

Recognising New Forest Commoners as a National Minority – Introductory Report

1 Purpose

- 1.1 This report outlines the case for recognising the New Forest Commoners as a “national minority” under the Council of Europe’s Framework Convention for the Protection of National Minorities (FCNM). It introduces the concept of national minority status and explains how the New Forest commoning community meets the criteria for such recognition. It also articulates how official recognition could help address pressing challenges facing the community, and why now is an appropriate time to seek such formal recognition.
- 1.2 Key points include:
- 1.2.1 **National Minority Status:** The FCNM is an international treaty that the UK has ratified, aiming to protect the rights of minority communities. Currently, groups such as the Scots, Welsh, Irish, Cornish, and Ulster Scots are recognised as national minorities in the UK. Recognition affirms a group’s right to preserve and develop its distinct culture and identity. Recognition is without prejudice to domestic racial or ethnic categorizations – **it is a cultural-political acknowledgement intended to preserve heritage.**
- 1.2.2 **New Forest Commoners’ Distinct Identity:** The New Forest Commoners – people with historic rights to graze livestock and use resources in the New Forest – represent a unique cultural community with deep historical roots. Their commoning way of life has persisted for centuries, with roots in the Anglo-Saxon period and specific practices explicitly laid out since at least 1217. As of 2020, approximately 700 practising Commoners continue this 1,000+ year-old tradition, though there are tens (and possibly hundreds) of thousands of non-practising Commoners – exact figures do not exist.
- 1.2.3 **Meeting Recognition Criteria:** By historical, legal, and sociocultural measures, New Forest Commoners fulfil the three criteria for a national minority. They have a **shared heritage, long-standing connection to their territory, and a collective identity distinct from the general population.** Their way of life, rights and customs have been legally recognised and protected through generations, and they maintain a rich cultural heritage of knowledge, skills, traditions and community values.

- 1.2.4 **Need for Recognition:** Official recognition of national minority status could strengthen efforts to address current pressures on Commoners. It would underscore the need for policies that enable Commoners to continue living and farming in the Forest – for example, improving access to affordable housing and land, and tailoring agricultural support to small-scale commoning. It would also oblige authorities to consider the Commoners' voice in governance reforms, ensuring this small community is not overlooked in local government reorganisation or devolution initiatives. Recognition under the FCNM would require government to promote equality for Commoners in economic, social, and cultural life and to support their participation in public affairs.
- 1.3 This report will also analyse arguments against recognition and respond to them in turn. It will explore the unique environmental aspect of the New Forest Commoners' case, as well as assessing why the timing is currently right for such a campaign, and why recognition of national minority status should feature as part of any final devolution or local government reorganisation proposal. It will finish with a conclusion, and a recommendation over next steps.
- 1.4 **Though the author of this report (Brice Stratford) is a member of the National Park Authority, it has been written in a private capacity.**
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2 Introduction and Overview of National Minority Status (FCNM in the UK)

2.1 National Minority Recognition under the FCNM

- 2.1.1 The Framework Convention for the Protection of National Minorities (FCNM) is a Council of Europe treaty established to safeguard the rights of cultural, linguistic, ethnic, or religious minorities. It is one of the most comprehensive international agreements for protecting minority communities.
- 2.1.2 The United Kingdom became a signatory in 1995 and ratified the FCNM in 1998. The UK's departure from the European Union in 2020 did not alter UK membership of the Council of Europe, and so did not impact the validity of the FCNM.
- 2.1.3 While the Convention does not rigidly define "national minority," in practice it covers groups who fulfil the three criteria of a **distinct identity, long-term presence in the state, and a desire to maintain their culture**.
- 2.1.4 States party to the FCNM commit to ensure that persons belonging to such minorities can effectively preserve their culture, in particular by fostering conditions for the promotion of their identity and customs, and ensuring they do not have to reject their traditional way of life in order to participate in society.
- 2.1.5 In summary, being recognised as a national minority affirms the right to express, preserve, share and develop their distinct culture and identity.

2.2 National Minorities in the UK:

- 2.2.1 In the UK, national minority status has been formally acknowledged for several historic communities. Upon ratification of the FCNM, the UK recognised the Scots, Welsh, and Irish (in Northern Ireland), then later (in 2014) the Cornish, and (in 2022) the Ulster Scots.
- 2.2.2 The Cornish – with their distinct history, culture and language – were afforded the same status under the FCNM as the UK's other "Celtic" peoples in 2014. This recognition was significant in that it marked the first time a group in England received protection under the FCNM, demonstrating that distinct regional cultures within England can qualify.
- 2.2.3 The Ulster Scots – a much more recently established group – were afforded national minority status under the FCNM in 2022. This is significant in that the recognition of a comparatively modern grouping demonstrates an expansive and inclusive UK approach to interpretation of "national minority" within the FCNM.

