

Environmental Rights Centre for Scotland
(A Scottish Charitable Incorporated Organisation)

REPORT AND FINANCIAL STATEMENTS
for the year ended 31 March 2023

Scottish Charity number SC050257

Environmental Rights Centre for Scotland

CONTENTS

	Page
Reference and Administrative Details	1
Chair's Foreword	2
Trustees' Report	3
Independent Examiner's Report	16
Statement of Financial Activities	17
Balance Sheet	18
Statement of Cashflows	19
Notes to the Financial Statements	20

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

REFERENCE AND ADMINISTRATIVE DETAILS

Trustees

Lloyd Austin (Chair)
Deborah Long (Vice-chair)
Julie Christie (Treasurer)
Campbell Gemmell
Mary Church
Clare Symonds
Aedán Smith
Juliet Harris
Jackie Erdman
Thomas Ballantine (co-opted 1 March 2023)

Registered charity number

SC050257

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ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

CHAIR'S FOREWORD

I am delighted, as Chair, to present this third annual report from the Trustees.

This report demonstrates ERCS's continuing development – we have both become firmly established and have also begun to deliver important outputs in three of our four substantive programmes of work. The fourth programme (strategic litigation) was always likely to be the latest to launch – but preparatory work is well underway. Our advice and outreach work are connecting with and supporting a wide range of people and communities, many of whom have not been able to address environmental injustices previously. Meanwhile, our advocacy work continues to show results with the Scottish Government's commitment to a statutory Human Right to a Healthy Environment – although there remains much work to secure full access to justice. The progress made and our priorities are captured in our new strategy for 2023-26.

The delivery and successes in the three programmes described would not have been possible without two key factors: our staff team and our funders. Our Chief Officer, Shivali Fifield, and her team have been crucial to the outcomes. Their work, however, would not be possible without funding – and we sincerely thank all the funders set out in the report.

I would also like to thank the full team of Trustees, whose experience and expertise has enabled us to provide the vision, leadership and oversight. Given the vital importance of healthy, and properly accounted for finances to a growing and successful organisation, I would especially like to acknowledge the specialist work of our Treasurer, Julie Christie. As the organisation develops and grows, this year we have welcomed Tom Ballantine to our Board of Trustees, who brings great knowledge and experience from both the legal world and campaigning NGOs.

Looking forward, as we report on another successful year, we are also planning for the future. In particular, we have plans developing to expand the advice service and are considering if/when to undertake our first strategic litigation. We also continue to welcome new members and associates to support our work; thank you for your support and please spread the word and encourage others to join.

I hope this report makes interesting reading and I look forward to another busy and successful year for ERCS.

Lloyd Austin
Chair

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

TRUSTEES' REPORT

The trustees are pleased to present their report and financial statements from 1 April 2022 to 31 March 2023, prepared in accordance with the accounting policies set out in note 1 to the financial statements, and complying with Charities and Trustee Investment (Scotland) Act 2005, and the Charities Accounts (Scotland) Regulations 2006 (as amended).

Structure, governance and management

Structure

The Environmental Rights Centre for Scotland (ERCS) is a Scottish Charitable Incorporated Organisation (SC050257) registered on 3 July 2020. ERCS was initiated by [Scottish Environment LINK](#) (LINK) in January 2020. Founded in 1987, LINK is a Scottish Charity (SC000296) and a Scottish Company Limited by guarantee and without a share capital (SC250899). LINK remained ERCS's parent charity until the full transfer of financial and employer liabilities to ERCS came into effect on 1 July 2021.

Governance

ERCS has a two-tier [Constitution](#) with free membership. Membership recruitment was launched in April 2021 to any person aged 16 or over who agrees with our vision and charitable purposes. At 31 March 2023, ERCS had 113 members. We ask all applicants to briefly tell us why they would like to become a member. The reasons given are diverse and include: 'both the human community and the environment are integral parts of one picture, they need to coexist and function successfully', 'I believe that legal action is generally the most effective way to bring about urgently needed recovery in wildlife and habitats', 'I am grateful that you are here', 'ERCS provides me with both the knowledge to keep learning about environmental rights and also a route into political participation'.

We are hugely grateful for the support of our members, describing their passion and commitment and urging us to 'become a success on behalf of communities and the environment across Scotland'.

We also have members who are [Associates](#), who offer their expertise to inform the development of ERCS's work programmes and augment the skills base and reach of our trustees. Thanks to Sir Crispin Agnew KC (non practising), Kevin Dunion, Mark Lazarowicz, Alison McNab, Hannah Moneagle, Professor Colin Reid and Jamie Whittle in supporting the development of our Advice Service and acting as the 'critical friend'; Susie Fitton in exploring the intersection of environmental and disabled people's rights and promoting disability inclusion; Professor Elisa Morgera in our advocacy for the right to a healthy environment in the new statutory framework for human rights; and Ann Coleman for representing a voice for environmental justice in the Human Rights Lived Experience Board.

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

TRUSTEES' REPORT

Structure, governance and management (continued)

Recruitment, induction and training of trustees

The maximum number of charity trustees is 12: LINK has two nominated places and there is provision for two co-opted positions, with the remaining eight open to membership election.

The details of trustees are set out on page 1. At 31 March 2023, ERCS had 10 trustees who are not remunerated. Nine trustees were elected in the first two accounting years (2020 – 2022) and Tom Ballantine was co-opted as a trustee by the Board in March 2023. Short biographies of all trustees are on our [website](#).

