



Environmental Rights Centre for Scotland (ERCSC)

Strategy 2023 – 2026

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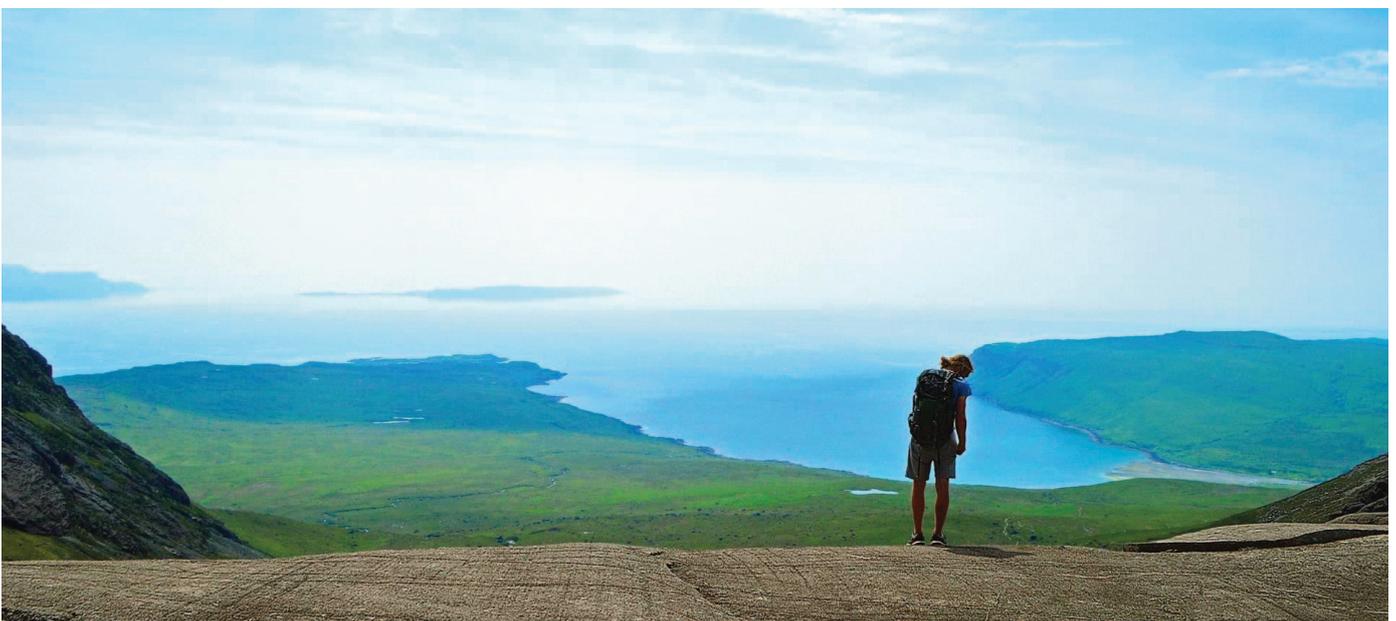
Introduction

The Environmental Rights Centre for Scotland (ERCS) was registered as a Scottish Charitable Incorporated Organisation (SC050257) in July 2020. We are a constantly evolving organisation and proud of what we have achieved in a short space of time. Our first Business Plan July 2020 was updated in September 2021 to cover the period until December 2022.

This new **Strategy January 2023 – 2026** summarises our ambitions for the future and will guide our work for the next three years. Its purpose is to provide clarity for the organisation, prioritise tasks, and demonstrate to supporters, funders and wider stakeholders that there is a solid understanding and vision for ERCS.

In developing our strategy, we have reflected on what we have achieved since our formation, identified areas for improvement and considered our external environment. In evaluating our programmes of work, we have updated our vision, mission statement and theory of change to respond to the ever-increasing need for environmental and human rights defenders.

Our trustees, members and staff hold a wealth of experience that we draw on to provide professional and effective relationships with all our stakeholders. Working together, we are confident that we have the right plan to achieve our strategic outcomes of increased awareness of environmental rights, improved accountability and enforcement of environmental law; and overall aims of strengthening environmental democracy and enforcing the human right to a healthy environment.



