

[REDACTED]
Senior Investigation Officer
Environmental Standards Scotland
Ìrean Àrainneachdail na h-Alba

ENVIRONMENTAL
Standards Scotland
Ìrean Àrainneachdail na h-Alba

[REDACTED]
[REDACTED]
[REDACTED]
via email

26 January 2023

Dear [REDACTED],

Thank you for submitting your representation to Environmental Standards Scotland (ESS), dated 16 January 2023 in respect of NatureScot's decision to grant a license for out-of-season and night time culling of deer on the John Muir Trust land at [REDACTED].

Having carefully considered what you have submitted, I note that your concerns relate predominantly to NatureScot's decision making processes. For example, you have told us that regulations have not been followed and that local communities have not been adequately consulted. You also question some of the evidence taken into account by NatureScot, such as the amount of woodland area on the estate in question and the reasons for the lack of woodland area on [REDACTED].

The outcome you seek is that, in the future, NatureScot conducts detailed consultation with all local communities, including sharing the rationale for their action and giving sensible reasons for why there is no alternative.

Following an initial assessment of the information provided you have indicated that you have not contacted NatureScot regarding this matter. As noted in the "[How to Raise a Concern](#)" page of our website and within our representation form, it is ESS' policy that "*we normally do not take action until the relevant public authority has had the opportunity to respond to your concerns or you have tried to resolve your concerns through other available mechanisms.*"

Environmental Standards Scotland Enquiries
enquiries@environmentalstandards.scot
Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD
0808 1964000

The reason for our approach is that it is generally more efficient and effective to try and resolve matters at the closest point to the dispute; therefore it is important that the public authority concerned first has the opportunity to resolve the matter.

It is also important to note that ESS is not an appeal or complaints body for individual decisions taken by public authorities in the exercise of their regulatory functions in relation to a particular person or case (for example, a decision on an application for a licence or a decision on regulatory enforcement in a specific case). This is to prevent overlap with other existing appeal and complaint bodies which are responsible for dealing with concerns relating to individual cases. Given that we are unable to overturn the individual licensing decisions of NatureScot, we are unable to consider the specific factors taken into account by NatureScot or how they balanced the evidence before reaching their decision.

I do note a potential alternate remedy that is open to you to pursue. Unlike ESS, the Scottish Public Services Ombudsman (SPSO) can review individual cases and decisions by public authorities. SPSO's role is to consider complaints of maladministration, which covers failure to follow due process or law.

Similar to ESS, the SPSO would require you to have first raised a complaint with the public authority before they would consider your case. Further information on SPSO's role can be found at <https://www.spsso.org.uk/spsso>.

In summary, for the following reasons I have decided that ESS can take no action:

- It does not appear that NatureScot have been given the opportunity to resolve your concerns;
- We have no power to overturn the decision to issue the deer culling licence;
- An alternative body exists to consider your concerns about NatureScot's decision making process.

I appreciate you may find it disappointing we cannot progress investigation work in response to your representation. If, following making a formal complaint and appeal to SPSO, you feel there are residual issues, I would welcome you to contact ESS again.

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In the meantime, should you have any queries regarding any of the above please do not hesitate to contact me.

Yours sincerely,



Senior Investigations Officer

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