A trustees' induction pack was provided to all trustees which includes the Constitution, Business Plan, Board Membership Protocol and Trustees' Roles and Responsibilities. [Guidance and Good Practice for Charity Trustees](#) and SCVO updates were also provided. Trustees must declare any interests and agree to a code of conduct. Training for trustees is largely informal through briefing sessions or peer support within the Board. The Chair also has individual discussions with trustees on the Board's evolving role as ERCS develops.

The Board and staff team also participated in two half-day sessions on Equality, Diversity and Inclusion in January/February 2022 to inform the development of ERCS's policies, operations and strategy.

Management

There were five Board meetings during this period to maintain oversight of ERCS's financial and non-financial performance and activities. In addition, trustees each contributed to one or more of the Board's three working groups: Operations, Advice and Advocacy.

Key management personnel

The ERCS trustees consider that they, together with the ERCS Chief Officer, comprise the key management personnel, with the day-to-day operations delegated to the Chief Officer. Regular calls are held between the Chief Officer and the Vice-chair (Deborah Long) who is also the Chief Officer of LINK, providing line management and continuity with LINK. The ERCS Chief Officer also meets regularly with the Chair.

ERCS staff at 31 March 2023

Shivali Fifield	Chief Officer (1 full time equivalent - FTE)
Ben Christman	In-house Solicitor (0.7 FTE)
Cornell Hanxomphou	Rights Officer (1 FTE)
Benji Brown	Policy & Advocacy Officer (0.9 FTE)
Preslava Todorova	Assistant Legal Officer (0.8 FTE)
Emma Donaldson	Finance & Administration Officer (0.5 FTE)

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

TRUSTEES' REPORT

Structure, governance and management (continued)

Management

The Chief Officer has weekly team meetings and regular support and supervision with the staff team. This year we were delighted to welcome Benji Brown as our new Policy & Advocacy Officer and Preslava Todorova as Assistant Legal Officer, growing our staff team from four to six from the same time the previous year.

The pay and remuneration of the ERCS staff team is set by the Board and is kept under annual review. From 1 April 2022, following the successful TUPE of staff in July 2021 from LINK to ERCS, all staff contracts were made permanent with a cost-of-living award of 3%. Although all staff salaries are benchmarked at each recruitment, as a new organisation it was prudent to have them at the lower end of the scale. With ERCS in its third year and secured income, the Board made a commitment to review salaries so that they were competitive within the specialist environmental advocacy and legal sectors to both value and retain staff. The decision was to award an 8% uplift for the specialist posts in January 2023 and a cost-of-living award of 5% to all staff on 1 April 2023. This was greatly appreciated by the staff team and brings all salaries among the top-end of our peers.

Charitable purposes and mission

Our [Constitution](#) (clause 4) was updated in September 2021 and sets out our charitable purposes to advance the right to a healthy environment; environmental protection and improvement; health; citizenship and community development; and education.

Vision

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

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 us to be that voice.

Our organisational purpose is to increase the capacity and opportunity of individuals, groups and organisations to promote accountability and environmental justice 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.

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

TRUSTEES' REPORT

Charitable objectives and mission (continued)

We promote environmental justice in two ways:

- 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.
- Procedural - by working for equitable participation in decision-making, recognition of robust and enforceable environmental rights, and for fair, timely and affordable access to legal remedies.

Mission statement and values

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 values and principles are:

- 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 effectiveness.

Business and organisational development

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. In January 2023, we launched our [Strategy 2023-2026](#) which summarises our ambitions for the future and will guide our work for the next three years. Its aim 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.

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

TRUSTEES' REPORT

Achievements and performance 1 April 2022 to 31 March 2023

Business and organisational development (continued)

In developing our strategy, we 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 updated our vision, mission statement and [theory of change](#) to respond to the ever-increasing need for environmental and human rights defenders.

Our strategic outcomes are:

- 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 resources and outreach have increased awareness of environmental rights and how to exercise them

During this reporting period, our website received 10,968 visits and 26,734 pageviews compared with 9,995 visits and 23,493 pageviews the previous year. The number of unique downloads also increased from 943 to 1,694.

All [our resources](#) can be accessed from our website and we produce quarterly e-bulletins with updates on our work. At 31 March 2023, we had over 730 online subscribers to our mailing list and over 1000 followers on Twitter (double the previous year), demonstrating our widening reach and interest in our work.

Since January 2022 and funded by the Scottish Government's Equality and Human Rights fund, our [Rights Officer](#) has led our work programme on rights awareness and outreach with four areas of focus. The first is to build links with key organisations who are led by and represent equality groups. Second, to increase awareness in these organisations about environmental rights and how to integrate this into their own work. Third, to build a bank of resources to help people better understand their environmental rights and examples of environmental injustice. Fourth, to provide direct support to equality and community groups in areas of highest disadvantage.

This year, we were able to produce accessible FAQs on [air pollution](#), [water pollution](#), [greenspace](#) and the [right to a healthy environment](#) – all of which have been well received. We also launched our [Voices for justice](#) blogs which are co-produced by clients from our Advice Service highlighting the ongoing challenges to enforce environmental regulations and strengthen protection. Topics include [sewage polluted waters](#) in the Water of Leith and [sewage sludge spreading](#) on agricultural land.

