

Hello,

Welcome to the Energy Savings Opportunity Scheme (ESOS) newsletter, keeping you updated with key information relating to the scheme. In this issue we will be providing responses from the Department of Energy Security and Net Zero on frequently asked questions in regards to Action Plans:

There is no means to upload the action plan Excel template in MESOS

The template is provided to enable offline preparation of information required for the action plan. This can be done either by the ESOS participant itself, or by a lead assessor whom it chooses to appoint.

Only the ESOS participant can enter and submit the information into MESOS. Upload functionality is not considered necessary since there are relatively few information requirements compared to those for the notification of compliance (NOC) where upload functionality is provided for templates containing details of corporate group structure.

How should energy savings be estimated for measures included in the action plan?

ESOS reports are required, so far as reasonably practicable, to relate each energy saving opportunity (measure) identified via the audit (or alternative compliance route) to an organisational purpose and to estimate the total annual reduction in energy consumption that would be achieved as a result of implementing it. Participants can use this information to estimate the energy savings where it chooses to include these measures in its action plan, or make their own estimates where this information is unavailable. Estimates are expected to be indicative only.

If an alternative estimation method is used to an ESOS audit/alternative compliance route, a brief description of the method must be included in the action plan and the reasons for using it recorded in the evidence pack.

You are not required to follow any specific estimation method but possible alternative estimation methods could be based on –

- o Data comparison
- o Power ratings (of equipment or components)
- o Feasibility study or quote
- o Validated estimate from a previous ESOS report

Is there any difference between not submitting an action plan and submitting one that states no measures are proposed to be implemented?

An action plan can set out measures that the participant proposes to implement, or it can state that no measures will be implemented, as the ESOS participant chooses.

It's a legal requirement for organisations that qualify for ESOS to submit their action plan, by a set deadline, following submission of the notification of compliance. The Environment Agency has powers to take enforcement action to require compliance if this is not done.

The Environment Agency will publish all action plans that are submitted. If no action plan is provided, there will be nothing for the Environment Agency to publish and so it will be apparent from the absence of a plan that the ESOS participant is in breach of the legal requirement. The Environment Agency will not, in these circumstances, publish a statement to say that no measures are proposed (note, this is different to what was originally stated in the guidance on complying with ESOS on gov.uk).

Will there be any penalties for failing to submit an action plan?

The Environment Agency has the power to issue a compliance notice (under regulation 35(1)), and / or an enforcement notice (under regulation 38) to require submission of an action plan.

Failure to comply with a compliance notice or enforcement notice can lead to financial penalties and a publication penalty.

The Environment Agency will determine what action (if any) is necessary in accordance with its Enforcement and Sanctions Policy.

How should an action plan be completed where subsidiaries (undertakings) that make up a participant decide to implement their own measures?

Each participant is required to submit one action plan only. Group undertakings (subsidiaries) and their highest parent are by default a participant in ESOS, unless the highest parent (the responsible undertaking by default) and the group undertakings agree otherwise (eg the group undertakings agree to disaggregate, in order to comply as one or more undertakings forming a separate participant, where one is the responsible undertaking).

Up to 100 measures may be included in the action plan. A single measure can relate to multiple subsidiaries – what needs to be reported is the total energy saving expected during the 4-year period covered by the action plan as a result of implementing the measure, broken down by organisational purpose (buildings, transport, industrial processes, other).

Can subsidiaries (undertakings) that make up a participant which submitted a notification of compliance provide separate action plans?

Yes. The undertakings within a highest UK parent group (by default, the participant) can disaggregate with the written agreement of the highest UK parent (the responsible undertaking, by default). This would allow them to submit their own action plans, as one or more disaggregated undertakings complying as a single participant (where one is the responsible undertaking). However, MESOS will not automatically link these action plans

to the other undertaking(s) in the participant (highest parent group) that submitted the notification of compliance.

Where, following submission of the notification of compliance, the undertakings comprising a participant remain members of it rather than disaggregating, the responsible undertaking can share the Excel template with them to allow the undertakings to add their measures to it, before submission via MESOS. Details of measures relating to each undertaking can be retained in the evidence pack, and estimates relating to them aggregated where appropriate to meet the information requirements in the ESOS regulations.

How do the action plan requirements apply where the ESOS participant has changed structurally since it submitted the notification of compliance?

If any undertaking leaves a highest parent group or participant between the compliance date (5 June 2024 for the third compliance period) and the deadline for the submission of the action plan (5 December 2024 for action plans relating to the third compliance period), the undertaking must still comply with the requirement to produce an action plan. Any measures it proposes to implement only need to relate to that undertaking.

