

Energy Savings Opportunity Scheme (ESOS) consultation: Response Form

Thank you for taking the time to respond to our consultation in implementation of the Energy Savings Opportunity Scheme (ESOS). A copy of the consultation document can be found here: <https://www.gov.uk/government/consultations/energy-savings-opportunity-scheme>

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome. Please use the space provided in this form to respond, but we will also consider any further material that you wish to share.

About you / your organisation

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If you want information that you provide to be treated as confidential please say so clearly in writing when you send your response to the consultation. It would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded by us as a confidentiality request.

I am content for the information contained in this response to be made public	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
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If you want your information to be treated as confidential please provide a brief explanation as to why. It would be helpful if you could explain if there is any information in particular which this applies to.

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Q1. Do you have any evidence which could assist us in calculating the impact of the options set out in this consultation document and the Impact Assessment? (Further detailed questions are also included in the Impact Assessment).

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Q2. Do you agree that there should be one energy audits scheme applied on a UK-wide basis, and are there any regionally specific needs that should be taken in to account for enterprises operating in England and Wales, Scotland and Northern Ireland?

Yes No Qualified Support

Large companies typically operate across the UK under a single legal entity and management structure, and it would be unduly burdensome for them to have to draw artificial boundaries around parts of their operations in order to fit with administrative regions.

If (for example) Northern Ireland formed a separate region for ESOS, it is possible that very few companies' operations in the province would exceed the size threshold, leading to a loss of energy savings opportunities in it.

Q3. Do you agree with the overall approach to defining 'enterprises' in scope, and could you currently identify if you (or organisations you are familiar with) are in scope?

Yes No Qualified Support

Specifically, are you content with the approach proposed with respect to:

- | | | |
|--|---|--|
| a. Group enterprises | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| b. Voluntary disaggregation of group enterprises | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| c. Non-UK firms | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| d. Franchisors | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| e. Subcontractors | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| f. Universities | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

c. Non-UK firms: We do not believe that the current proposals adequately capture energy use by branches of overseas companies, such as large banking corporations. So, for example, a large US money centre bank that operated through a branch structure, or through a subsidiary company incorporated in the Channel Isles or Isle of Man (which we believe to be outside the scope of ESOS) would not be required to have an energy audit. The Government should investigate whether there are alternative ways – eg. through registration for VAT or other taxes – that can act as a back-up to capture

these large entities without a UK legal entity.

- f. Universities: We believe that there should be a level playing field for all universities that fall within the headcount, turnover and balance sheet requirements. As currently drawn up, inclusion within ESOS appears to depend in part upon the proportion of turnover that comes from grant funding and may penalise certain types of institution.

Q4. What do you think should be the initial 'qualification date' for organisations to determine if they are in scope of the scheme?

For example, 1 January 2015 or 31 March 2015 (Please give reasoning).

To minimise costs in determining whether an entity counts as a large organisation, we believe that this should be tied to the last (audited) balance sheet date – the financial year end as recorded at Companies House. Given that initial audits must be completed by 5/12/2015, we would recommend that the qualification date is the last financial year end prior to 5/7/2015 (5th July 2015). This means that the qualification date uses audited financial figures at no extra cost to participants.

In practice, most entities would have a qualification date of either 31 December 2014 or 31 March 2015. By having staggered qualification dates, it would also reduce the likely peak demand for audits, ensuring better work flow (and higher compliance rates) and most probably reduce the costs to participants, if all 7,000 companies are not trying to get an audit as of the same date.

Q5. Which of the following approaches do you prefer in terms of when new entrants are required to undertake ESOS assessments?

- A. ESOS would operate in 4 year phases. Organisations identify if they are in scope once every four years and then undertake an ESOS assessment within a year of the qualification date.**
- B. Every year, organisations determine whether they are sufficiently large to be included in ESOS based on their size at the qualification date. If in scope, that organisation carries out an ESOS assessment within a year of the qualification date, unless the entire organisation is covered by compliant assessments undertaken within the last four years.**

Prefer A Prefer B Propose Alternative

We believe that all entities should become subject to ESOS in the year that they first exceed the large company threshold. Assuming that our answer to option 4 is adopted, this would simply mean that at each audited balance sheet date, the company would need to compare the three metrics (headcount, turnover and balance sheet totals) with data that was already being computed and published for other purposes, thereby minimising the administrative burden.

