

**Scottish Executive Environment Group Consultation
Strengthening and Streamlining: The Way Forward for the Enforcement
of Environmental Law in Scotland**

**Response by HEACS (Historic Environment Advisory Council for
Scotland)**

HEACS, which provides Scottish Ministers with independent strategic advice on the historic environment, welcomes the opportunity to comment on the discussion paper on the Enforcement of Environmental Law in Scotland.

HEACS welcomes the Scottish Executive's commitment to reduce environmental crime and hopes that this can be translated into effective action. HEACS considers that enforcement procedures should be straightforward, roles and responsibilities should be clearly defined, and there should be an emphasis on achieving speedy prosecution.

HEACS welcomes the recognition that there is an intention to improve the enforcement of the law relating to crimes committed against Scheduled Ancient Monuments. However, HEACS is disappointed that the paper contains little real discussion of the issues relating to ancient monuments and is largely concerned with the natural environment and wildlife protection.

Moreover, HEACS is very disappointed that the paper does not address the real problem for the historic environment in this area, namely crimes committed under the listed buildings and conservation area legislation.

Q1. HEACS agrees that each level of the enforcement pyramid should be examined systematically. Making guidance widely available and raising awareness are essential, as is regular and effective monitoring.

Q3 & Q4. HEACS considers that there is a need for better knowledge and expertise in the prosecution service of the law relating to the protection of the historic environment. One possibility would be to create a small number of designated specialists to cover Scotland as a whole. There would also appear to be a need for improving liaison and communication between Historic Scotland and COPFS.

Q6. HEACS accepts that there is a case for exploring the potential for regulators to impose financial administrative penalties. However, there will be a need to consider carefully how such penalties would relate to existing penalties. Moreover there are already concerns about regulators effectively acting as judge and jury. There will be a need for appeal mechanisms.

Q7. HEACS agrees that there would be merit in exploring further the suggestion of alternative sanctions for offences.

Q8. HEACS notes the discussion of the case for a specialist Environmental Court. HEACS is aware of concerns about the level of fines and prosecution rates under The Ancient Monuments and Archaeological Areas Act 1979. HEACS would suggest that the current low numbers of cases reported should in part be attributed to the lack of knowledge and experience within the COPFS. HEACS is disappointed that the SE considers that the case for a specialist court has not been made.

HEACS would welcome being involved in further consultation on the issues raised by the discussion paper.

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