

Welcome to issue 6 of the Energy Savings Opportunity Scheme (ESOS) newsletter.

### Useful Links

[ESOS Guidance](#)

[ESOS Website](#)

[ESOS Compliance Notification](#)

[Approaches to ESOS audits](#)

### Contact Us

[ESOS@environment-agency.gov.uk](mailto:ESOS@environment-agency.gov.uk)

## ESOS enforcement position

The ESOS Regulations 2014 set out the scheme's requirements and include potential penalties for non-compliance. The full list of penalties is outlined in the [ESOS Compliance Guidance](#). The Environment Agency has published its approach to enforcement of ESOS in its [Enforcement and Sanctions Guidance](#) (see Annex 4 Section E). The other scheme regulators were consulted during its development and intend to apply a similar approach.

We are aware that there may be instances where organisations which qualify for ESOS are unable to complete an ESOS compliant assessment by 5 December 2015. There may also be cases where lead assessors are asked to take on work which they do not believe they can deliver by this date.

The deadline for compliance is set in the EU Energy Efficiency Directive and ESOS Regulations 2014. The scheme regulators cannot amend this deadline. Qualifying organisations that do not complete a compliant ESOS assessment and notify us by 5 December 2015 will be at risk of enforcement action including the possibility of civil penalties.

However, under the regulations the regulators are able to waive or modify enforcement action and penalties relating to non-compliance. The Environment Agency's enforcement approach includes details on specific penalties and how we intend to apply them for the first compliance period. This approach includes:

- Not normally expecting to take enforcement action for late notification provided it is received by 29 January 2016. This is not an extension to the legal deadline. Rather, it reflects our ability to exercise discretion when taking enforcement action.
- Giving until 30 June 2016 to achieve ISO 50001 (international energy management standard) certification as a form of compliance.
- A focus on bringing bodies into compliance using enforcement notices where necessary (normally allowing up to 3 months for organisations to remedy the outstanding compliance actions), serving civil penalties only in the most serious cases.
- In cases where an organisation's energy use is at a domestic level<sup>i</sup> we will not normally enforce the requirements for fully-compliant ESOS audits or alternative routes to compliance, and lead assessor review. But the organisation concerned would still need to make a notification, confirm their energy use falls below the domestic threshold, consider and document opportunities for reducing their energy consumption<sup>ii</sup>; and record their compliance approach in their evidence packs.
- Organisations that qualify but have zero energy consumption, will only need to declare this to us. In such cases we will not normally enforce other elements of the scheme.

If an organisation makes a late notification we would expect them to keep records in their evidence pack of their efforts towards ESOS compliance, including appointment of a lead assessor, prior to the deadline.

**If your organisation cannot comply fully by 5 December 2015, you will need to inform us of this by the same date via an online portal, giving information on why you have been unable to comply and when you expect to submit your notification of compliance. Details of how to do this will be made available on the ESOS webpages and via the ESOS newsletter nearer the deadline. Such organisations are advised to do as much as they can before the deadline.**

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<sup>i</sup> 'Domestic level' energy use is defined for the first compliance period as 40,000kWh/yr or below.

<sup>ii</sup> A Green Deal Assessment or Display Energy Certificate would normally be sufficient for energy use at a 'domestic level'. Such surveys take account of the building type and construction, energy consumption and occupancy to indicate a range of cost effective measures to improve energy efficiency.