Q6. Is our proposed interpretation of the minimum requirements for ESOS reasonable, on the basis that ESOS assessors would need to exercise professional judgment and discretion as to their application?

Yes No Qualified support

We believe that the interpretation is wrong in two major respects:

The Government proposes to base savings on life cycle assessments, and not – as required by the directive – on life-cycle cost assessments (LCCA). As note 45 of the consultation document explains, “Life cycle assessments (LCA) refer to examining the performance of a system or process from-cradle-to-grave. In the context of energy, LCA refers to the consumption of energy right from manufacture through to its use and, ultimately, disposal”. This is based on energy and not cost; there is no discounting over time. In contrast, LCCA is a financial assessment, and includes the capital costs, discounted cashflows over the life of the energy saving measures, and any residual financial value or disposal costs. The Directive, rightly enough, is encouraging this more sophisticated financial appraisal rather than a simple payback period. It passes no comment on the suitability or otherwise of LCA analysis.

Secondly, the Government proposes an energy intensity ratio as an alternative to energy consumption profiling of the organisation. We also believe that this misinterprets the Directive for the reasons set out in more detail under Q10 below.

We do however support the overall thrust that, given the complexity of many large organisations, it is better to have relatively few minimum requirements for audits and rely to a greater extent on the professional judgement of assessors.

Q7. Do you support our proposals to develop good practice guidance for organisations?

Yes No

If yes, what do you think should be included:

- a. Minimum ESOS requirements? Yes No
b. A draft template for ESOS reports? Yes No
c. Best practice options? Yes No

While example ESOS reports (or report structures) will be useful as part of the Best Practice, we would oppose a draft template, as we believe that this will encourage boilerplate reporting, not tailored to the specific needs of the complex large organisations. By analogy, we note that the template audit reports for financial audits appear to be more about limiting auditors' liability than about providing useful information to the reader.

Q8. Should the Government set a legal energy spend based percentage threshold, to allow organisations to exempt energy that collectively amounts to no more than this *de minimis* percentage of total energy spend?

Yes No

If yes, what percentage should this be and why?

If no, what approach should be adopted to set a statutory *de minimis* and why?

We believe that a single percentage threshold will be a blunt tool. For example, in an energy intensive process such as in the steel or chemical industries, an associated administrative building – although a significant energy user in its own right – may well fall beneath the threshold. In contrast, a similar building in the service sector would be subject to a full ESOS audit. For this reason we would recommend either a stepped percentage based on total energy spend (so it might be 5% for total bills under £100,000, 3% for bills from £100,000 to £1 million, 2% from £1 to £10 million and 1.5% above), or a combination of a percentage AND an absolute expenditure, so that (for example) only energy uses that fell below both 5% of the total energy use and had an energy cost of less than £20,000 could be ignored.

There may need to be modified rules on the grey fleet, where the energy spend may not be the same as the cost to the organisation. For example, companies typically pay a rate of 45p a mile to employees using their own cars; this is significantly higher than the HMRC estimate of fuel costs per mile applied to fuel provided for use in company cars, and could introduce a distortion. To avoid this, we recommend guidance that the HMRC rates should be applied to business mileage paid, with the cash sums paid to employees only substituted if the mileage information is unavailable or unduly burdensome to determine.

Q9. Do you agree with the Government's proposed approach to calculating energy usage by:

- a. Allowing use of existing data sets in order to simplify compliance? (i.e. organisations can draw on data gathered over any period during the two

- years prior to the ESOS assessment being conducted)?
b. Setting a minimum six month time period which energy use data should cover to inform an ESOS assessment?
c. Promoting use of 12 months data, with the onus on organisations to comply or explain deviations from this good practice approach?

Yes No

No comments

Q10. Do you think that ESOS assessments should include an energy intensity ratio as opposed to HMG requiring in law energy consumption profiles for all key buildings, transport and industrial processes?

Yes No

We believe that that this is wrong for two reasons: (a) that it does not comply with the requirements of the directive and (b) that a simple energy intensity ratio is inappropriate for large and complex organisations.

