

ESOS Phase 3 - Client Briefing Paper—Update June 2023

This briefing was issued previously in September 2022. All of this previous guidance remains unchanged with the exception of the compliance date which has been extended from 5th December 2023 to 5th June 2024. This six month extension has been given to ensure there is reasonable time for participants to meet new requirements and for assessors to carry out assessments.

In addition, the Environment Agency have provided an update on due process required before ESOS Phase 3 Guidance will be published : "Final guidance will be published on gov.uk once the new ESOS regulations have been laid in Parliament. This will happen after the Energy Bill, which contains the regulation making power, has been passed by Parliament." Neither the Environment Agency or the Department for Energy Security & Net Zero have committed to a date as to when the guidance will be published. Note that the qualification date and thresholds remain unchanged – ESOS still applies to all organisations that were classed as large undertakings on 31st December 2022.

Introduction

The Energy Savings Opportunity Scheme (ESOS) is a mandatory energy assessment, introduced by the UK Government to encourage large businesses in the UK to be energy efficient. Phase 1 and 2 are complete with Phase 3 now underway. This update provides guidance on the next steps for participants.

Is the qualification criteria the same?

Yes but now expressed in GBP. 'A large undertaking' is an organisation that carries out a trade or business which: Employs at least 250 persons; **or** Has fewer than 250 employees but has an annual turnover in excess of £44 million and an annual balance sheet total in excess of £38 million.

In addition, you will be in scope of ESOS if you are part of a corporate group which includes an undertaking which meets criteria (1) or (2) above. Organisations that are required to comply with the Public Contracts Regulations 2006 or the Public Contracts Regulations (Scotland) 2012 are exempt from the scheme. Limited companies, public companies, trusts, partnerships, unincorporated associations and not for profit bodies are all potentially within scope.

What are the key timelines for Phase 3?

Phase 3 started immediately after the Phase 2 deadline of 5th Dec 2019. Each phase has two key dates:

- **Qualification date;** 31st December 2022
- **Compliance date;** 5th June 2024

The earliest reference period is calendar year 2022, as ESOS Phase 3 compliance requires a 12-month period of total energy consumption data which includes the qualification date of 31 December 2022.



ESOS Phase 3 - Client Briefing Paper

What are the key requirements of ESOS?

Compliance with ESOS requires a review of your energy consumption, including buildings, industrial processes and transportation. In the majority of cases, all energy that is supplied to and used by your organisation is in scope of ESOS, and extends to energy that is generated by your organisation (with the exception of waste heat recovery). Energy consumption which occurs outside the UK (with the exception of international travel beginning or ending in the UK) is outside of ESOS scope.

You must determine your total energy consumption over a consecutive 12-month period known as the reference period. The reference period must overlap with the qualification date. Therefore your reporting process needs to be in place before December 2022. The end date of the reference period must also occur prior to the compliance date of 5th December 2023. This is to ensure that your calculation of total energy consumption is based on your energy consuming assets and activities at the qualification date. You are free to choose any reference period you wish for your organisation, provided it meets these requirements. You can draw upon data collated for other voluntary and mandatory energy and carbon schemes to help (such as UK ETS, CCA's, SECR).

The ESOS coverage is wider than previous schemes, like CRC, and as such further work will be required to calculate your total energy consumption. When assessing your reference period, your 12 months of data must include the qualification date and be based on verifiable data. Where verifiable data is not available, then ESOS adopts a 'comply or explain' approach and you will need to retain records in your ESOS Evidence Pack to explain your approach. You are still required to estimate the derived energy value through calculation.

When you have calculated your total energy consumption for the reference period you will need to identify and audit areas of significant energy consumption and assess these to identify cost effective energy efficiency opportunities. You can exclude 5% of your energy consumption from further analysis under the de-minimis ruling (previous ESOS phases had a 10% de-minimis rule).

You can use the findings from previous energy audits to support your compliance with ESOS. Your Lead Assessor may also consider work carried out as part of other energy audit schemes (such as Green Fleet Reviews). All audit work must have been completed within the timeline of Phase 3 (6th Dec 2019 to June 5th 2024) and meet the minimum requirements of an ESOS Energy Audit. There is a specific section on audit requirements within the guidance.



ESOS Phase 3 - Client Briefing Paper

Are there any changes in Phase 3?

Yes. Between July - September 2021, the Department for Business, Energy and Industrial Strategy (BEIS) consulted on proposals to strengthen and improve ESOS. The government has responded to the consultation with the following changes summarised below:

- A standardised template for including compliance information in the ESOS report.
- De-minimis exemption reduction from 10% to 5%.
- The addition of an energy intensity metric (e.g. kWh/m² for buildings, kWh/miles travelled for transport etc).
- Requirement to share ESOS reports with subsidiaries.
- Requirement for ESOS reports to provide more information on next steps for implementing recommendations.
- Requirement for participants to set a target or action plan following the Phase 3 compliance deadline, on which they will be required to report against for Phase 4.
- Collection of additional data for compliance monitoring and enforcement.

In addition, the Environmental Agency (EA) will work with ESOS professional bodies to improve the quality of audits in Phase 3 via more active monitoring of Lead Assessors' work.

The changes for Phase 3 will involve additional reporting to the EA however this may not generally require re-visiting site level audits that meet the requirements under the current ESOS regulations. Due to the reduced de-minimis, some organisations may be required to audit additional sites.

It was also discussed whether or not to introduce an energy consumption threshold for individual groups, sites, processes and fuel types. The Government responded and will consider this within Phase 4 onwards. Good practice guidance on thresholds will be provided for Phase 3 but these will not be mandatory.