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

TRUSTEES' REPORT

Achievements and performance (continued)

Following the energetic and passionate contribution from some of our advice clients at our first Parliamentary event in March, they have met again and are in the early stages of forming an environmental justice network to enable peer support and coordination between community campaigners.

As well as working with organisations to raise awareness of the right to a healthy environment and how this connects with social justice concerns, we are collaborating with [MECOPP Gypsy/Travellers Service](#) to identify the range of environmental problems the Gypsy/Traveller Community face on their static sites across Scotland and what can be done to address them.

Our advice has enabled action on holding public authorities and polluters to account on the environment

Part of the reason for creating ERCS was in recognition that low-cost specialist and experienced environmental justice lawyers were scarce. From the launch of our Advice Service in June 2021 to March 2023, over 164 enquiries were received. We have produced a [snapshot of the first 150 advice enquiries](#) which illustrates the geographical range and nature of enquiries. Enquiries came from across Scotland with 26% of those recorded coming from the most deprived areas as ranked by the Scottish Index of Multiple Deprivation.

Cases included loss of greenspace because of new planning proposals, land access rights, sewage sludge, river/water pollution, loss of local biodiversity, nature and marine conservation law, badger protection, increased air pollution because of new road building, non-compliance with the Aarhus Convention, and general rights to challenge decision-making relating to the environment.

The qualitative feedback we have received from clients demonstrate increased awareness of and confidence in exercising environmental rights: most notably in challenging local authority planning decisions; and having the legal information to hold public authorities to account on sewage sludge and river pollution. Enquirers commented on the level of information and usefulness, often indicating a sense of relief at receiving timely advice but nevertheless an ongoing fatigue from having to challenge poor environmental decisions.

'It is empowering to know that our little community campaign has the backing of a solicitor and organisation who are committed to the environment and, since the start, have been a source of invaluable advice and support. Power to your collective elbow!'

A notable 'win' was an intervention to the Planning and Environmental Appeals Division (DPEA) which we believe led to the [developer withdrawing its proposal to build a plastics incinerator in Clydebank](#).

Following initial advice and assistance from ERCS, ten cases were referred for legal aid with our in-house Solicitor providing continuity of legal support. Another notable 'win' was from one of these cases: where a local campaign group sought to challenge a decision by Moray Council's Local Review Body to grant planning permission for a luxury housing development on woodland. The legal challenge was successful and [the Court of Session quashed the planning decision in February 2023](#).

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

TRUSTEES' REPORT

Achievements and performance (continued)

[Environmental Standards Scotland](#) (ESS) is the independent body established in 2021 to ensure Scotland has high environmental standards, strong systems which maintain them and to prevent enforcement gaps arising from Brexit. Regular liaison has been established and ERCS submitted six representations during this reporting period: on [barriers to access to justice](#), concerns about [a parking development at Glenmore Forest](#), [ineffective sewage sludge regulation](#), failure to regulate sewage pollution in the River Almond, problems around [the designation of bathing waters](#), and the Scottish Government's failure to publish a climate assessment of its infrastructure investment plan contrary to the statutory duty under the Climate Change (Scotland) Act 2009. Only halting the parking development at Glenmore Forest can be seen as a success. The remaining representations are ongoing which highlights the length of time it takes for investigations – which, in itself, is a barrier for non-judicial routes to remedy.

Our advocacy on policy and legal reforms has secured concrete progress on environmental rights in Scotland and reduced barriers to access to justice

As well as regular [press releases](#) and [blogs](#), we produced [briefings and reports](#) to further our advocacy objectives. Our work has been welcomed by civil society stakeholders from across the environmental, legal and rights organisations, as well as Members of the Scottish Parliament (MSPs) and civil servants from the Human Rights Bill, Civil Courts and Tribunals, and Environmental Strategy and Governance teams.

The priorities for our advocacy work are detailed in our [Advocacy Manifesto](#) and our [Strategy 2023-2026](#).

In summary there were three objectives we focused on to advance substantive and procedural environmental rights:

- i. Shape how the human right to a healthy environment is incorporated in the Human Rights (Scotland) Bill.***

As one of 20 members from civil society on the Human Rights Bill Advisory Board, and the only representative from the environmental sector, we continued our advocacy to incorporate the substantive and procedural elements of the right in the new statutory framework. Ann Coleman, a veteran environmental justice campaigner and ERCS Associate, also played a key part in raising awareness on the right as part of the Human Rights Bill Lived Experience Board. Drawing on the [Taskforce's recommendations](#) we have worked proactively with the Human Rights Bill team to inform the pre-legislative consultation.

The procedural element of the right is already enshrined in the Aarhus Convention but the substantive element will be new for Scotland. We convened two workshops with LINK experts to scope the most appropriate definitions, standards and enforcement mechanisms for the six interdependent features of the substantive element of the right and, drawing on international guidance and best practice, we published a report to inform the development of the Bill.

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

TRUSTEES' REPORT

Achievements and performance (continued)

We also led on the action on the right to a healthy environment in [SNAP 2: Scotland's second National Human Rights Action Plan \(2023-2030\)](#) which we hope will result in a more coordinated collation of data across public bodies and third sector.

'Carry out a human rights review of collated baseline data on air, land and water pollution impacts and severe weather events. To address the disproportionate impact of environmental harms on marginalised places and people whose rights are most at risk, prioritise focus on: (a) areas of highest deprivation and/or at higher risk; (b) the impact of environmental hazards on health outcomes; and (c) the extent to which mitigation and adaptation measures are prioritised for areas of highest deprivation. Use findings to inform national decision-making to help better realise the right to a healthy environment'.