- 2.2.4 Recognition is without prejudice to domestic racial or ethnic categorizations – **it is a cultural-political acknowledgement intended to preserve heritage, and has no bearing on ethnic or racial status.**
- 2.2.5 Once recognised, government policy must pay due regard to a group's identity and needs. After recognition of the Cornish in 2014, government strategies were adjusted to acknowledge Cornwall's unique position, and modest funding was provided for cultural initiatives such as language preservation, with similar funding commitments (£4 million) made following recognition of the Ulster Scots in 2022.
- 2.2.6 More broadly, under the FCNM the UK must periodically report on measures taken to support all recognised national minority communities, ensuring accountability in upholding their rights.

2.3 Recognition Mechanisms:

- 2.3.1 National minority recognition in the UK is an **executive decision** – there is no specific Act of Parliament defining national minority groups, but rather a Government declaration that a group falls under the FCNM's protection. Such a declaration is often communicated through official statements or inclusion in State reports to the Council of Europe.
- 2.3.2 The recognition of the Cornish was announced by a UK Government minister in Cornwall in 2014, alongside a press release and supportive statements. The Ulster Scots recognition was likewise confirmed via a Written Statement in Parliament in May 2022, implementing a commitment from the Northern Ireland peace agreement framework *New Decade, New Approach*.
- 2.3.3 Were New Forest Commoners to receive such recognition, it could feasibly be granted via a declaration as part of the current English devolution and local government reorganisation in Hampshire.
- 2.3.4 Once recognised, these groups are acknowledged in the UK's periodic reports under the FCNM and by the Council of Europe's monitoring bodies.

2.4 Recognition Implications:

- 2.4.1 While recognition does not, by itself, create new laws or autonomous powers, it carries political and symbolic weight, and means the government accepts a responsibility to consider the group's needs and heritage in policymaking.

- 2.4.2 Under the FCNM, authorities are expected to promote and preserve the culture of recognised national minorities (e.g., through education, funding cultural activities, or ensuring representation). In UK practice, recognition has often been followed by some practical measures – the Cornish gained representation in diversity monitoring and funding to support the Cornish language, while after the 2022 recognition a new Commissioner was established to promote the Ulster Scots/Ulster British cultural heritage as part of a wider Identity package.
- 2.4.3 These examples show that recognition can be a catalyst for tailored initiatives and funding packages benefiting the national minority community. At the very least, it ensures that public bodies acknowledge the group's status and consult with them on decisions affecting their identity.

2.5 Relevance to New Forest Commoners:

- 2.5.1 The concept of national minority status is an established part of the UK's framework for cultural protection. It creates a mechanism for smaller communities – beyond ethnic or racial groups or the well-known nations of Scotland, Wales, etc. – to gain national recognition and support.
- 2.5.2 The New Forest Commoners, as described in the following sections, represent a clear example of a local community with a distinct cultural identity and way of life that has persisted over time.
- 2.5.3 This report will outline how the Commoners meet the criteria and spirit of the FCNM, and how applying this framework to them could help address the challenges they face.
- 2.5.4 Recognising New Forest Commoners as a national minority would not be about conferring special privileges beyond what is justified for cultural survival; rather, it would formalize and strengthen protections for their continued existence in the new governmental landscape, much as it has for the Cornish, the Ulster Scots and other groups.
- 2.5.5 The FCNM's broad aims – to promote the full and effective engagement of national minority communities in all areas of life, and preserve and develop their culture and identity – align closely with the needs and aspirations of the Commoners of the New Forest.
- 2.5.6 In the context of environmental conservation and the ecology of the New Forest National Park, such recognition could stave off an existential threat currently facing the landscape, whereby a loss of viability for New Forest commoning would make long term maintenance of the New Forest unfeasible.

- 2.5.7 In the context of devolution and local government reorganisation, this would be a timely and proactive step to ensure that an ancient way of life is not lost to modern pressures, and an internationally important landscape does not suffer the irreparable ecological damage that such a loss would result in.

3 New Forest Commoners: Meeting the Criteria for National Minority Status

3.1 Definition

- 3.1.1 The New Forest Commoners are a community of people in and around the New Forest (in Hampshire, Southern England) who hold and exercise historic common rights. These rights allow them to graze animals and utilize certain resources on the open Forest, a practice known as “commoning.”
- 3.1.2 Importantly, the term “*New Forest Commoner*” denotes more than an occupation – it signifies membership of a distinct cultural group with its own heritage and identity. In fact, the Commoners can be viewed as *both* practitioners of an ancient form of pastoral farming *and* as a cultural minority native to the area.
- 3.1.3 To assess how this community meets criteria for recognition under the FCNM, this report will consider historical continuity, legal recognition, and sociocultural distinctiveness in turn:

3.2 Historical Continuity and Heritage

- 3.2.1 The New Forest commoning community boasts an extraordinary historical pedigree, with roots stretching back well over a millennium.
- 3.2.2 The New Forest itself was redefined as a royal forest by William the Conqueror around 1079, but the local people who already lived in the area retained certain pre-existing grazing and resource rights even under the strict Forest Laws of the Norman kings.
- 3.2.3 These rights originated in the Anglo-Saxon period, when the New Forest was called **Ytene** (meaning Juten) after the Jutish people who had settled it in approximately the AD 400s. As attested by Bede in *The Ecclesiastical History of the English People* (AD 731), this New Forest population retained a distinct cultural and ethnic identity throughout the Anglo-Saxon period; despite the land itself being absorbed first into the territory of the West Saxons (Wessex), and later into England, the population continued to self identify as Jutes (Ytene) throughout, and did so until the Norman period, during which time the term “New Forest Commoner” first developed as the preferred identifier.

- 3.2.3 The common rights that stemmed from this Anglo-Saxon Ytene period, and continued to be enacted (despite their erosion) throughout the Norman Nova Foresta period – including pasture for livestock, pannage for pigs, turbary (turf cutting), fuel wood collection, and others – were formally expanded in *The Charter of the Forest* (1217), which legally reaffirmed the rights of Commoners in royal forests that had been encroached on by Norman law, explicitly laying out the traditional uses local people could continue to enjoy.
- 3.2.4 From that time onward, the New Forest Commoners' way of life, rights and customs have been consistently and repeatedly re-emphasised by multiple Charters and Acts of Parliament, and have been continuously practised and handed down through generations of New Forest inhabitants, with an unbroken line of enacted continuity from the ancient Ytene to the present day.
- 3.2.5 This continuity is reflected in the lineage of the many current commoning families who can trace their presence in the New Forest back for centuries, often beyond the point where records begin, easily spanning a dozen or more generations.
- 3.2.6 Such enduring familial involvement illustrates that commoning is not a recent or transient phenomenon, but rather an inherited *way of life*. Knowledge of the land and livestock husbandry is passed from parents to children as a form of cultural transmission. Indeed, Commoners often remark that the farming system and its rhythms have changed little in a thousand years. Despite modern influences, the fundamental practices – free roaming ponies and cattle shaping a mosaic of habitats across the 219 square miles of the Forest – remain much as they have for generations.
- 3.2.7 Even where a Commoner has no earlier familial connection, the nature of the practice necessitates an organic, experiential and community-based development of the skills and knowledge required, through on-the-job learning and informal oral training from established Commoners – it is not something that can be learned from books, or fully taught in a formal educational environment. The all-hours nature of the vocation encompasses an expansive way of life, rather than simply a narrow career or hobby.
- 3.2.8 This has ensured a steady experiential maintenance of the enacted customs, traditions and ancestral knowledge of the Commoners continuously from the time of the Ytene, through the Norman Conquest, and on to today.
- 3.2.9 This unbroken thread of tradition more than establishes the New Forest Commoners as a historical community “traditionally present” in the UK (predating not just the UK, but England itself), satisfying a key aspect of national minority status.

3.3 Legal Recognition of Commoners' Rights

- 3.3.1 Over the centuries, the unique rights and role of New Forest Commoners have not only been acknowledged socially, but also entrenched in law. This legal foundation reinforces their claim to a distinct identity.
- 3.3.2 Common rights in the New Forest have existed since before the Norman Conquest, and remarkably, they have been continuously recognised through medieval and modern times. The *Charter of the Forest* (1217) first reaffirmed these rights, as did later statutes and measures, such as the *New Forest Act 1697*, and the *New Forest Act 1800*.
- 3.3.3 In the 19th century, conflicts arose as the Crown began enclosing parts of the Forest for timber plantations, threatening common grazing land. This led to a pivotal moment: the *New Forest Act 1877*. This Act explicitly confirmed the historic rights of the Commoners and reconstituted the ancient Court of Verderers to represent the interests of the Commoners (as opposed to the Crown). From 1877 onward, the Verderers – officials elected by Commoners and appointed by authorities – have had a statutory role to regulate commoning and uphold Commoners' rights in the New Forest. The 1877 Act also capped further enclosures, reflecting Parliament's intent to safeguard this ancient pastoral system.
- 3.3.2 In 1909, the Commoners formed the Commoners Defence Association (CDA), which for over a century has served as a voluntary body to defend Commoners' interests and rights. This association, alongside the Verderers' Court, gives the community formal representation in land management decisions to this day.
- 3.3.3 Additional New Forest Acts, such as those in 1949, 1964, 1970, and the establishment of the New Forest National Park in 2005 have all recognised the importance of commoning to the area's heritage, culture and ecology. The New Forest National Park Authority itself acknowledges a commitment to protect and support the commoning community as part of preserving the Forest's tangible and intangible cultural heritage.
- 3.3.4 In summary, **the existence of dedicated laws and institutions centred on the New Forest Commoners is a strong legal affirmation of their distinct status.** Few (if any) communities in England have such a body of law tailored to their traditional practices. This entrenched legal recognition parallels how other national minorities (like the Welsh, Ulster Scots or Cornish) have language or cultural rights protected by law. It underscores that the New Forest Commoners are a long-standing, self-identified group with recognised rights – satisfying the legal-historical criterion of a national minority.