Will ESOS include Net Zero in Phase 3?

Net Zero changes will be introduced in Phase 4 however no mandatory requirements have been implemented in Phase 3. Organisations that want to include a net zero aspect can do so on a voluntary basis. ITPenergised can support organisations with their Net Zero plans throughout the ESOS process in advance of Phase 4. Details on what this aspect of the scheme will entail are still subject to publication by the UK Government. Updates will be provided as and when this information is released.



ESOS Phase 3 - Client Briefing Paper

Do I have to do anything if I have already complied with Phase 1 & 2?

Yes. If your organisation met the qualifying criteria on 31st December 2022 then you will be required to participate for Phase 3. You should consider which compliance route to take; energy audits or ISO 50001 being the two most common. We can work with you to identify the best solution for your business.

What energy sources must I consider for Phase 3?

The energy sources to be covered are the same and include buildings energy use (electricity, natural gas, oil, LPG etc.) and transport. Our experience would suggest that transport data collection and energy calculations can be challenging. Most companies already collect buildings energy use data already for SECR (previously CRC) but rarely track transport.

What transport data is required?

ESOS does not require participants to measure and audit fuel which they are not supplied with and do not use in their business. Therefore, if your organisation uses contractors to carry out transport activities on its behalf, these operations would be exempt from your ESOS Assessment, but may be part of the contractor's ESOS Assessment, if they qualify. Areas that require evaluation are:

- Freight transport fuel within the UK
- International shipping and aviation for journeys that begin or end in the UK
- Company cars; the energy (fuel/electricity) consumption of vehicles owned or leased by the participant will be within the scope of ESOS. Specifically, it is the fuel/electricity usage which is paid for by the company and consumed in undertaking company business that is in scope.

Grey Fleet: 'grey fleet' refers to vehicles not owned by the company, but instead owned by its employees, owners, directors or other persons related to the company; and used in undertaking company business. The fuel consumption within a participant's 'grey fleet' will be considered within scope of ESOS where the participant makes payment to the vehicle owner in relation to the use of the vehicle on business (e.g. on a pence per mile basis).

Energy consumption associated with the personal use of company cars is not considered within scope of ESOS, as the fuel is not being used for company business. Fuel used for commuting is not within the scope of ESOS.



ESOS Phase 3 - Client Briefing Paper

Do I still need a Lead Assessor?

You will need to appoint a Lead Assessor to support the ESOS assessment (unless you are a large organisation that has its entire UK operation certified to ISO 50001). The Lead Assessor can be an external consultant or an internal accredited Lead Assessor and must belong to a register of energy professionals approved for ESOS by the Environment Agency. ITPenergised has experienced Lead Assessors who worked with over **30 companies** in Phase 1 & 2.

Is there any benefit in considering ISO 50001 as a route to compliance?

Yes. Our team already works with a number of companies who have selected 50001 as their route to ESOS compliance. This route also enables an organisation to maximise the benefits of an ongoing energy management programme at all times rather than carrying out energy audits every 4 years. The other benefits include;

- Competitive edge – drive energy waste out of your business.
- Minimising risk - reduces exposure to energy price fluctuations.
- Best practice – capture successful energy behaviours and technologies and roll out across your business.
- Increased CSR credentials – 50001 demonstrates a commitment to energy efficiency and resulting emission savings to customers and clients.



Selected ITP Energised ESOS experience

Wide Industry Sector Coverage

ITP Energised has provided Lead Assessor services through its experienced team of consultants, and energy audits to a range of companies across all sectors. Members of the team have worked with clients in the oil and gas sector, hospitality, manufacturing, retail and professional services. Our ESOS team have worked with many companies including Expro, Proserv, PUMA UK, Millennium Hotels, Carlsberg, Youngs Seafood's and many more.

Energy Audits to BS EN16247

Our in-house energy auditing team has carried out hundreds of audits both in the UK and internationally. Our lead energy auditor is a Chartered Energy Manager and an ESOS Lead Assessor with the Energy Institute. During Phase 2 and 3, our project team carried out ESOS audits across the UK for over 30 clients using the BS EN 16247 methodology.

This approach meets all the requirements for ESOS and can also be utilised as an energy review for the purposes of 50001 certification.

Transport Energy Audits

As part of an ESOS Phase 2 compliance project, one of our Lead Assessors carried out a transport energy audit for the fleet arm of Tennent's. This project involved comparing fleet operations against industry best practice and quantifying potential energy, carbon and financial savings associated with the roll out of measures such as fleet telemetry and improved aerodynamics in trailer design.

50001 Certification and System Maintenance - Aggreko Manufacturing

ITP Energised provides energy reporting and analysis on a monthly basis for Aggreko as part of an ongoing ISO 50001 support package including internal system auditing. We use our knowledge of building and factory operations to flag up any unusual patterns with suggestions for possible causes. Our team has also provided energy auditing to BS EN 16247 and ISO 50001 implementation and gap analysis. The system at Aggreko has been independently certified by LRQA.

Support Packages Tailored to Your Needs

We recognise that the route to compliance and external support requirements differ according to the needs of each ESOS participant. We will work with you to understand your needs and provide a bespoke package focused on maximising the identification of cost effective energy reduction measures.

Feedback from our ESOS Phase 2 Clients

"The engagement throughout has been superb. Advice over the phone and the comprehensive nature of the site engagement was exemplary."

Ian Flavill, Collier Capital

"...always on hand to answer any questions and pushed us through to get the ESOS submission in on time. We have greatly appreciated the support."

Nicola Pirie, HSEQ Manager UK, Expro