The undertaking can comply:

- o with its previous group/ participant, by written agreement with the highest parent, or
- o with its new group, by written agreement with the highest parent
- o in the absence of a written agreement with the previous or new group it must comply on its own behalf as the responsible undertaking.

What happens if it is not possible to implement measures proposed in the action plan?

ESOS participants will be required to report in their progress updates whether measures submitted in the action plan have been implemented, and if so, whether or not this was done by the dates proposed in the action plan.

There will be an optional context box available to allow participants to provide information in relation to their answer, such as the reasons why measures have not been carried out by their proposed implementation date. The information in the context box will be published.

It's recognised that changes of circumstances may prevent participants implementing measures they had assessed to be feasible at the time they submitted their action plan.

The Environment Agency will publish progress updates but it is not a legal requirement to implement a measure specified in an action plan.

Which information in the action plan will be published?

All the content of the action plan will be published barring information submitted on an optional basis to the question which asks whether the reason for implementing a measure relates to another scheme or requirement. A participant should only complete the optional boxes where they are happy for the information in those fields to be published.

Is it possible to provide an action plan which states that measures are proposed, but not to give details of those measures due to commercial sensitivities?

No – since the ESOS regulations require all ESOS participants to submit an action plan, which can be either one or more measures it proposes to implement, or, a statement that no measures are proposed. If measures are proposed, then participants must address specific information requirements about them, including names of measures and energy savings relating to them.

The legislation is not prescriptive about how measures must be described, provided that the description identifies the measure and any action taken to implement it. Participants may therefore describe them in broad terms (eg by their energy saving category) rather than providing an exact description. Multiple measures of the same energy saving category can either be numbered (eg training 1, training 2, training 3) or grouped and reported as a single energy saving category. In the latter scenario, the implementation date will be the date by which all measures in the group are implemented.

Detailed information about the measures can be kept by the participant in the evidence pack, for the purpose of tracking progress on implementing the measures.

Can organisations that do not qualify for ESOS but wish to voluntary provide an action plan do so on a voluntary basis?

Although we welcome organisations carrying out ESOS assessments on a voluntary basis and implementing energy efficiency measures that they identify, MESOS does not currently support voluntary reporting in relation to them.

The funding of the IT development has had to focus on meeting the legal obligation for the scheme administrator (Environment Agency) to provide a reporting system for organisations that qualify for ESOS.

We would suggest that voluntary participants publish information about their ESOS assessments and proposed measures on their own websites to demonstrate their commitment to reducing their energy use.

We will keep the policy on voluntary reporting in MESOS under review to consider whether it could enable this in future.

ESOS participants should be required to appoint lead assessors to support them to meet the requirements on action plans.

Participants aren't prevented from appointing lead assessors if they wish, to help them address the action plan requirements offline. Lead assessors will not however have any access, editing or reviewing rights in MESOS. They may not consider it necessary, for example, if they have relatively few measures they intend to implement.

We're expecting participants to demonstrate accountability in relation to measures they could implement to reduce their energy consumption.

Should ESOS participants use a project plan to implement proposed measures?

It is up to the participant whether it wants to use a project plan. The ESOS energy audit is required to recommend a programme for implementation of energy saving opportunities, including (i) a timescale for implementation of the energy saving opportunities, (ii) the estimated costs and benefits of implementing the programme, and (iii) the payback period calculated for the programme.

Could an International Performance Measurement & Verification Protocol be used for the project plan?

ESOS participants can use such an approach if they wish, particularly if the costs of implementation of a measure are significant and an investment-ready business case is required for the Capex. A flexible approach can be taken given there are a number of compliance routes for ESOS.

How should participants that have taken on new sites / assets / activities since the NOC was submitted address the action plan requirements?

It is up to the participant whether they wish to include energy saving measures that relate to the new sites / assets / activities in their action plans. (If however the participant meets the qualification criteria for the next ESOS compliance period, they will be required to be reported in the notification of compliance relating to it.)

If you have any queries in relation to this policy decision, please email [DESNZ](#).

Contact us

For any IT specific queries relating to the MESOS Reporting System, please contact our [ESOS IT helpdesk](#).

If you have any queries relating to ESOS or if there is anything specific you would like to see in future ESOS newsletters, please consult the ESOS Guidance in the first instance or email our [ESOS Technical Helpdesk](#).

If you do not want to receive any further communications regarding ESOS or would like to update the email contact(s) on our ESOS Newsletter distribution list, please email the ESOS Helpdesk [to unsubscribe](#).