- ii. **Hold the Scottish Government to account on its non-compliance with the [Aarhus Convention](#) Article 9 Access to Justice requirements.**

In October 2021, the UK, for the first time, was required to complete an [Action Plan by 1 July 2022, to be implemented by 1 October 2024](#) in order to fully meet the recommendations in the Aarhus Convention's Meeting of the Parties MoP-7 Decision VII/8s: including *'to ensure that the allocation of costs in all court procedures subject to Article 9, including private nuisance claims, is fair and equitable and not prohibitively expensive'*.

Although we welcomed the Scottish Government's long overdue acknowledgment of its non-compliance, their Action Plan received a scathing assessment from the Aarhus Convention's Compliance Committee and [our evaluation](#) received good media coverage.

Arguably, the most important MoP recommendation for Scotland is to review the allocation of costs in court procedures so that they are not prohibitively expensive, and we welcomed the Scottish Government requesting the Scottish Civil Justice Council (SCJC) to review court rules governing Protective Expenses Orders (PEOs) 'in order to make them compliant with Article 9(4)'. Notwithstanding, it has been a time-consuming process comprising discussions with civil servants, letters to the SCJC and FOI requests seeking clarity on the extent of the review and the need for public consultation. We secured a significant win in February when the SCJC confirmed to ERCS that it will 'seek views on a revised PEO rules instrument' later this year.

Separately, following a long-delayed response to an FOI request, originally submitted by ERCS to the Scottish Courts and Tribunals Service in October 2021, in November 2022 we published a [briefing](#) highlighting the lack of transparency concerning the use of Protective Expenses Orders and the need to overhaul the entire system.

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

TRUSTEES' REPORT

Achievements and performance (continued)

- i. Secure commitment to a specialist environmental court which is affordable and accessible for everyone, fair, timely and effective.*

The publication of Environmental Standards Scotland's Strategic Plan in December 2022 triggered the duty under section 41 of the UK Withdrawal from the European Community (Continuity) (Scotland) Act 2021 to consult on, 'whether the law in Scotland on access to justice on environmental matters is effective and sufficient, and whether and, if so, how the establishment of an environmental court could enhance the governance arrangements'.

On 2 February, we hosted a successful Roundtable on 'how an environmental court could enhance Scotland's governance arrangements' with 38 participants including MSPs, civil servants, academics, and members of the legal community. The discussion informed Prof Campbell Gemmill's report on the [Clear and urgent case for a Scottish Environment Court](#) published by ERCS and circulated to relevant stakeholders.

Following this, on 29 March, we hosted our first parliamentary event *Environmental Rights for Scotland* sponsored by Maggie Chapman MSP with Prof Colin Reid and Ann Coleman joining us on the panel. The event was at full capacity and made particularly interesting because of the participation of sixteen clients from our Advice Service who were able to talk about their own struggles to access environmental justice. This was all in preparation to provide comprehensive responses to the Scottish Government's consultations on the Human Rights Bill and Environmental Governance both published in June.

Our strategic public interest litigation has improved accountability and enforcement of environmental law

In August 2022, we submitted a joint communication to the Aarhus Convention Compliance Committee (ACCC) with Planning Democracy, Friends of the Earth Scotland and RSPB on equal rights of appeal in planning and non-compliance with Article 9 of the Aarhus Convention. The ACCC accepted our communication and the UK had until 21 July 2023 to respond to our communication: in which, unsurprisingly, they did not accept our complaint, and, at the time of writing, we await to hear from the ACCC on the next steps. Although a lengthy and unwieldy process, it has provided a good 'hook' to resurrect [the advocacy for more equitable appeal rights](#) including press coverage.

We also supported an appeal to the UK Information Tribunal on behalf of Ramblers Scotland which resulted in a successful outcome.

Overall, there remain significant barriers to public interest litigation in Scotland as outlined in our [Advocacy Manifesto](#), and this has tempered our strategic litigation programme, as well as wanting to test the enforcement powers of ESS as summarised above. Notwithstanding, we have scoped options with several organisations which will be further developed in 2023/24.

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

TRUSTEES' REPORT

Financial review

Trustees consider the financial position to be satisfactory. The charity closed the year with net income of £48,204 (2022: £89,917).

Principal funding sources

Total income for this period 2022/23 was £235,883 (2022: £208,001).

Grants accounted for the majority of our income at £234,042 (2022: £142,977) with individual donations at £1,625 and £216 coming from bank interest.

ERCS came to the end of its three-year grant from Joseph Rowntree Charitable Trust in October 2022 and we were delighted to receive a new award of £180,000 over three years, as well as a new award of £30,000 from the William Grant Foundation. We also received cost-of living awards from Joseph Rowntree Charitable Trust, Esmée Fairbairn Foundation and the Baring Foundation. This gave the Board confidence in awarding the salary increases already mentioned and looking towards further expansion of the organisation.