View from Coire Lagan, Isle of Skye by Simona Bisiani Martinson

A photograph of a forest with tall, thin trees and a ground covered in ferns and moss. The trees have green and yellow leaves, suggesting autumn. The ground is covered in a dense layer of green ferns and moss. The background is a soft, out-of-focus forest scene.

Our vision: why we exist

Our vision is of a Scotland where every person's right to a healthy environment is respected, protected and fulfilled.

Our purpose and role



There is a clear unmet need within communities and civil society relating to the understanding of legal rights and remedies in environmental matters. At the same time, the environment has no voice in the Scottish courts and relies on individuals, communities and environmental non-governmental organisations (eNGOs) to be that voice.

Our purpose is to increase the capacity and opportunity of individuals, groups and organisations to challenge environmental injustice at neighbourhood, local authority and national levels.

Environmental justice is about ensuring a fair distribution of environmental benefits and burdens. It acknowledges that marginalised groups and communities are more exposed to environmental burdens (such as pollution, proximity to landfill and the impacts of climate change) and have fewer environmental benefits (such as accessible and nature-rich greenspace). It also recognises that these groups are least responsible for contributing to environmental damage on local and global scales. Yet, they have less resources and opportunities to challenge harmful practices and protect the environment now, and for future generations.

ERCS promotes environmental justice in two ways:

- 1 Substantive:** by using the law to improve environmental protection and restoration and securing the highest standards for a clean, healthy and sustainable environment for everyone.
- 2 Procedural:** by working for equitable participation in environmental decision-making, recognition of robust and enforceable environmental rights, and for fair, equitable, timely and affordable access to legal remedies.

Our mission: what we do

ERCS is the only organisation in Scotland that provides free legal expertise in public interest environmental law. Our mission is to assist everyone, especially people who face the biggest barriers, to exercise their rights in environmental law and to protect the environment.

We do this through:

- **Awareness-raising of legal rights and remedies** and supporting equitable participation in environmental decision-making.
- **Advice, assistance and representation** to increase access to justice and holding public authorities and polluters to account on the environment.
- **Advocacy in policy and law reform** to improve environmental law.
- **Strategic public interest litigation** to tackle systemic environmental problems.

ERCS understands environmental law to include law relating to land-use planning, climate change, pollution control, environmental health, the conservation of biodiversity, and any other field (e.g. cultural heritage, transport, energy) to the extent that it impacts on the natural environment and/or the right to live in a healthy environment.

Our strategic outcomes: what we will achieve

- Our resources and outreach have increased awareness of environmental rights and how to exercise them.
- Our advice has enabled action on holding public authorities and polluters to account on the environment.
- Our advocacy on policy and legal reforms has secured concrete progress on environmental rights in Scotland and reduced barriers to access to justice.
- Our strategic public interest litigation has improved accountability and enforcement of environmental law.



Our values: principles we work within

- Open, accessible and approachable in how we offer our services.
- Respectful, collaborative and enabling in how we deliver our services.
- Evidence-based and assertive in how we advocate for policy and law reform.
- Trusted and authoritative in how we pursue environmental rights and litigation.
- Transparent in how we evaluate our impacts and improve our overall effectiveness.



Who we are

The Environmental Rights Centre for Scotland (ERCS) was registered as a [Scottish Charitable Incorporated Organisation \(SC050257\)](#) on 3 July 2020.

ERCS is a [membership organisation](#) and we have over 100 members. Membership is free for any person aged 16 or over who agrees with our vision and charitable purposes which are reflected in our mission and values.

We're led by a skilled board of volunteer trustees who delegate operational responsibilities to the staff team. In addition, ERCS has members who are associates, asked to offer their expertise to inform ERCS's work.

[Short biographies of the trustees, associates and staff team](#) can be found on our website.