Firstly, as noted above, Annex VI (b) of the Directive requires that audits should "comprise a detailed review of the energy consumption profile of buildings or groups of buildings, industrial operations or installations, including transportation". While there is no clear definition of what is meant by "energy consumption profile", we believe that the original intention was that this should be interpreted in its everyday English sense of an analysis of the manner and use of energy, rather than the narrower sense of a review of energy consumption over time. (Annex VI (a) does confusingly use profile in the narrower context of electricity load profiling.) This profiling process should also include benchmarking energy performance, both internally between comparable facilities, and externally. For this reason we do not think that an energy intensity ratio is an adequate substitution.

Secondly, an energy intensity ratio is a simple tool, that is useful for simple operations (such as a single office block), but not for more complex operations, as would normally be the case with large organisations. To some extent, energy use by a large organisation may be disaggregated into smaller activities or facilities, that can each have their own intensity ratio. But even then, many energy using activities cannot be adequately described by a simple intensity ratio, but need multivariate regression analysis, the use of non-linear variables or more sophisticated engineering models. The proposals would do well to refer to the (draft) international standard ISO 50006 on Energy Performance Indicators and Energy Baselines, for those looking to use standardised methods.

Q11. Do you agree that ESOS assessments should only include all significant energy use *directly paid for or produced by the organisation*?

Yes No

Broadly yes, as this is generally where control over energy use resides. However, audits may optionally (and be encouraged) to go further in certain circumstances, for example where a retailer has units that are rented on a basis that includes a flat rate energy charge (or energy costs shared between several tenants). And in transport energy use, the scope should be widened to include consideration of modes of transport where energy is a significant proportion of the total ticket cost, but not a separable element, as well as in staff mileage rates referred to above in Q8.

Q12. Do you agree that ESOS assessors should be given discretion as to the number of site visits they undertake as part of an audit?

Yes No

Mandating a fixed number of visits will encourage a routine compliance based approach, rather than an investigative one that will ultimately encourage more action.

For example, suppose that the audit is of the chain of estate agents in Box 4. If the company keeps good records centrally, it may be that there is sufficient data to be able to benchmark energy use from the network, and use the results to identify those sites that have distinctly worse than average performance. It may be that even then the ESOS assessor has no need themselves to visit any of those sites, but can instead recommend management to visit them and pay particular attention to certain types of energy use based on the energy consumption profiling work. It may also turn out that the area of energy that should give concern, based on benchmarking to other estate agency chains, is not building-based at all, but in the fleet of cars used by the agency staff to visit properties. By failing to allow assessors discretion to use their skill, it could result in time (and costs) being spent on relatively unimportant activities, in order to tick a box that a minimum number of sites have been visited.

Q13. With respect to buildings, do you agree that where an organisation has installed DECs or chooses to comply by undertaking Green Deal assessments for some or all of its buildings within the past four years, those buildings should not need to have an ESOS assessment conducted too in order to comply with the requirements of the Directive?

Yes No

At present the quality of Green Deal assessments is uncertain, and may not be high. Also, DEC recommendations are very generic and not well tailored to an organisation's detailed energy profile. For these reasons, it is unlikely that DECs and Green Deal assessments will satisfy the demand of the Directive for a high quality audit. Having said that, there may be some businesses made up largely of quite simple buildings, for which DEC reports and recommendations will be adequate, and the ESOS rules should not prohibit this approach if, in the professional opinion of an ESOS assessor, they meet the minimum requirements. However the default presumption should be that an ESOS audit requires rather more than DECs and GD assessments.

Q14. With respect to transport, which one of the following approaches should be adopted in relation to international aviation and/or shipping:

- All fuels purchased within the UK should be considered within scope of ESOS
- Energy usage of all flights/shipping departing the UK should be considered within scope of ESOS
- All fuels purchased anywhere in the world should be considered within scope of ESOS

Prefer A Prefer B Prefer C Propose Alternative

A or C. A is the minimum for compliance, but for organisations with centralised accounting functions (and a small number of preferred fuel suppliers world wide) it may be as straightforward to take option C. This may interact with the de minimis levels (see Q8), with the wider scope of transport fuel purchases under C allowing more UK-based property to fall below the de minimis threshold level.

Q15. With respect to transport, should an organisation's vehicle fleet be deemed to have undertaken the equivalent of an ESOS assessment if it has been subject to a Green Fleet review conducted within four years prior to the energy audit deadline, and are there other reviews similar to Green Fleet reviews that should also be considered?