Joseph Rowntree Charitable Trust (core costs)	£65,500
Esmée Fairbairn Foundation (core costs)	£48,000
Polden Puckham Charitable Foundation (advocacy)	£15,000
Equality and Human Rights Fund (equalities work)	£51,782
Baring Foundation (legal hub)	£23,760
William Grant Foundation (core costs)	£30,000
Individual donations (core costs)	£ 1,625
Bank interest	£ 216

Reserves policy

As noted in previous annual reports, in its start-up years, ERCS's trustees began by not committing the charity to any planned expenditure unless this was matched by either confirmed income received or receivable and considered it prudent that unrestricted reserves should be developed and maintained at a level that was sufficient to cover at least one month salary costs. Notwithstanding, the trustees acknowledged that they would seek to create modest operating surpluses, as appropriate, to develop and then maintain reserves in line with three months' salary costs in future years. For the reporting period, the target free reserves position of £78,901 was achieved.

The Reserves Policy ensures we can maintain adequate free reserves to manage the charity and allow for any reasonably foreseeable contingency.

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

TRUSTEES' REPORT

Reserves policy (continued)

ERCS principally hold reserves to:

- protect the continuity of work against uncertain future income streams
- bridge short-term funding gaps between project expenditure and receipt of payments
- cover long-term absences or business systems failure
- provide the capital needed to finance investment in operations
- provide funds to replace assets
- cover for specific liabilities and identifiable risks
- allow ERCS to respond to unexpected opportunities that can further our aims
- allow ERCS to meet contractual obligations.

At 31 March 2023, ERCS had total reserves of £181,009 (2022: £132,805) made up of unrestricted reserves of £179,714 (2022: £124,874) and restricted reserves of £1,295 (2022: £7,931). The level of unrestricted reserves required to cover three months' salary costs was £78,901; at that time, ERCS held free reserves of £178,332, which is higher than the level required.

As ERCS continues to grow, the required level of unrestricted reserves will also need to increase in line with the forecast three months' full operating costs (including salaries). This will be reviewed by the Board on a quarterly basis.

Risk management

The Board has a risk management strategy which comprises:

- six-monthly review of the risks the charity may face, undertaken in accordance with SORP Accounting and Reporting for Charities
- the establishment of systems and procedures to mitigate those risks identified
- the implementation of procedures designed to minimise any potential impact on the charity should these risks materialise.

Arrangements are in place for robust and frequent monitoring and review of finances and operations. Proactive monitoring and readiness to take action, coupled with thorough environmental scanning, are key elements of our risk management strategy.

The critical risks previously identified were an inability to fund ERCS's core objectives and work programmes, and the loss of expertise and knowledge through departure of key staff. It was heartening to acknowledge a general reduction of overall risk as ERCS's governance and operational processes are now embedded to achieve a degree of organisational resilience, including the review of our salary structure to enable staff recruitment and retention. Moderate risks included a significant complaint about our Advice Service and IT systems failure. To mitigate these risks, our [terms of service and complaints policy](#) were reviewed and we have an IT support contract in place as well as achieving [Cyber Essentials certification](#).

Although we have had good success in grant funding, trustees recognise that the financial operating environment remains challenging - with many charitable trusts understandably shifting their funding priorities to address the economic, social and health impacts of post-covid recovery and the cost-of-living crisis.

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

TRUSTEES' REPORT

Looking ahead to 2023/4 and beyond

At the time of writing this report in July 2023, the two Scottish Government consultations we have eagerly awaited have been published. The consultation on the Human Rights Bill is a positive step in the right direction, proposing to use the Aarhus definition of the environment and a duty to comply with the substantive and procedural right to a healthy environment. This is a significant win for environmental campaigners. Our next task is to ensure the substantive and procedural elements are comprehensive, with teeth and enforceable, as well as then supporting its effective implementation. Disappointingly, the consultation on environmental governance failed to consider the contribution a dedicated environment court could make to increase access to justice and there is no clear commitment to reform legal expenses within the timeline required by the Aarhus Convention's governing bodies. This emphasises the work our advocacy still needs to do.

On a positive note, in May 2023 ERCS was awarded a new grant from the Polden Puckham Charitable Foundation of £210,000 over three years to extend our advocacy work and enables us to recruit a new Policy & Communications officer to join the team. This will include scoping a domestic legal framework for ecocide in Scots law and the Rights of Nature.

Our priorities also include growing Scotland's only free legal advice service on environmental law to strengthen democratic accountability and environmental protection. To this end the Board will be considering the options for ERCS to become a law practice so that it can undertake its own legal representation for public interest litigation in 2024.

ERCS has demonstrated its unique contribution and potential, but there is still much to do to advance environmental justice in Scotland and tackle the triple planetary crisis of climate breakdown, biodiversity loss and increasing pollution of our air, land and water.

Covid-19 put a spotlight on the sharp inequalities in accessing nature-rich and multifunctional greenspace which exacerbate inequalities in health. Now confronted with the cost-of-living crisis, fuelled by unsustainable energy and food practices, our work to connect the dots between social, environmental and climate justice, and enable people to exercise their 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.

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

TRUSTEES' REPORT

Trustees' responsibilities statement

The trustees are responsible for preparing the Trustees' Report and the financial statements in accordance with applicable law and United Kingdom Accounting Standards (United Kingdom Generally Accepted Accounting Practice).

The law applicable to charities in Scotland requires the trustees to prepare financial statements for each financial year which give a true and fair view of the state of affairs of the charity and of the incoming resources and application of resources of the charity for that year. In preparing these financial statements, the trustees are required to:

- select suitable accounting policies and then apply them consistently;
- observe the methods and principles in the Charities SORP 2019 (FRS 102);
- make judgements and estimates that are reasonable and prudent;
- state whether applicable accounting standards have been followed, subject to any material departures disclosed and explained in the financial statements; and
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the charity will continue in operation.