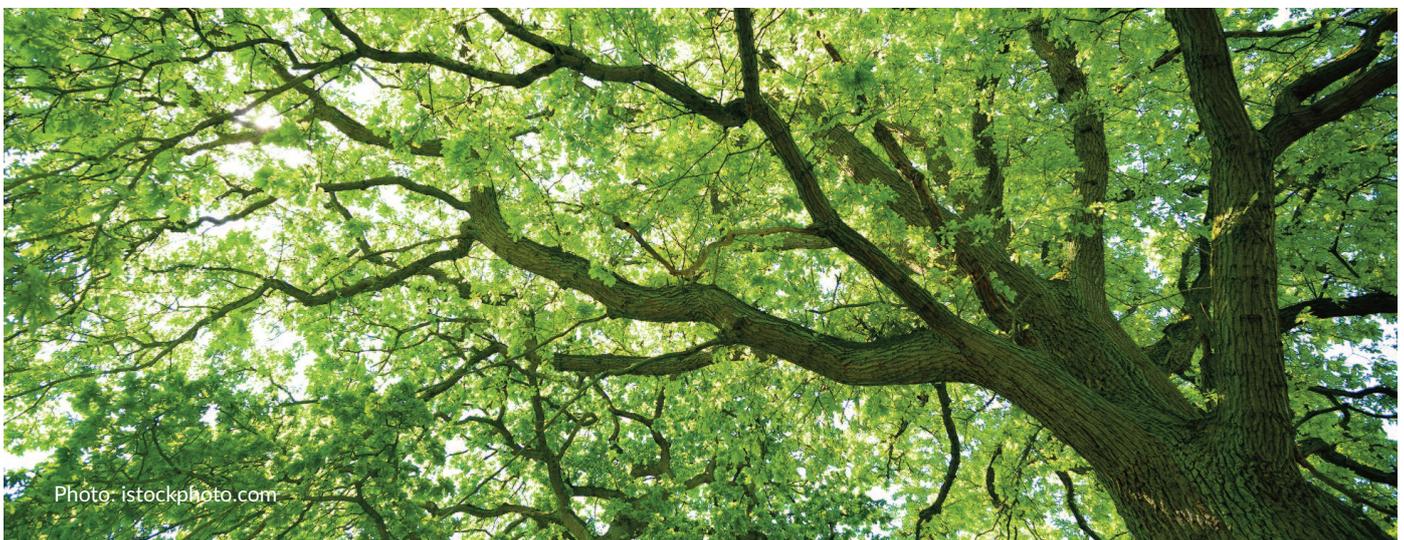
History

ERCS was established by [Scottish Environment LINK \(LINK\)](#) in January 2020 to address a long-acknowledged environmental legal capacity gap in Scotland. LINK was awarded £120,000 over three years by the Joseph Rowntree Charitable Trust and with this appointed two part-time workers to create the organisation.

Organisational structure

LINK remained ERCS's parent charity until the full transfer of financial and employer liabilities on 1 July 2021. ERCS is now an independent charity with an operating budget of approximately £220,000 for 2023/4.

As at January 2023, our staff comprise a Chief Officer, in-house Solicitor (part-time), Rights Officer, Policy & Advocacy Officer (part-time), Finance & Administration Officer (part-time) and Assistant Legal Officer (part-time).



Our key milestones 2020–2022

- Establishing ERCS as a financially resilient organisation with good governance, clarity of purpose and vision.
- Establishing strong relationships within networks of environmental, legal and human rights organisations.
- Establishing open communication with Scottish Government Ministers, civil service teams, prominent MSPs and other key stakeholders to pursue our advocacy objectives.
- Regular **online briefings, guides and information** on environmental issues and the law.
- June 21 – **formal launch of ERCS** with UN Special Rapporteur on human rights and the environment.
- June 21 – launch of our **free legal advice service** with over 100 cases in the first year.
- September 21 – ERCS is the only environmental NGO on the Ministerially-led **Human Rights Bill Advisory Board**.
- December 21 – launch of our **Advocacy Manifesto** with online petition for an enforceable human right to a healthy environment with over 1500 individual and 56 organisation signatories in the first year.
- January 22 – appointment of our **Rights Officer** to outreach to equality groups and areas of highest disadvantage.
- June 22 – Scottish Government respond positively to ERCS's advocacy by introducing the **exemption of court fees for Aarhus Cases** in the Court of Session.
- July 22 – **representation to Environmental Standards Scotland** on the barriers to access to justice.
- July 22 – **evaluation of Scotland's action plan** to meet the recommendations of the Aarhus Convention's Meeting of the Parties Decision VII/8s with press coverage.
- August 22 – **communication to the Aarhus Convention Compliance Committee** on equal rights of appeal in the planning system.
- November & December 22 – **representations to Environmental Standards Scotland** on sewage sludge spreading on agricultural land and river pollution.
- December 22 – over 100 members, 700 subscribers to our mailing list, 1000 followers on Twitter with 14.5K tweet impressions that month.