Yes No

We suggest that that the period could be reduced from 4 years to two years, or there should be a requirement that the gap between fleet reviews should not exceed 6 years (otherwise a Green Fleet review in 2011 might exempt the organisation from any subsequent review until 2019).

Q16. With respect to transport, do you agree with our proposed approach to employee travel on company business?

- That 'grey fleet' should be included within the scope of ESOS;
- That travel purchased via contractual arrangements (e.g. train tickets) should not be included as a minimum requirement for ESOS;
- That commuting should not be included within scope of ESOS; and,
- That good practice guidance should promote the advantages of going beyond the minimum requirements of ESOS

Yes No

A, C, D yes; B no, with reservations. We believe that there should be a requirement that employee transport should be reviewed holistically, and not by mode in isolation, so that it should consider not just motor vehicles, but also trains, air travel and other public transport. It should not look at the energy use by public transport operators, but should rely on published data (possibly using carbon as an indicator for primary energy).

Q17. With respect to industrial processes, should ESOS assessments cover all energy use, including waste heat recycling and use of process waste as fuel?

Yes No

Please give reasoning:

Q18. With respect to industrial processes, are there any specific issues that you wish to raise in relation to implementing the requirement to conduct ESOS assessments, including with regards to the overlap with existing schemes?

Yes No

Please give reasoning:

Q19. In addition to ISO50001 and ISO14001 (where it includes an energy audit), are there any other EU / international management systems which you think should also provide an 'exemption' (i.e. an alternative compliance route)?

If proposing additional EMSs, please provide evidence of why you think they would meet the minimum audits standard set by the Directive

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Q20. Do you agree with the proposed transitional arrangements to consider whether certain existing UK schemes can be deemed compliant with the Directive's requirements for audits conducted in 2015? In particular:

- a. Do you think the Carbon Trust Standard meets the minimum audits criteria set in the Directive?
- b. And are there any other UK initiatives that you think should be deemed to be compliant for audits conducted in December 2015?

Yes No

a. Yes, with reservations. The National Energy Foundation was involved with the Carbon Trust Standard (CTS) from its inception until earlier this year, and remains on its Advisory Board. The Standard imposes a high standard of energy audit in a carbon context, and requires auditors to profile energy use, in the sense that we use the term in Q10 above. It also expects CTS assessors to agree with management a suitable

carbon intensity metric, with a bias towards financial ones (ie. CO2 per £ of turnover). Our reservation is that there is no formal requirement to provide additional advice on improvement recommendations, and that this would need to be added as a CTS-plus element.

- b. We are aware that there are other schemes that the Environment Agency has deemed to be equivalent to CTS for the purpose of early action metrics under CRC Energy Efficiency including CEMARS and the BSI Kitemark EVR. While we have no practical experience of these, we believe that they too will often need an additional advice component. We also understand that the BSI Kitemark EVR is largely built around ISO 50001, so may not need separate derogation, as it will be covered by the specific exemption for ISO 50001.

As far as transitional arrangements go, we would wish to apply a rule that says the second ESOS assessment should be no more than 4 years after the prior equivalent scheme assessment. So, for example, if an organisation has a CTS certification in 2013, it would either need a further one, or an alternative ESOS-compliant audit, no later than 2017. (As CTS runs on a two year cycle, the 2013 CTS certification would expire in 2015, but would still be valid for ESOS for a longer period.)

Q21. Is there sufficient capacity within the energy efficiency advice sector to meet the demand that will be generated by ESOS, and particularly to ensure all organisations are able to conduct assessments by December 2015?

Yes No

If no, what further steps need to be taken to generate that capacity:

- a. By industry and professional bodies?
- b. By the Government?

We think that there is adequate capacity, given that many organisations will be deemed to have met some or all of the audit requirements through alternative mechanisms. We are however very concerned that the way this is being introduced means that there will be a short term peak of demand during 2015, followed by a three year fallow period. Given past experience with training too many assessors who then lacked work and failed to maintain necessary CPD (eg. in delivering EPCs), we believe the Government should look carefully at the implementation timetable. We note that our own recommendations on aligning the qualification date with companies' financial year ends may introduce a very limited staggering of audit dates, but given a single deadline for first audits remain concerned about implementation.

