

Environmental Rights Centre for Scotland  
Contact: Shivali Fifield  
Email: [REDACTED]  
Telephone: [REDACTED]

Edward Mountain MSP  
Convenor  
Net Zero, Energy and Transport Committee  
Scottish Parliament  
Edinburgh  
EH99 1SP

By email

29 January 2024

Dear Convenor

**Committee evidence session on environmental governance 16 January 2024**

I refer to the letter from the Chair of Environmental Standards Scotland ('ESS') Jim Martin to you dated 23 January 2024.

I accept Mr Martin's clarification and it was not my intention to misquote him.

To explain my comments, the text of Mr Martin's speech which I referred to in my evidence is accessible at: [Chair-Speech-Law-lecture-20230515.pdf \(environmentalstandards.scot\)](https://www.environmentalstandards.scot.gov.uk/media/2023/05/15/Chair-Speech-Law-lecture-20230515.pdf).

At page 11, Mr Martin referred to the expensive nature of judicial review and advice taken by ESS on the likely costs of their participation in judicial review litigation. Mr Martin explained in his speech that, "Around £75k we were advised would be a prudent figure to keep in mind".

My intention was to note that judicial review is also a significant cost for ESS which has a finite budget, and thus inevitably a factor to be taken in account when considering legal action. I followed on by suggesting that an environment court would be an opportunity to reduce the costs of judicial routes to remedy and this would also be of benefit to ESS.

I am aware and accept that ESS retains a contingency within its budget for judicial review. However, ESS has not yet exercised its judicial review powers and there will be a number of considerations that will inform if/when they do so.

I hope this clarification is helpful to the Committee. I am copying this letter to Mr Martin and apologise for any inconvenience this has caused him and ESS.

Yours sincerely,

Dr Shivali Fifield, Chief Officer, ERCS