3.4 Distinct Sociocultural Identity and Way of Life

- 3.4.1 Beyond historical longevity and legal status, the New Forest Commoners clearly exhibit the sociocultural hallmarks of a distinct minority community. Commoning is not merely a farming technique; it is the nucleus of a culture and community. The Commoners share a set of traditions, values, and social structures that mark them out from other residents of the region.
- 3.4.2 As the New Forest Commoners Defence Association describes, commoning is fundamentally about “people, family, and community”, underpinned by specialised “New Forest skills”. Generations of commoning families live in close-knit networks, often helping one another with the demanding tasks of animal care. There is a strong ethos of cooperation, with Commoners regularly banding together for the annual “drifts” (round-ups of ponies), or checking on each other’s livestock when needed. This mutual support system is part of the social fabric unique to the Commoners.
- 3.4.3 The cultural heritage of the New Forest “lies much more in these people than it does in buildings or other physical features of the landscape,” as realnewforest.org puts it. Commoners carry a wealth of local ecological knowledge – they know the habits of the Forest’s animals, the seasonal changes of vegetation, and the nuances of terrain intimately. Many of these understandings are orally transmitted and learned by doing, rather than formally recorded, which is typical of an indigenous or traditional community, including unique customs and local terminology which has evolved over centuries.
- 3.4.4 In modern times, Commoners often balance their traditional livestock duties with regular jobs, since commoning alone rarely provides a full livelihood. Yet, they persist out of a deep-seated commitment and identity – as one Commoner put it, “we have a responsibility to keep commoning going, to take care of the Forest and keep the old traditions alive.” This sense of stewardship and identity is passed down in families and also shared by newcomers who choose to join the commoning way of life. New entrants to commoning must learn the customs and demonstrate the same commitment, effectively being adopted into the culture. The community thus replenishes itself with individuals “willing to be part of something so special” despite the challenges.
- 3.4.5 In quantitative terms, practising Commoners are a **small minority population** even within the New Forest area. As of 2020 there were roughly 700 registered and practising New Forest Commoners. This number is modest, yet significant enough to form a viable community.

- 3.4.6 Furthermore, of the tens of thousands in the area who are unregistered, non-practising Commoners, many still see themselves as distinct in identity, bonded by their heritage in the Forest, and maintain an arms-length engagement with Commoner culture and customs.
- 3.4.7 Such engagement exists on a spectrum, rather than a binary, whereby the ~700 registered, practising Commoners are the extreme core, with non-practising Commoners inhabiting countless different positions which range from total disinterest to near-complete (if unregistered) commitment. These positions in the spectrum and levels of engagement are not static, and often fluctuate over a lifetime.
- 3.4.8 This indicates a concentrated group with its own identity – analogous to how the Cornish (who number tens of thousands self-identified in Cornwall) form a distinct minority within England, while engaging with this identity to varying, fluctuating degrees. Likewise with the Ulster Scots, for whom engagement with cultural identifiers varies significantly.
- 3.4.9 The New Forest Commoners are, in effect, an indigenous community of the New Forest with a unique cultural profile, meeting the sociocultural criteria one would expect of a national minority.

3.5 Summary:

- 3.5.1 The New Forest Commoners clearly exhibit the fundamental qualities of a national minority community as envisioned by the FCNM:
- **long-standing ties to a specific territory** (the New Forest) where they have lived and practised their traditions for generations;
 - **a distinct cultural identity and way of life** (commoning and its associated customs); and
 - **objective evidence of their continuity and self-organization** (through legal instruments and community institutions).
- 3.5.2 They are a **cultural minority within the UK in every meaningful sense of the term**.
- 3.5.3 Formal recognition of this status would thus be an acknowledgement of an existing reality, providing a framework to help ensure this unique community endures.