We believe that industry and professional bodies will rise to the challenge of providing high quality training and accreditation and that there is only a limited role for Government in this process.

Q22. Are there existing industry specific qualifications / standards which we should take account of in developing an ESOS assessors PAS specification?

Yes No

If yes, what do you think should apply as the minimum and why?

Elements of the Energy Institute's Chartered Energy Manager (including its TEMOL training) could be used. Professional membership of the Energy Institute or IEMA, coupled to Chartered Environmentalist status, may also provide some minimum standards. We also understand that the Energy Managers Association are also looking at producing standards, but have so far only introduced training at an initial level (which we have been involved with helping create).

We have heard others express concern that by using a PAS (publicly accessible specification) route rather than by creating NOS (national occupational standards), there may be issues around copyright on the specification, and would urge that whichever route is chosen care is taken that the requirements are transparent and freely accessible.

Q23. Do you agree with the Government's proposals on lead ESOS assessors:

- a. That a 'lead assessor' should sign off each ESOS assessment, drawing on the input and assessments of more technical specialists as appropriate, as part of checking that all significant energy use across the organisation has been considered?
- b. That minimum qualifications should apply to lead assessors only, rather than to all those participating in an assessment?

If no, should there be different minimum qualifications for more technical members of an audit team and what should these be?

Yes No

This is analogous to the situation with financial audits, where only the accountant signing off on the auditors' report is legally required to hold a practising certificate issued by one of the main accountancy bodies. Extending the requirement to all participants would be onerous, add costs and prevent assessors gaining practical on the job experience before qualifying.

Q24. What particular steps will need to be taken by organisations to ensure that in-house experts had the 'necessary independence' to audit business activity?'

In-house experts should be remote from the energy management function and not report to the organisation's overall energy management (or equivalent). They should also be expected to maintain some level of professional training outside the organisation, so that they are able to see best practice across the sector in which they work, rather than just in their employer's business.

In general we are not strongly supportive of permitting in-house experts as we believe it will be difficult to maintain independence, especially in terms of advice and recommendations.

Q25. Which approach to accreditation would you prefer to be put in place and why?

- a. UKAS accredit certifying bodies to certify ESOS assessors
- b. The scheme administrator approves lists of ESOS assessors which are managed by professional bodies.

Prefer A Prefer B Propose Alternative

We believe that option B allows best use of existing registers and procedures, and will enable a much swifter response to ESOS. We have doubts that option A would allow the initial 2015 deadline to be met.

We do not agree with the assertion in 5.19 "Having multiple registers in place, rather than certification via UKAS, could be more complicated for businesses seeking to identify whether an ESOS assessor belongs to a valid register". **ESOS will only apply to sophisticated large organisations and there are unlikely to be more than a handful in place. Any such organisation should be able to determine pretty fast whether a prospective ESOS assessor belongs to a valid register.**

If you prefer Approach B please set out details of any registers already in existence which could be easily modified to meet the needs of the ESOS scheme

EI/ESTA – Register of Energy Consultants
SocEnv – Register of Chartered Environmentalists (would need new filter in place)

Q26. Do you have any views on the proposed quality assurance arrangements for ESOS assessments; in particular, what percentage of audits should be subject to quality assurance (e.g. 10% as is the case with the CRC or 2% as is the case with EPCs and DEC)s)?

10% 2% Other

This should be undertaken on a risk basis, at the professional judgment of the scheme administrator. The Government should not legislate for this figure. ESOS is not a mass consumer product; many of the assessors will only undertake a handful of audits each year, as part of a wider professional career that includes other facets of energy management consulting, not just ESOS audits. (Indeed in the lean years of 2015 & 2016, there may only be a few dozen ESOS audits undertaken UK-wide.)

Any QA arrangements should also take into account that the audit of a large organisation is inevitably going to be more complex than an EPC or DEC on a single building. This means that there is not going to be a simple "right" answer, but much greater professional judgment required, with scope for alternative or occasionally conflicting assessments.

Q27. Should ESOS assessment records should be stored for 6 years, as with the CRC?

Yes No

There should be a requirement to store the last two audits, irrespective of the time period (for an organisation that continuously qualifies under the size threshold). This may mean that in some cases the earlier stored audit is up to eight years old.