Strategic analysis

Context

Humanity is facing a triple planetary crisis: climate breakdown, biodiversity loss and increasing pollution of air, land and water.

Scotland must urgently tackle its environmental damage and the disproportionate impact it has on areas of high disadvantage, children, older people, disabled people and other marginalised groups.

On 28 July 2022, the United Nations General Assembly declared access to a clean and healthy environment a universal human right, and that environmental damage has negative implications for the effective enjoyment of all human rights, for present and future generations. The resolution strengthens our call for legal reforms and enshrining the right in Scots law.

The need and demand for our services

In our first Business Plan July 2020, we identified three reasons why ERCS was needed: to address substantive environmental problems; address systemic environmental governance problems; and to meet the opportunities of the new human rights framework and challenges arising from Brexit and Covid-19.

With the welcome commitment from the Scottish Government to include the substantive and procedural rights to a healthy environment in the Human Rights (Scotland) Bill, our four work programmes have the overall aims of strengthening environmental democracy and enforcing the human right to a healthy environment.

The substantive right to clean air, a safe climate, safe water and adequate sanitation, healthy sustainably produced food, non-toxic environments, and healthy biodiversity and ecosystems

As well as tackling the global climate and nature emergencies, there are a number of substantive environmental problems in Scotland. Many people, particularly living in areas of highest deprivation, suffer from pollution, poor environmental quality, close proximity to derelict land, and poor access to nature-rich and multifunctional greenspace, all of which exacerbate health inequalities.

Children, older people and people with health problems are hardest hit. In addition, socially disadvantaged groups are less resilient to the impacts of climate change, such as severe weather events, because they have fewer resources to adapt and recover. All of this contributes to systemic discrimination.

The procedural right to access to information, participation in decision-making and access to justice

We should be able to hold public bodies and polluters to account but, in Scotland, it is incredibly difficult to use our legal system – it is complicated, intimidating and unaffordable.

ERCS seeks to ensure that the impact of our work reaches marginalised groups and places disproportionately affected by environmental burdens and often disconnected from political power and influence.

Opportunities and risk analysis

ERCS has three steering groups: operations, advice and advocacy with delegated responsibilities from the Board of Trustees. Each group meets quarterly and comprises expert trustees and associates to support ERCS officers respond to the operational landscape and anticipate external challenges and opportunities.

ERCS's risk register identifies possible risks and mitigating actions for governance, structure and systems, funding and work programmes. This is reviewed twice a year by the Board of Trustees.

ERCS has a robust monitoring and evaluation framework with key quantitative and qualitative outputs reported quarterly to the Board of Trustees and via e-bulletins to subscribers.

Our **Theory of Change** (page 17) provides the logic for our four work programmes, which take a human rights-based approach by promoting the 5 PANEL principles: participation, accountability, non-discrimination and equality, empowerment and legality.



Boots and Beards hill walk at Knock Hill by Cornell Hanxomphou.

Financial plan

Financial results

Our second [annual report and financial statements](#) provide a summary of our key achievements in the year to 31 March 2022.

ERCS's initial grant was from Joseph Rowntree Charitable Trust and we are grateful for their continued support. Since January 2021, we have received additional core funding from Esmée Fairbairn Foundation and Polden Puckham Charitable Foundation for our advocacy work.

From October 2021, we were awarded a three-year grant by the Scottish Government's Equality and Human Rights Fund to increase awareness and participation of equality groups on the human right to a healthy environment. In 2022, we were delighted to be awarded funding from the Baring Foundation and the William Grant Foundation to scale up our activities as Scotland's only legal hub for environmental justice.

Financial forecast 2023 – 2026

ERCS has a three-year financial forecast 2023 – 2026 which indicates we have achieved our funding targets for 2023 – 2024 including a reserves budget of three months' salary costs.