4 How National Minority Recognition Could Help Address Current Pressures

4.1 Introduction

- 4.1.1 Like many minority and traditional communities, the New Forest Commoners today face a range of pressures that threaten the continuity of their culture and way of life. Major challenges include: **skyrocketing local housing costs, economic viability of commoning as an agricultural business, and changes in governance that could dilute their local voice.**
- 4.1.2 Recognising the Commoners as a national minority will not solve these problems overnight. However, it could be a powerful tool to help address them by prompting targeted support and safeguards.
- 4.1.3 Under the FCNM, authorities are obligated to take “effective measures to promote full equality” for minority communities in economic, social, and cultural life without the abandonment of their customs. In practice, this could translate into policies and attention specifically aimed at alleviating the pressures on Commoners. This report now examines the key issues and how minority status could mitigate them:

4.2 Housing Affordability and Retention of Commoners in the Forest

- 4.2.1 One of the most acute threats to the commoning tradition is the current cost and scarcity of housing and land in the New Forest area.
- 4.2.2 The Forest has become an extremely desirable place to live, resulting in property values far out of reach for many young or would-be Commoners. Since the New Forest was designated a National Park (2005), prices have further accelerated. Today the average property price within the Park is over 15 times the average local income – a ratio that makes it nearly impossible for local working families (including those who might wish to take up or continue commoning) to buy or rent homes.
- 4.2.3 Commoners by definition must live near the Forest: to exercise common rights, they need to occupy land with attached grazing rights and be on hand to tend animals. Commoning also often requires the ability to respond to livestock issues at any hour, which is only feasible if the Commoner lives locally.

- 4.2.4 Unaffordable housing directly translates to a decline in active Commoners – if Commoners cannot remain in the area, their rights go unused and the practice dies out. Already, there is concern about the “decline of the grazing upon which the special qualities of the New Forest depend” due to fewer practising Commoners in recent decades.
- 4.2.5 Programmes like the Commoners’ Dwelling Scheme (which allows a limited number of affordable homes to be built for Commoners under strict conditions) have been introduced to counter this trend. However, such measures have been modest in scale. The *Illingworth Report* of 1991, a government-commissioned review, warned that sustaining commoning would require ensuring people willing to continue the system have access to homes and land, calling for “everything possible” to be done to achieve this. Almost 35 years on, the challenge has significantly intensified despite such schemes, which cannot therefore be considered sufficient to mitigate the problem.
- 4.2.6 National minority status would highlight at a national level the cultural importance of keeping Commoners in their homeland (the New Forest). It would strengthen the case for treating the housing situation as not just a general rural affordability issue, **but as a threat to a recognised minority’s existence.**
- 4.2.7 Under the FCNM, the government would be expected to “promote... equality” for the Commoners in socio-economic life, which could justify special measures to enable Commoners to remain locally. In practical terms, this could mean expanded or new schemes for Commoners’ housing – for example, prioritising certain public or affordable housing for bona fide commoning families (as was recommended by the *Illingworth Report*), providing new grants/loans to Commoners for housing, or working with local planning authorities to set aside small-scale housing developments for the commoning community. It may also involve protecting remaining Commoners’ land from being sold off for exclusive development.
- 4.2.8 By framing these actions as fulfilling obligations to preserve a national minority’s way of life, officials and policymakers may be more willing and able to implement them. In essence, recognition can add political weight and legal impetus to existing conservation efforts, ensuring that “everything possible” is indeed done to keep homes available for Commoners.
- 4.2.9 This helps maintain the critical mass of people needed to continue grazing the Forest; as noted, extensive grazing requires a large number of committed local people of all ages, not just a few hobbyists. Minority recognition would acknowledge that housing is a lynchpin for cultural survival here, thereby encouraging solutions proportionate to the importance of the issue.

4.3 Economic Pressures on Commoning and Small-Scale Agriculture

- 4.3.1 New Forest commoning has always been more of a vocation, lifestyle or tradition than a profit-making enterprise.
- 4.3.2 In the past, commoning families might have managed to make a modest living from a mix of livestock sales, smallholding, and related work. Today, however, the economics of commoning are extremely challenging. Revenues from commoning are low – New Forest pony foals can sell for as little as £20 each, for example, far below the costs of their upkeep – and markets for other products (like beef from Forest-grazed cattle or pigs after pannage) are limited, despite sales initiatives such as the New Forest Marque.
- 4.3.3 Commoners do receive some modest support payments for their role in land stewardship (e.g. the Verderers' Grazing Scheme), however, changes are still underway in agricultural subsidy regimes following the UK's exit from the EU, creating instability and uncertainty about future support.
- 4.3.4 Many Commoners must hold other jobs to sustain their households, effectively subsidizing the tradition with outside income. This strain can make commoning unsustainable, and discourage younger generations from taking it up, especially when coupled with the physical hard work and long hours that the practice demands.
- 4.3.5 If commoning does not at least break even financially, there is a risk that only those with significant independent wealth or those willing to endure economic hardship "for the love" of it will continue – an unsustainable situation in the long run. In a recent Guardian article, Commoners observed that "unless you inherit [land/resources], you cannot afford to be a Commoner", and "we don't make any money" from it. Such sentiments point to a fragile future unless support structures are improved.
- 4.3.6 As a recognised minority, the Commoners' need for economic support would be seen in the context of cultural preservation. The FCNM requires states to safeguard the rights of minorities in the realm of economic life and to **ensure they can maintain their culture without suffering inequity**.
- 4.3.7 This could bolster arguments for tailored economic assistance to Commoners. For example, the government could create or enhance grant schemes that reward the Commoners' environmental stewardship (given that commoning is crucial for the New Forest's biodiversity). It might also influence the design of future agricultural support: schemes could be further adjusted to specifically benefit New Forest commoning. Recognition might also attract additional funding from heritage or cultural budgets (not solely agricultural budgets) – viewing commoning as part of England's intangible cultural heritage worthy of preservation.

