

04 December 2023

Press release

ESS reaches agreement following investigation into the bathing waters application process

The Scottish Government has agreed to revise the process for applying for a bathing waters designation following an investigation by Environmental Standards Scotland (ESS).

The decision to designate Scottish bathing waters rests with Scottish Ministers. The application process is administered by the Scottish Environment Protection Agency (SEPA) and new applications are reviewed by the Bathing Water Review Panel, a multi-stakeholder group chaired by SEPA. This panel makes recommendations to Scottish Ministers who make and issue the ultimate decisions.

A Non-Governmental Organisation (NGO) asked ESS to look into some areas of the bathing waters application process which it believed were overly onerous or unwarranted. This included the need for the area to be used by a 'large' number of bathers (150 bathers), which the NGO believed to be more than required for other UK nations.

ESS concluded that the Scottish Government's interpretation of a large number of bathers has not affected Scotland's performance in designating new bathing water sites. However, it did find that the system for reviewing and deciding new applications could be improved and made more transparent.

It has requested that the Scottish Government revise the application document and their internal designation procedures to reflect Scottish Government policy that 150 users is not a rigid requirement, including practical measures on how to apply discretion in relation to this.

ESS has also requested that the Scottish Government changes the application requirements to allow more forms of evidence of user counts and to allow user counts from organised events.

The Scottish Government has agreed in principle to address these issues and ESS will monitor implementation of the changes.

Mark Roberts, CEO at ESS, said:

“We look forward to seeing full resolution of the matters raised following the next meeting of the Bathing Water Panel and to continue the conversation with the Scottish Government on the bathing water application process following some further information provided by the NGO.”

[A summary report can be found here.](#) A fuller report will follow after the agreed actions have been implemented.

Individuals who wish to raise an environmental concern can do this directly with ESS - Information on how to raise a concern can be found on our website - [How to Raise a Concern - Environmental Standards Scotland](#).

Ends.

Notes to editors

About Environmental Standards Scotland

Environmental Standards Scotland (ESS) is a public sector body, set up as a non-ministerial office, independent of Scottish Government, and accountable to the Scottish Parliament.

ESS has been set up to ensure environmental laws and standards are adhered to in Scotland, replacing the European Union’s scrutiny and enforcement role after Brexit. Environmental Standards Scotland (ESS) was established in law by the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021.

ESS' role is to scrutinise, investigate and secure improvements in public authorities' compliance with environmental law, the effectiveness of environmental law, and the way it is being implemented and applied in Scotland.

All public authorities are covered, including the Scottish Government and its agencies, as well as organisations carrying out functions on behalf of public authorities.

A broad range of environmental law is covered, including all aspects of environmental protection and harm, particularly in relation human beings and their enjoyment of the environment.

Our Board operates under Standing Orders and we have a Framework agreement with the Scottish Government. [Home - Environmental Standards Scotland](#)

For more information: Visit environmentalstandards.scot

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