Q28. Would a survey based approach to collecting data on the number of large enterprises participating in ESOS / complying by means of EMS (option 1) be adequate, given the UK's obligation to report to the European Commission on uptake of energy audits, and the aim to develop a targeted enforcement regime?

Yes No

We believe that paragraph 6.11 adequately sets out why this approach would not be adequate. We agree that for voluntary take up a survey could be used, but think it would be simpler just to look at the assessments that had been lodged with the Scheme administrator, of the Government is interested in fully ESOS-compliant audits.

Q29. To support an effective enforcement regime, should large enterprises be required to notify the scheme administrator that they are in scope and have conducted an ESOS assessment (or complied by another means)? (option 2 in the Impact Assessment)?

Yes No

This is simplest and likely to be the lowest cost option for both organisations subject to ESOS and the Government.

Q30. What is your preferred approach to disclosure of an ESOS assessment (option 3 in the Impact Assessment)?

- a. Do nothing
- b. Mandatory disclosure that an ESOS assessment has been conducted
- c. Mandatory disclosure of an organisation's overall response to ESOS assessment
- d. Voluntary disclosure of an organisation's overall response to an ESOS assessment with a light-touch enforcement regime for those organisations which do so

Approach A Approach B Approach C Approach D

We are largely supportive of Approach A, with encouragement (but no obligation) for companies to report outcomes. Our reasoning is as follows.

Approach B is simply requiring organisations to disclose that they are in compliance with the law. While there are a few similar instances requiring disclosure in Directors' Report for companies, we see little merit in mandating it here, especially as quoted companies will be subject to a more comprehensive reporting requirement in the near future.

We note that this only relates to (public) disclosure; we do expect that the full report will be lodged with the Scheme Administrator.

Approach C has some merit, but is likely to be seen as gold-plating, and releasing précised information into the public domain is likely to be of limited value.

We would encourage voluntary disclosure, but would oppose a light touch enforcement

regime. Our concern is that those companies that had commissioned the least rigorous or effective ESOS audits would then release a summary of these findings (which would be indistinguishable from a summary based on a much more comprehensive ESOS audit) with the sole purpose of moving into the light touch enforcement regime.

Q31. If you are in favour of public disclosure, what sort of information would you like to see disclosed? For example:

- *cost savings available from audit recommendations*
- *action taken in light of an ESOS assessment*
- *the organisation's energy intensity ratio*

A little knowledge is a dangerous thing, and may lead to observers drawing totally erroneous conclusions from limited data release following an ESOS audit. For that reason we would rely on the professional judgment of the assessor, in the light of the commercial sensitivities of the organisation being audited to determine what information is of relevance and likely to be useful. To consider the three examples above:

Cost savings in the absence of either the existing energy bill or the cost of implementing those measures (and a full LCCA analysis) are quite meaningless. So knowing that Company X had recommendations that could save it £400,000 annually tells us nothing, unless we know that those measures would cost £1 million or £10 million to implement, and whether their current energy bill is £500,000 or £50 million.

Given that the audit reports will be lodged at the conclusion of the audit, there is no time for most organisations to take more than the simplest of actions. And given that ESOS audits are only required every 4 years, for the 2019 audit to report which of the 2015 recommended actions were implemented has only low value. Of course organisations can say that it is their intention to implement measures, but with no list of measures and no audit for another 4 years, this is likely to be seen as a hollow promise and of little value.

The organisation's energy intensity ratio may have marginally more value, as – in theory at least – it might enable that organisation to be benchmarked against similar organisations. But as explained in our answer to Q10, a simple energy intensity ratio is rarely the best metric for a complex organisation, and each such organisation will have differing scopes and reasons why energy ratios will vary.

And should a Director of a large enterprise be required to sign off on the corporate ESOS disclosure?

Yes No

We believe that it should be signed off at the appropriate level. So if included in a company's Directors Report, it would be signed off by a Director or Company Secretary. In other locations, it might be better to be signed off by the (group) energy manager, who is likely to have a much clearer understanding of the nuances in the public disclosure.

Q32. Should large organisations be required to report on key ESOS assessment findings to the scheme administrator (option 5 in the Impact Assessment)?

Yes / No / Comments Please state your reasoning

Yes No

Reporting to the Scheme Administrator is quite different from public disclosure (see our answers to Q30/31).