The trustees are responsible for keeping proper accounting records that disclose with reasonable accuracy at any time the financial position of the charity and enable them to ensure that the financial statements comply with the Charities and Trustee Investment (Scotland) Act 2005, the Charities Accounts (Scotland) Regulations 2006 (as amended) and the provisions of the charity's constitution. They are also responsible for safeguarding the assets of the charity and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

This report was approved by the trustees on 11 October 2023 and signed on its behalf by

Lloyd Austin
Chair

INDEPENDENT EXAMINER'S REPORT TO THE TRUSTEES ON THE UNAUDITED FINANCIAL STATEMENTS

I report on the financial statements for the period ended 31 March 2023 set out on pages 17 to 26.

Respective responsibilities of trustees and independent examiner

The charity's trustees are responsible for the preparation of the financial statements in accordance with the terms of the Charities and Trustee Investment (Scotland) Act 2005 and the Charities Accounts (Scotland) Regulations 2006 (as amended). The charity trustees consider that the audit requirement of Regulation 10(1) (a) to (c) of the Accounts Regulations does not apply. It is my responsibility to examine the financial statements as required under section 44(1) (c) of the Act and to state whether particular matters have come to my attention.

Basis of independent examiner's statement

My examination is carried out in accordance with Regulation 11 of the 2006 Accounts Regulations (as amended). An examination includes a review of the accounting records kept by the charity and a comparison of the financial statements presented with those records. It also includes consideration of any unusual items or disclosures in the financial statements, and seeks explanations from the trustees concerning any such matters. The procedures undertaken do not provide all the evidence that would be required in an audit, and consequently I do not express an audit opinion on the view given by the financial statements.

Independent examiner's statement

In the course of my examination, no matter has come to my attention:

1. which gives me reasonable cause to believe that in any material respect the requirements:
 - to keep accounting records in accordance with Section 44(1) (a) of the 2005 Act and Regulation 4 of the 2006 Accounts Regulations (as amended); and
 - to prepare financial statements which accord with the accounting records and comply with Regulation 8 of the 2006 Accounts Regulations (as amended).have not been met; or
2. to which, in my opinion, attention should be drawn in order to enable a proper understanding of the financial statements to be reached.

Emma Marshall, CA
Independent Examiner

11 October 2023

Geoghegans
Chartered Accountants
6 St Colme Street
Edinburgh
EH3 6AD

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

**STATEMENT OF FINANCIAL ACTIVITIES
FOR THE YEAR ENDED 31 MARCH 2023**

	Notes	Unrestricted £	Restricted £	Year ended 31 Mar 23 £	Year ended to 31 Mar 22 £
Income from:					
Donations and legacies	2	1,625	-	1,625	59,855
Charitable activities	3	182,260	51,782	234,042	142,977
Other trading income	4	-	-	-	5,150
Investment income	5	216	-	216	19
Total income		<u>184,101</u>	<u>51,782</u>	<u>235,883</u>	<u>208,001</u>
Expenditure on:					
Charitable activities	6	<u>129,261</u>	<u>58,418</u>	<u>187,679</u>	<u>118,084</u>
Total expenditure		<u>129,261</u>	<u>58,418</u>	<u>187,679</u>	<u>118,084</u>
Net income/(expenditure) and net movement in funds		54,840	(6,636)	48,204	89,917
Reconciliation of funds:					
Funds brought forward		<u>124,874</u>	<u>7,931</u>	<u>132,805</u>	<u>42,888</u>
Funds carried forward	11	<u><u>179,714</u></u>	<u><u>1,295</u></u>	<u><u>181,009</u></u>	<u><u>132,805</u></u>

All income and expenditure is derived from continuing operations.

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

BALANCE SHEET AS AT 31 MARCH 2023

	Notes	2023 £	2022 £
Fixed assets			
Tangible fixed assets	8	<u>1,382</u>	<u>2,260</u>
Current assets			
Debtors	9	15,550	10,214
Cash at bank and in hand		<u>169,883</u>	<u>126,719</u>
		185,433	136,933
Creditors: amounts falling due within one year	10	<u>(5,806)</u>	<u>(6,388)</u>
Net current assets		<u>179,627</u>	<u>130,545</u>
Net assets	12	<u>181,009</u>	<u>132,805</u>
Funds			
Unrestricted funds	11,12	179,714	124,874
Restricted funds	11,12	<u>1,295</u>	<u>7,931</u>
	11,12	<u>181,009</u>	<u>132,805</u>

The financial statements were approved and authorised for issue by the Trustees on 11 October 2023 and signed on their behalf by:

Lloyd Austin
Chair

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

STATEMENT OF CASHFLOWS FOR THE YEAR ENDED 31 MARCH 2023

	Note	2023 £	2022 £
Cash flows from operating activities			
Net cash provided by operating activities	13	<u>43,348</u>	<u>128,511</u>
Cash flows from investing activities			
Investment income		216	19
Purchase of fixed assets		<u>(400)</u>	<u>(1,811)</u>
Net cash (used in) investing activities		<u>(184)</u>	<u>(1,792)</u>
Change in cash and cash equivalents in the year	14	43,164	126,719
Cash and cash equivalents at the beginning of the year	14	<u>126,719</u>	<u>-</u>
Cash and cash equivalents at the end of the year	14	<u>169,883</u>	<u>126,719</u>

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

NOTES TO THE FINANCIAL STATEMENTS YEAR ENDED 31 MARCH 2023

1 Accounting policies

The significant accounting policies applied in the preparation of these financial statements are set out below.