- 4.3.8 Additionally, national minority status often brings greater visibility and voice, which can help the Commoners in advocating for fair economic treatment. With recognition, the Commoners could more effectively lobby for inclusion in rural development plans, training and apprenticeship programs (to get new Commoners started), and marketing support (for New Forest produce or tourism tied to the commoning heritage).
- 4.3.9 There is precedent for national minorities leveraging their status in this way, and recognition of the Cornish has helped Cornwall make the case for economic investment that aligns with protecting Cornish culture, with similar results for the Ulster Scots. Recognition would help affirm that **maintaining commoning is in the public interest** – not only for ecological reasons, but **as a matter of cultural diversity** – thereby justifying stronger measures to keep it economically viable.

4.4 Local Governance, Voice, and the Impact of Devolution & Reorganisation

- 4.4.1 The New Forest Commoners have traditionally had a voice in local governance through bodies like the Verderers and representation on certain committees, all of which rely on a strong working relationship with their dedicated Local Authority (New Forest District Council) and the New Forest National Park Authority.
- 4.4.2 NFDC, however, is set to be merged with other councils to form a much larger Unitary Authority, with an estimated population of 500,000+. This will likely see the New Forest either combine with Test Valley and Winchester, or be “swallowed” by the neighbouring urban authority of Southampton.
- 4.4.3 Decision-making for the New Forest area will thereafter be in the hands of a much larger unitary council, where the distinctive needs of the Forest and its Commoners might not receive dedicated attention, priority or understanding. A small minority like the Commoners could easily be overlooked in a unit of half a million or more residents, and the dedicated focus that New Forest District Council previously gave to commoning and Forest issues will be impossible to maintain.
- 4.4.4 Beyond this, as county-wide decision making is upscaled to a *Hampshire and Solent* strategic authority, there is a concern that unique local interests could be diluted. The combined authority’s constituency of over 1.89 million people will include several major urban centres; naturally, a directly elected Mayor will need to answer to the broader electorate, and may well focus on broader economic development agendas, potentially side-lining hyper-local cultural or environmental concerns. The Commoners, being comparatively few in number and concentrated in one corner of this region, will need to ensure their voice remains audible.

- 4.4.5 Essentially, **governance changes risk diluting the Commoners' already limited representation** and make it harder for them to influence policies (be it planning, land management, or rural services) that directly impact them.
- 4.4.6 Changes to planning and land management regimes are of paramount concern to the Commoners, whose way of life depends on the preservation of the Forest environment and open grazing lands. Under the new devolution deal, strategic planning and regional housing policy will fall under the remit of the Mayor and Strategic Authority. This means that decisions on where to locate major development, how many homes to plan for, and what infrastructure to prioritise will be made in a broader geographic context. While this may bring benefits (e.g. coordinated planning to relieve pressure on high-demand areas), it could also introduce pressures to develop in or near the New Forest district to meet regional objectives.
- 4.4.7 Whilst the New Forest National Park Authority will remain the local planning authority for the National Park boundary (this status is not affected by the reorganisation of councils), and will continue to exercise its planning controls with conservation of the park's natural beauty and commoning in mind, much of the land where Commoners live and where back-up grazing or commoners' holdings exist lies on the fringes of the open Forest, including villages and farmland outside the Park but within New Forest District.
- 4.4.8 Planning in these areas is currently by the District Council, and will likely be taken over by the larger unitary authority in the near future. The Commoners have legitimate concerns that a larger planning authority will be less familiar with – or less sympathetic to – the fine-grained needs of commoning. For example, New Forest District's local plan has long included policies tailored to the Forest environment (such as restrictions on development that would sever grazing land or increase traffic on unfenced roads). Can a new unitary authority maintain these niche protections with the same vigour or understanding?
- 4.4.9 National minority status would provide a formal basis to advocate for the inclusion of Commoners' voices in any new governance structures. Under Article 15 of the FCNM, the UK is obliged to "create the conditions necessary for the effective participation" of national minorities in public affairs, especially those affecting them. This means that if New Forest Commoners are recognised, government must take their involvement into account when designing local governance and planning, treating their grazing rights and traditional land use as an essential consideration, not an obstacle to development.
- 4.4.10 Practically, this could entail guaranteed consultation with Commoners' representatives (e.g. the Verderers or CDA) on policy decisions impacting the New Forest. It could also mean ensuring that any new unitary authority encompassing the Forest has specific provisions or relevant sub-committees where Commoners have a seat at the table. The

Verderers – a statutory body giving Commoners a say – could be afforded stronger government backing, seen as a necessity to comply with minority rights standards.