ERCS's Board is confident of maintaining financial security and our funding strategy includes:

- > A mixed portfolio of **small and large Trusts grants**.
- > **Central government funding** – no more than 30% of annual income to maintain our independence for advocacy while achieving the priorities for our awareness raising and advice programmes.
- > **Donations**.
- > **Crowdfunding** will be used as appropriate, for example for strategic public interest litigation.
- > **Legal fees and legal aid** will be a source of income at a time when ERCS is registered as a law practice unit. Fees will operate at a sliding scale depending on income and individual/organisation circumstances.

Our priorities and actions for 2023–2026

Rights awareness and outreach to increase understanding of environmental rights and how to exercise them

Our priorities

- Increase awareness of how environmental decisions affect our health and connect to social justice issues.
- Build people's capacity to exercise their environmental rights and participate in environmental decision-making.
- Collaborate with equality groups and places of disadvantage to improve the policy and practice of public authorities.

Our actions

- Produce free resources acting as a 'one-stop shop': including at least 4 topic-focussed information on substantive rights p.a. Blogs, podcasts and videos will be tailored to different audiences and levels of knowledge.
- Outreach to at least 8 organisations or networks who are led by and represent or support equality groups p.a.
- Work with partners to deliver and evaluate 6 bespoke workshops/events p.a. to community and equality groups, third sector organisations and other civil society stakeholders (e.g. community councils) with opportunities for networking and peer support.
- Collaborate to undertake desktop and participatory action research on the impacts of environmental problems on marginalised groups and identify areas for reform.

Advice, assistance and representation to enable action on holding public authorities and polluters to account

Our priorities

- Grow Scotland's only free legal advice service on environmental law to strengthen democratic accountability.
- Monitor outputs and outcomes from the Advice Service to evidence impact, environmental improvements, trends and areas for reform.

Our actions

- Provide advice to at least 80 individuals/community groups and at least 4 civil society stakeholders (e.g. NGOs, councillors) p.a.
- Provide advice to at least 20 individuals with protected characteristics p.a.
- Undertake an options appraisal in 2023/4 to identify the most appropriate model for ERCS to operate as a law centre long-term: either partnering with a law firm or registering as our own law practice unit with the Law Society of Scotland.
- Support the establishment of university environmental law clinics.
- Produce regular monitoring and evaluation reports to scrutinise our effectiveness and disseminate key findings.



Advocacy in policy and law reform to secure concrete progress on environmental rights and reduce barriers to access to justice

Our priorities

- Advocate for an enforceable human right to a healthy environment.
- Advocate for full compliance with the access to justice obligations of the Aarhus Convention and the establishment of a specialist environmental court.
- Advance the debate on the intrinsic value of nature and non-human rights.
- Build support for our advocacy priorities through proactive engagement with environmental and human rights organisations, legal, academic and community networks.

Our actions

- Shape how the human right to a healthy environment is incorporated in the Human Rights (Scotland) Act in this parliamentary session and support its effective implementation.
- Advocate for the reform of legal expenses to make access to justice affordable (including legal aid, court fees, protective expenses orders and the loser pays principle) and scrutinise the Scottish Government's action plan to address its non-compliance with the Aarhus Convention's provisions on access to justice.
- Advocate for a specialist environmental court, with a comprehensive jurisdiction, to develop expertise and enable affordable, accessible, timely and effective access to justice for all.
- Advocate for equal rights of appeal in the planning system and the inclusion of substantive review in judicial reviews.
- Monitor policy and legal developments and advocate for robust environmental standards and protections.
- Develop an advocacy position on the Rights of Nature and the incorporation of Ecocide in Scots law.

Strategic public interest litigation to improve accountability and enforcement of environmental law

Our priorities

- Encourage a public law culture in Scotland so that the credible threat of legal action encourages better environmental governance.