(a) Basis of accounting

The financial statements are prepared on a going concern basis under the historical cost convention, modified to include certain items at fair value. The financial statements are presented in sterling which is the functional currency of the charity and rounded to the nearest £.

Environmental Rights Centre for Scotland meets the definition of a public benefit entity under FRS 102.

The financial statements have been prepared in accordance with Accounting and Reporting by Charities: Statement of Recommended Practice applicable to charities preparing their financial statements in accordance with the Financial Reporting Standard applicable in the UK and Republic of Ireland issued in October 2019, the Financial Reporting Standard applicable in the United Kingdom and Republic of Ireland (FRS 102), the Charities and Trustee Investment (Scotland) Act 2005, the Charities Accounts (Scotland) Regulation 2006 (as amended) and UK Generally Accepted Accounting Practice.

(b) Going concern

The financial statements have been prepared on a going concern basis as the Trustees believe that no material uncertainties exist. The Trustees have considered the impact of the current economic environment on the financial position and future performance of the charity. The Trustees have considered the level of funds held and the expected level of income and expenditure for 12 months from authorising these financial statements and have concluded that there is a reasonable expectation that the charity has adequate resources to continue in operational existence for the foreseeable future.

(c) Income

All income is recognised once the charity has entitlement to the income, it is probable that the income will be received and the amount of income receivable can be measured reliably. The following specific policies are applied to particular categories of income:

Donations, legacies and similar incoming resources are included in the year in which they are receivable, which is when the charity becomes entitled to the resource.

Income from charitable activities includes grant income which is recognised when the charity has entitlement to the funds, any performance conditions attached to the grant have been met, it is probable the income will be received and the amount can be measured reliably.

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

NOTES TO THE FINANCIAL STATEMENTS (continued) YEAR ENDED 31 MARCH 2023

1 Accounting policies (continued)

(d) Expenditure

Expenditure is recognised once there is a legal or constructive obligation committing the charity to that expenditure, it is probable that settlement will be required and the amount of obligation can be measured reliably. Expenditure is accounted for on an accruals basis and has been classified under headings that aggregate all cost related to the category.

Charitable expenditure comprises those costs incurred by the charity in the delivery of its grant making activities. It includes both costs which can be allocated directly to such activities and those costs of an indirect nature necessary to support them.

Support costs are allocated between governance costs and other support costs. Governance costs include these costs associated with meeting the constitutional and statutory requirements of the charity and include the statutory audit fees and costs linked to strategic management of the charity. Other support costs relate to the administrative costs of running the charity.

(e) Tangible fixed assets

Tangible fixed assets costing more than £250 are capitalised at cost and depreciated over their useful economic lives at the following rates:

Computer equipment	- 33% straight line
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(f) Debtors

Debtors are measured at their recoverable amount and included when reasonable certainty exists over their receipt. Prepayments are valued at the amount prepaid.

(g) Cash at bank and in hand

Cash at bank and in hand includes cash and highly liquid short-term investments with a maturity of three months or less from the date of acquisition or opening of the deposit or similar account.

(h) Creditors and provisions

Creditors and provisions are recognised where the charity has a present obligation resulting from a past event that will probably result in a transfer of funds to a third party and the amount due to settle the obligation can be measured or estimated reliably. Creditors and provisions are normally recognised at their settlement amount due.

(i) Financial instruments

The charity only has financial assets and financial liabilities of a kind that qualify as basic financial instruments. Basic financial instruments are initially recognised at transaction value and subsequently measure at that settlement value.

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

**NOTES TO THE FINANCIAL STATEMENTS (continued)
YEAR ENDED 31 MARCH 2023**

(j) Fund accounting

Unrestricted funds are those funds that can be used in accordance with the objectives of the charity at the discretion of trustees.

Restricted funds are funds subject to specific conditions imposed by the donors.

2 Donations and legacies			Unrestricted 2023 £	Unrestricted 2022 £
Donations			<u>1,625</u>	<u>59,855</u>
3 Income from charitable activities	Unrestricted 2023 £	Restricted 2023 £	Total 2023 £	Total 2022 £
Joseph Rowntree Charitable Trust	65,500	-	65,500	40,000
Esmee Fairbairn Foundation	48,000	-	48,000	40,000
Equality and Human Rights Fund	-	51,782	51,782	25,977
Baring Foundation	23,760	-	23,760	22,000
Polden Puckham Foundation	15,000	-	15,000	15,000
William Grant Foundation	<u>30,000</u>	<u>-</u>	<u>30,000</u>	<u>-</u>
	<u>182,260</u>	<u>51,782</u>	<u>234,042</u>	<u>142,977</u>

Income from charitable activities is £234,042 (2022: £142,977), comprising £182,260 (2022: £117,000) of unrestricted income and £51,782 (2022: £25,977) of restricted income.

