PE1422/E

Environment and Forestry Directorate

Natural Resources Division

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Ms Alison Wilson Assistant Clerk to the Public Petitions Committee The Scottish Parliament Edinburgh EH99 1SP



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21 May 2012

Dear Ms Wilson,

CONSIDERATION OF PETITION PE1422

I refer to your letter of 20 April 2012 to my colleague Dave Thomson seeking a written response to address the issues raised in the above petition. The Scottish Government's response is set out below.

1. Inequality between the rights of landowners compared to those exercising the right to access land

The Scottish Government believes the Act provides for a balanced relationship between landowners and those exercising the right to access land. The Act gives everyone statutory access rights to land and inland water throughout Scotland, with few exceptions, for recreational, educational and some commercial purposes, but only if they are exercised responsibly.

The Scottish Outdoor Access Code (SOAC), drawn up under the Act and approved by Parliament, provides non-statutory guidance setting out the rights and responsibilities of land managers and those exercising access rights. One of the three key principles of the SOAC is to "Respect the interests of other people. Acting with courtesy, consideration and awareness is very important. If you are exercising access rights, make sure that you respect the privacy, safety and livelihoods of those living or working in the outdoors, and the needs of other people enjoying the outdoors."

The petitioner calls for an independent body to deal with access disputes. The Act requires all local authorities and national park authorities ("access authorities") to establish a local access forum, consisting of land manager and recreation interests, for the purpose of considering and resolving problems and disputes. Beyond this, access matters under the Act may be referred to the Sheriff Court, for judicial determination on where access rights apply and what is or is not responsible behaviour.









Relating to core paths plans, all access authorities are required under the Act to prepare a plan sufficient for the purpose of giving the public reasonable access throughout their area. Local access forums are involved with drawing up the core paths plans, and where objections remain to core paths in the draft core paths plans, these objections are considered by a local inquiry Reporter within the Directorate for Planning and Environmental Appeals (DPEA).

2. Owners rights over who uses their property and how

The petitioner makes the point that a landowner should have rights on how and who uses their property. The need for privacy is recognised in the SOAC. This explains that access rights <u>cannot</u> be exercised on sufficient adjacent land next to a house to allow those living there to have reasonable measures of privacy and to ensure that their enjoyment of their house is not unreasonably disturbed.

The petitioner states that she does not object to individual responsible access but goes on to say that many individuals exercising access rights do so irresponsibly and are abusive and rude. Section 6.12 of the SOAC sets out what to do if you encounter irresponsible behaviour. Ranger Services can also assist with this.

The Scottish Government is committed to tackling antisocial behaviour and promoting safer and stronger communities. In March 2009 the Scottish Government and COSLA jointly published their Framework for tackling antisocial behaviour, *Promoting Positive Outcomes*, which recognised that prevention and early and effective intervention should be at its heart. The police, local authorities, and other local agencies are responsible for tackling antisocial behaviour at the local level. It is these agencies, empowered by the Scottish Government, working in a concerted and coordinated way with local people that can tackle the problem effectively. All instances of antisocial behaviour should be reported to the local council and all criminal behaviour reported to the police. Only when antisocial behaviour is reported immediately can it be logged, patterns identified, and appropriate action taken.

3. Access rights being granted through a property might decrease its value and landowners are not given compensation

The Act does not make any provision for compensation for landowners in relation to access rights and core paths.

Conclusion

The Scottish Government does not believe that there are inequality issues to be addressed in the access provisions of the Act.

Yours sincerely,

Malcolm Duce







