

## **The Scottish Human Rights Commission**

### **Response to the The Public Petitions Committee**

#### ***PE No. 1422***

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The Scottish Human Rights Commission was established by The Scottish Commission for Human Rights Act 2006, and formed in 2008. The Commission is a public body and is entirely independent in the exercise of its **functions. The Commission's mandate is to promote and protect human rights** for everyone in Scotland. We are one of the 67 National Human Rights **Institutions accredited with 'A status' and established** according to the United Nations Principles relating to the Status of National Institutions (The Paris Principles).

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The Scottish Human Rights Commission (the Commission) offers a brief response to the general question it has been asked in relation to Public Petition No. 1422.

In providing this response, the Commission has referred to the Land Reform (Scotland) Act 2003 and other pertinent legislation available to us. The Commission is not, however, in a position to fully consider the human rights compatibility of this area of the law of Scotland.

Having considered the issues in general terms the Commission notes that a number of human rights are relevant in this context, in particular the right to respect for private and family life and home - Article 8 of the European Convention of Human Rights (ECHR) and the right to peaceful enjoyment of possessions under Article 1 of Protocol 1 of the ECHR. Neither of these rights are absolute and each may be limited where in accordance with the law, in pursuit of a legitimate aim, and necessary in a democratic society (the least restrictive alternative capable of achieving the legitimate aim).

The general approaches taken in the current legislative framework -e.g. Criminal law (Scotland) Act 1995, Land Reform (Scotland) Act 2003, Scottish Government Guidance and local authority statutory powers- has created a balanced framework for responsible access to land and inland water. Three principles underpin the definition of responsible behaviour and these apply equally to both the public and land managers:

- **Respect the interests of other people:** be considerate, respect privacy and livelihoods, and the needs of those enjoying the outdoors.
- **Care for the environment:** Look after the places you visit and enjoy. Care for wildlife and historic sites.
- **Take responsibility for your own actions:** The outdoors cannot be made risk-free for people exercising access rights; land managers should act with care for people's safety.<sup>1</sup>

Considering these principles in the light of the human rights engaged, the Commission considers that the Petition does not raise significant human rights concerns.

The Scottish Human Rights Commission

April 2012

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<sup>1</sup> **Scottish Outdoor Access Code** available at : <http://www.snh.gov.uk/docs/A309336.pdf>