- 4.4.11 Recognition can also empower Commoners politically. It would validate their status when engaging with officials or elected representatives, who would be aware that neglecting this community might contravene the UK's international commitments. Moreover, being a recognised minority could open doors for the Commoners to participate in broader forums – they might be invited to contribute to the UK's state reports on the FCNM, thereby amplifying their voice beyond the local sphere.
- 4.4.12 All these outcomes would help ensure that even in a reformed local government landscape, the New Forest Commoners retain a meaningful and effective platform to advocate for their needs. In essence, **recognition would act as a safeguard against the Commoners becoming invisible in a larger governance unit**, enshrining the principle that their local knowledge and perspective must be taken into account.

4.5 Other Benefits

- 4.5.1 In addition to addressing the major issues above, national minority recognition could yield intangible benefits that bolster the community's resilience. It would likely foster a greater sense of **pride and confidence** among Commoners, knowing that their culture is officially valued as part of the nation's heritage. This could encourage more young people from commoning families to carry on the tradition, encourage non-practising Commoners to engage more deeply with the culture, and could attract positive public interest and respect for commoning (potentially translating into volunteer support, donations to commoning charities, or patronage of local farm products).
- 4.5.2 Recognition might also improve **access to cultural funding** – for instance, grants for documenting Commoners' oral histories, educating the public about commoning, or celebrating commoning through events – since these activities would fall under preserving a nationally recognised minority culture.
- 4.5.3 Finally, **protecting the Commoners is synergistic with protecting the New Forest environment**. The grazing by Commoners' animals is integral to maintaining the rare habitats of the Forest, and if recognition helps sustain commoning, it helps meet conservation goals as well. This convergence of cultural and environmental benefits will be explored in **Section 5**.

4.6 In Summary

- 4.6.1 While recognition is not a cure-all, it provides a stronger framework and impetus for tackling the challenges of housing, economics, and governance that the New Forest Commoners face. It would make preserving this community **an objective of public policy, rather than an afterthought**, thereby mobilizing resources and attention accordingly.

5. Environmental Stewardship and Cultural Landscape – A Special Role

- 5.1 One compelling dimension of the New Forest Commoners' case is the **environmental necessity of their continued presence and way of life**.
- 5.2 Unlike many minority groups whose justification for protection rests purely on cultural or linguistic grounds, the Commoners offer the additional argument that their cultural practice (commoning) provides irreplaceable ecological benefits. The New Forest is a UNESCO-listed biosphere reserve and one of Europe's most precious ecosystems, containing extensive heathlands, ancient woodlands, and rare species. Crucially, **this landscape as we know it has been shaped and sustained by commoning for centuries**.
- 5.3 The grazing of ponies and cattle keeps the heathland open, preventing scrub encroachment and maintaining the mosaic of habitats that supports a wide range of rare and protected species. The cutting of brakes of gorse and removal of bracken by Commoners historically created the "lawns" (open grassy areas) and sustained soil health. Even the presence of pigs in pannage season (eating acorns) can help reduce poisoning risk to ponies and mimic natural processes. Attempts in the 19th century to remove Commoners and deer and convert parts of the Forest solely to timber production were abandoned when it was realised that without grazing, the character of the land suffered.
- 5.4 Modern conservation science recognises commoning as a form of traditional ecological knowledge – the Commoners are practitioners of a nature-based stewardship that has high biodiversity value. Over half the National Park is designated for international importance (SAC, SPA, etc.), and these designations explicitly note that traditional grazing is essential to meet conservation objectives. The Verderers' Grazing Scheme (funded as part of environmental stewardship) is predicated on the understanding that "grazing by Commoners is sustained to preserve the New Forest's rich and complex habitat".

