

**Jim Martin**  
**Chair**  
**Environmental Standards Scotland**  
**Irean Àrainneachdail na h-Alba**

**ENVIRONMENTAL**  
**Standards Scotland**  
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Edward Mountain MSP  
Convener  
Net Zero, Energy and Transport Committee  
Scottish Parliament  
Edinburgh  
EH99 1SP

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10 February 2023

Dear Mr Mountain,

Environmental Standards Scotland (ESS) gave evidence to the Committee on 25 October 2022. At that meeting, we committed to updating the Committee on our work every six months. Our previous update was in August 2022.

1. Since it began work on 1 October 2021, ESS has received a total of 24 representations from individuals and organisations. These span a broad range of areas of environmental law including the spreading of sewage sludge on land, planning policies as they relate to protected areas, and effectiveness of the law and systems surrounding the bycatch and discard of fish. All the representations ESS receives and which are assessed as appropriate for consideration are listed on our website.<sup>1</sup> Since the start of 2023, ESS has received six new representations.
2. In December 2022, ESS published a summary of its position on a representation relating to Scotland's non-compliance with the Aarhus Convention on access to environmental justice. After initial investigation, ESS has paused this investigation

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<sup>1</sup> <https://www.environmentalstandards.scot/investigations/representationsreceived/>

pending the outcome of the Scottish Civil Justice Council's consideration of the Protective Expense Order regime and the Scottish Government's forthcoming review of environmental governance which is required to consider access to environmental justice under the terms of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021.

3. ESS is in the latter stages of our investigation into authorities' reporting against their climate duties and will be discussing our findings with the Scottish Government, local government representative bodies and the Climate Change Committee with a view to seeking an informal resolution. This work may be of interest to the Committee in the context of its recent inquiry into the role of local government and its partners in delivering a Net Zero Scotland.
4. Following the Parliament's approval of our Strategic Plan (2022-25), ESS has begun work on its analytical priorities. Our initial focus is on various aspects of: air quality; biodiversity; climate change; environmental governance; the environment and human health; land and soil; resource use and waste; and the water environment. ESS is conducting this work through a mix of its own work and work it commissions. In all this work, ESS will assess whether there is scope for any detailed investigatory work and whether Scotland is maintaining alignment with international policy and legislation. The results of all analytical work will be made publicly available.
5. ESS continues to monitor policy and legislative developments at a Scottish, UK and international level as they affect environmental law in Scotland, not least the Retained EU Law (Revocation and Reform) Bill. Building on its existing engagement with stakeholders at a national level, ESS will also start a local engagement programme to enable individuals, communities and organisations to speak directly to ESS staff.
6. At its meeting on 25 October 2022, the Committee asked how ESS would assess whether the Scottish Government was meeting its aim to maintain alignment with European environmental policy and legislation. There are two primary ways in which ESS is doing this. Firstly, as noted above, one of the elements in all our analytical work is to assess whether Scottish policy and legislation is maintaining alignment with

**Environmental Standards Scotland Enquiries**

[enquiries@environmentalstandards.scot](mailto:enquiries@environmentalstandards.scot)

Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

0808 1964000

Europe. Secondly, as part of our wider horizon scanning activity, ESS monitors developments in Europe. In addition, ESS is establishing an expert advisory panel to support its work in this area and aims to have this in place before the summer.

7. In terms of ESS as an organisation, we are continuing to build our staff complement towards our planned establishment of 24. ESS recently welcomed two new members of staff, with another joining at the start of March. We plan to recruit further people over the next few months.

I hope this update is helpful. If the Committee would like any additional information on any of the points above, please contact Mark Roberts, Chief Executive. I will provide the Committee with another update in August 2023.

Your sincerely,

Jim Martin  
Chair  
Environmental Standards Scotland