If yes:

- what information should be collected and how?**
- should the scheme administrator store information internally or publicly disclose some information (and if so, what)?**

Certain key information should be collected online – including items such as total energy spend, estimated total energy consumption (kWh/GJ), SIC code(s), period covered, summary of scope, assessor name, energy performance indicator(s) used and value of those indicators (recognising that this may not be a simple value as with an energy intensity ratio). Where appropriate, information on potential cost savings and investment costs, and energy performance improvement actions committed to be undertaken may be captured. The Administrator should also receive the full audit report, which could be used for quality control purposes.

Public information will need to be on a fully anonymised basis, save for the simple question of whether an organisation is in compliance or not.

Q33. What is your preferred option or combination of options for meeting the UK's reporting obligations to the European Commission and ensuring a cost-effective scheme, and are there any options that you think the Government should definitely not pursue?

We note that Annex XIV 3.3 sets out quite clearly the basic reporting requirements to the Commission and can be easily met from the basic information suggested in our answer to Q32. We also consider that the Scheme Administrator may use the copy ESOS audits received to provide a more qualitative consideration of energy efficiency improvement measures and expected savings,

Q34. Should the same compliance route should be adopted for organisations complying via an approved EMS as for those undertaking ESOS assessments?

Yes No

Comments / reasoning:

Q35. Who do you think should be appointed as the scheme administrator?

- a. The Environment Agency working alongside devolved agencies
- b. The National Measurement Office (NMO)
- c. Trading Standards
- d. Other (and if so, who)?

Environment Agency NMO Trading Standards Other

We believe that placing this burden onto Trading Standards would lead to uneven implementation, greater uncertainty and higher costs for all, so would strongly oppose this route.

We are surprised that NMO are being considered, as are not normally involved in schemes of this nature.

That leaves the Environment Agency as the default choice.

However, we would not oppose some form of competitive tendering, say for a 10 year period (mid-2014 – mid-2024 to allow for two complete audit cycles), and wonder if there are other executive agencies or NDPBs that might have relevant skills – even EEDO itself?

Q36. Do you agree there should be some form of penalty applicable in the following instances, and are civil sanctions sufficient to address these misdemeanours?

- a. Failure to notify the scheme administrator.
- b. Failure to carry out an audit to the required standard.
- c. Failure to provide information when requested by the scheme administrator.
- d. Deliberately misleading the scheme administrator in response to a formal information request.
- e. Refusing to allow the enforcement body access to premises, where access is reasonable (e.g. in order to ensure accuracy of audit findings).

Yes No

Point b. is a little tricky, as it may be due to recklessness on behalf of the assessor, or obstruction/incompetence by the large organisation.

We are slightly surprised that the enforcement body may have a right to access premises, and would want to be sure that any powers in this area are proportionate to the risk. (In other words, if a fraudulent report is thought to have been created, then powers may differ from one that is merely incompetent.)

Q37. Are there any other issues you wish to raise in relation to the Energy Savings Opportunity Scheme that have not been covered in other consultation questions?

We note that there is no place to comment on Option 6 (paras 6.31-6.32) on requiring DEC's for all buildings as the Government sees this as "gold-plating".

Our view is contrary to this. We know that DEC's are available in the market at low cost (and using relatively low quality assessors) and observe that in the estate agency example in Box 4, the market could deliver 50 DEC's at a cost significantly lower than the £15,000 anticipated ESOS audit cost. However, we do not think that by itself this would really meet the objective of ESOS; it would need to be accompanied by a good quality benchmarking exercise among those 50 sites (possibly in line with EN16231 – energy efficiency benchmarking), and with assessor and management commitment to interpret the overall results, and target actions accordingly. Now it may be that in the professional judgment of an ESOS assessor, this represents the best value approach to an audit, and that entering the DEC data into a simple spreadsheet will allow consolidated organisational energy data to be produced at low cost.

However this will only apply to organisations that are almost entirely building focused, and lack significant transport or process energy use.

We believe therefore that in certain circumstances using DEC's may be an acceptable alternative to a more conventional ESOS audit. However we would expect DECC to explore this more in Best Practice guidance, and not to mandate 100% DEC's as either a preferred or prohibited approach. (As a final observation, we would note that most estate agent's offices are under 250m², but that this does not prevent them having DEC's.)