.

### **10.0 DECLARATION AND PUBLICATION**

Contact: Howard Steele, Scottish Government Climate Change – Public Bodies Duties Team. E-Mail - [howard.steele@scotland.gsi.gov.uk](mailto:howard.steele@scotland.gsi.gov.uk)