4 Other trading income	Unrestricted 2023 £	Unrestricted 2022 £
Consultancy	<u>-</u>	<u>5,150</u>
5 Investment income	Unrestricted 2023 £	Unrestricted 2022 £
Bank interest	<u>216</u>	<u>19</u>

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

**NOTES TO THE FINANCIAL STATEMENTS (continued)
YEAR ENDED 31 MARCH 2023**

6 Charitable expenditure	Unrestricted	Restricted	Total	Total
	2023	2023	2023	2022
	£	£	£	£
Wages and salaries (note 7)	111,867	45,122	156,989	102,205
Other staff costs	1,073	454	1,527	3,634
Professional fees	2,430	8,300	10,730	1,000
Subscriptions	1,647	-	1,647	1,088
Repairs and maintenance	50	-	50	184
Travel & subsistence	1,863	804	2,667	314
Office & IT	3,259	1,637	4,896	2,998
Advertising	2,133	1,598	3,731	864
Depreciation	689	503	1,192	766
Insurance	984	-	984	951
Loss on disposal of fixed assets	86	-	86	-
Governance – audit fee	3,180	-	3,180	4,080
	<u>129,261</u>	<u>58,418</u>	<u>187,679</u>	<u>118,084</u>

Expenditure on charitable activities is £187,679 (2022: £118,084), comprising £129,261 (2022: £100,038) of unrestricted expenditure and £58,418 (2022: £18,046) of restricted expenditure.

7 Staff costs and numbers	Total	Total
	2023	2022
	£	£
Gross wages	138,560	88,482
Employers' national insurance	7,782	7,175
Pensions	10,647	6,548
	<u>156,989</u>	<u>102,205</u>
	2023	2022
	No.	No.
Average employee numbers	<u>6</u>	<u>4</u>

No employee received emoluments greater than £60,000 in the year.

The total amount of employee benefits received by key management personnel is £45,373 (2022: £37,006). The key management personnel are considered to be the trustees and chief officer.

One trustee (2022: 0) received reimbursement of expenses totalling £11 (2022: £nil) relating to travel expenses during the year.

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

NOTES TO THE FINANCIAL STATEMENTS (continued)
YEAR ENDED 31 MARCH 2023

8	Tangible fixed assets		Computer Equipment £
	Cost		
	At 1 April 2022		3,633
	Additions		400
	Disposals		<u>(384)</u>
	At 31 March 2023		<u>3,649</u>
	Depreciation		
	At 1 April 2022		1,373
	Depreciation charge		1,192
	On disposals		<u>(298)</u>
	At 31 March 2023		<u>2,267</u>
	Net book value		
	At 31 March 2023		<u>1,382</u>
	At 31 March 2022		<u>2,260</u>
9	Debtors	2023 £	2022 £
	Prepayments	550	214
	Grants receivable	<u>15,000</u>	<u>10,000</u>
		<u>15,550</u>	<u>10,214</u>
10	Creditors	2023 £	2022 £
	Trade creditors	1,180	1,400
	Accruals	3,180	4,080
	Other creditors	<u>1,446</u>	<u>908</u>
		<u>5,806</u>	<u>6,388</u>

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

**NOTES TO THE FINANCIAL STATEMENTS (continued)
YEAR ENDED 31 MARCH 2023**

11 Movement in funds

	At 1 April £	Income £	Expenditure £	Transfers £	At 31 March £
2022/23					
Unrestricted	124,874	184,101	(129,261)	-	179,714
Restricted	7,931	51,782	(58,418)	-	1,295
Total	132,805	235,883	(187,679)	-	181,009
2021/22					
Unrestricted	42,888	182,024	(100,038)	-	124,874
Restricted	-	25,977	(18,046)	-	7,931
Total	42,888	208,001	(118,084)	-	132,805

Restricted funds

The charity has one restricted fund in relation to funding from the Equality and Human Rights Fund for a three-year project to advance the human right to a healthy environment for equality groups through engagement, education and advice.

12 Analysis of net assets between funds

	Unrestricted 2023 £	Restricted 2023 £	Total 2023 £
Fixed assets	1,382	-	1,382
Net current assets	178,332	1,295	179,627
Total funds 2023	179,714	1,295	181,009
	Unrestricted 2022 £	Restricted 2022 £	Total 2022 £
Fixed assets	2,260	-	2,260
Net current assets	122,614	7,931	130,545
Total funds 2022	124,874	7,931	132,805

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

**NOTES TO THE FINANCIAL STATEMENTS (continued)
YEAR ENDED 31 MARCH 2023**

13	Reconciliation of net movements in funds to cashflows from operating activities		
		2023	2022
		£	£
	Net income	48,204	89,917
	Depreciation	1,192	766
	(Increase)/decrease in debtors	(5,336)	35,059
	(Decrease)/increase in creditors	(582)	2,788
	Loss on disposal	86	-
	Investment income	(216)	(19)
		<u>43,348</u>	<u>128,511</u>

14	Analysis of net funds	At 1 April		At 31 March
		2022	Cashflow	2023
		£	£	£
	Cash at bank and in hand	126,719	43,164	169,883
	Borrowings	-	-	-
	Net funds	<u>126,719</u>	<u>43,164</u>	<u>169,883</u>

15 Related party transactions

During the year, £300 was paid to Planning Democracy, a charity in which trustee Clare Symonds is Chair, for work carried out on a community council database; and £2,430 was paid to trustee Professor Campbell Gemmell, Canopus Scotland, to produce a position paper on the case for a dedicated Scottish Environment Court.