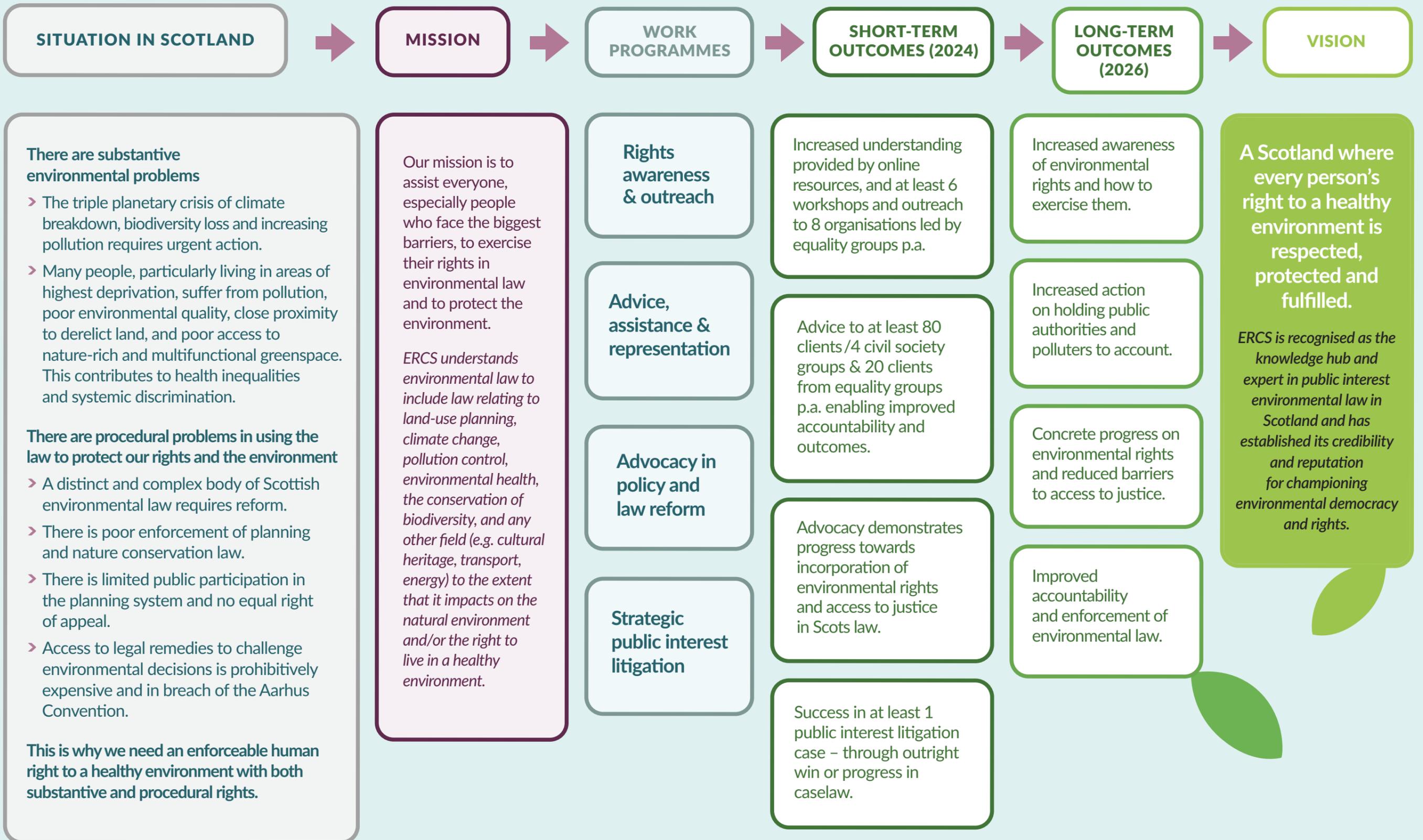
Our actions

- At least one public interest litigation arising from our advice service or in partnership with environmental NGOs.



A walk in the Burn O'Vat, Aberdeenshire by Denitsa Dimitrova

Our theory of change



Conclusion

Scotland can no longer ignore the triple planetary crisis of climate breakdown, biodiversity loss and pollution of our air, land and water.

Covid-19 put a spotlight on the sharp inequalities in accessing nature-rich and multi-functional greenspace which exacerbate health inequalities. Now confronted with the cost of living crisis, fuelled by unsustainable energy and food practices, our work to connect the dots and enable people to exercise their environmental rights is more important than ever.

Building on our strong foundation, ERCS will work with our supporters to achieve better outcomes and justice for people and the environment, striving for a Scotland where every person's right to a healthy environment is respected, protected and fulfilled.

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www.ercs.scot

 [@ERCScot](https://twitter.com/ERCScot)

Scottish Charitable Incorporated Organisation (SCIO) SC050257