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Cc: Mark Roberts, Chief Executive, Environmental Standards Scotland

17 September 2024

Dear Convener,

Report on ERCS's first 11 representations to Environmental Standards Scotland

I am writing to inform you of our report evaluating the first eleven representations ERCS submitted to Environmental Standards Scotland (ESS).

I hope the findings and recommendations can inform the development of ESS's second strategic plan to improve transparency, accountability and effective environmental governance.

The report identifies four concerning trends:

- ESS has refused to investigate a significant proportion of ERCS's representations
- There have been significant and unreasonable delays in ESS's handling of representations made by ERCS
- ESS has not used its statutory powers to enforce environmental laws in any of the eleven cases discussed
- ERCS considers that ESS's decision-making is often poor and ESS often fails to engage with the legal issues that lie at the heart of several representations.

ERCS shared a draft version of the report with ESS and met with both the Chief Executive Mark Roberts and the Interim Chair Dr Richard Dixon to discuss the findings. Below are links to the relevant documents:



- [Report](#) on ERCS's first 11 representations to Environmental Standards Scotland (ESS)
- [ESS response](#) to draft report from Mark Roberts, Chief Executive 8 August 2024
- [ERCS response](#) to ESS letter from Shivali Fifield, Chief Officer 23 August 2024.

ERCS welcomes ESS's openness in responding to the report and their consideration on whether they could do more to improve the transparency of their ongoing monitoring work. We also acknowledge their commitment to improve and refine their operations in the development of their second strategy.

Notwithstanding, the report makes ten recommendations to strengthen the compliance and enforcement of environmental laws. The findings also strengthen the case for an accessible, affordable, timely and effective judicial route to remedy that a dedicated Scottish Environment Court could provide.

With the disappointing news that the Scottish Government no longer intends to introduce a Scottish Human Rights Bill including the right to a healthy environment, coinciding with the failure to meet the Aarhus Convention's Access to Justice requirements by the 1 October deadline, robust reform of Scotland's environmental governance regime is urgently needed.

Thank you for your response on 23 July 2024, referring to the Committee's ongoing scrutiny of the future of environmental governance in Scotland and I look forward to further discussions on this important matter.

Yours sincerely,

Dr Shivali Fifield
Chief Officer, Environmental Rights Centre for Scotland