- 5.5 In other words, if the commoning culture declines, the ecology of the Forest would dramatically change for the worse, with eventual total loss of open heathland and associated species. This interdependence is eloquently summed up in a local description: “the Commoners cannot exist without the New Forest, and the Forest cannot exist without the Commoners”. Such a statement underscores that the Commoners are not just a cultural minority, but an ecological community integral to a specific landscape.
- 5.6 Why is this relevant to the question of minority recognition? Because it adds a powerful public interest to preserving their culture. Protecting the Commoners is not only about human rights in the abstract, but also about **upholding environmental obligations and sustainable land management**.
- 5.7 In policy terms, recognising the Commoners as a national minority could help solidify the argument that their continuance is of national importance, not just for cultural diversity but for achieving biodiversity targets and climate resilience (grazed commons store carbon and prevent wildfires through vegetation control, etc.). This strengthens the case for providing financial and legislative support: it is support not just for a people, but for a traditional land use that delivers ecosystem services.
- 5.8 The FCNM itself does not directly address environmental roles, but nothing prevents a state from highlighting this aspect in its measures for implementation. Indeed, the Advisory Committee on the FCNM has shown interest in how minority cultures often harbour unique sustainability practices and has encouraged states to consult minorities in environmental matters (e.g., involving **Sámi** in reindeer habitat protection). By recognising the Commoners, the UK would formally acknowledge that **cultural diversity and environmental stewardship go hand in hand** in this instance.
- 5.9 In practical terms, a dedicated section in minority policy for the New Forest Commoners could ensure that continued grazing and commoning is facilitated as part of meeting international conservation commitments, that Commoners’ knowledge is respected and preserved, and that the resilience against climate change provided by Commoners’ adaptive management becomes a global resource. Supporting the community is thus part of an adaptive strategy for the landscape, and affirms that keeping their “deep-rooted ways of life” thriving is beneficial for the land itself.
- 5.10 From an ethical perspective, one can argue that the Commoners effectively act as unpaid custodians of a national environmental treasure, which the government would otherwise be fiscally unable to maintain. This is a strong moral argument for why their identity should be recognised with special status. It aligns with emerging concepts of “biocultural rights,” where communities that sustain biodiversity are officially acknowledged. While “biocultural rights” are more commonly discussed in developing countries’ contexts, the principle is universal.

- 5.11 In conclusion, the environmental stewardship role of the New Forest Commoners amplifies the justification for their recognition. It demonstrates that **their preservation is in the interest of society at large**, not only for diversity's sake but for concrete ecological outcomes. Recognising them as a national minority would send a message that the UK values this symbiosis of people and nature. It would also help ensure that in balancing various interests, the unique cultural-ecological community of the New Forest Commoners gets the consideration it deserves. Protecting them is effectively a two-for-one: safeguarding an ancient culture *and* an ancient ecosystem, which have developed together. This synergy makes the case for recognition especially robust.

6. Objections to Recognition and Counter-Arguments

6.1 Objection: "Commoners are not an ethnic or national minority in the usual sense"

- 6.1.1 One argument is that the New Forest Commoners may not fit the conventional profile of an ethnic or a national minority as people commonly understand them. They are, sceptics may argue, ordinary English citizens who practice a particular livelihood, rather than a people of separate ethnicity, language, or national origin. In essence, this objection holds that **commoning is a profession or local custom, not an ethnicity** – and that the term "national minority" should be reserved for groups defined by ethnic, racial, religious, or linguistic characteristics.
- 6.1.2 Critics might also note that commoning status is acquired through holding land rights, not by birth alone, suggesting an "open" category rather than a bounded racial group. Because anyone (in theory) could become a New Forest Commoner by buying a property with common rights, the group might be seen as a voluntary association of interest rather than a fixed minority.
- 6.1.3 Additionally, some might argue that the Commoners predominantly speak English and are culturally British in most ways, participating in mainstream society; thus, they are not sufficiently distinct to merit recognition alongside more clear-cut minorities. There is a concern that stretching the definition of national minority to cover a group like this could dilute the concept, making it so broad that it loses meaning. According to this view, the FCNM was intended to protect groups with objectively distinct ethnic or national identities based on a different mother tongue, race or religion only, not subsets of the majority population defined principally by an occupation or lifestyle.

6.2 Counter-Argument: A Distinct Cultural Identity and Heritage Community

- 6.2.1 **The New Forest Commoners manifest a distinct and enduring cultural identity that squarely fits within the broad ambit of “national minority” protection.**
- 6.2.2 While it is true that New Forest Commoners are not a distinct race and speak English, ethnicity in the context of minority rights is not confined to racial or linguistic difference, and national minority status is not predicated on ethnicity. As UK law and international practice recognise, a group with a shared history, cultural traditions, and a self-identified collective consciousness can constitute an ethnic or cultural minority even if its members are not outwardly different from the majority.
- 6.2.3 The **Irish Travellers** offer a compelling analogy: like the Commoners, Travellers are ethnically similar to the majority (Irish Travellers have the same general ethnic stock as other Irish people), and they speak English (apart from some use of Cant); yet their **shared history, traditions and distinct way of life** led UK courts and legislation to recognise them as an ethnic minority group. The Irish Travellers’ official definition stresses “people...with a shared history, culture and traditions including, historically, a nomadic way of life”. Substitute “commoning way of life” for nomadism, and **this definition could apply almost word-for-word to the New Forest Commoners** – they too have centuries of shared history, unique customs and values, and historically a specific way of life tied to the land. The fact that **New Forest Commoners’ status as a distinct culture and community predate Irish Travellers by 500-1000 years** only emphasises this point.
- 6.2.4 The justification for **Cornish** national minority status made much of Cornwall’s ancient pre-English origins as a distinct territory and people, which appears to have survived after absorption into England. As this report has demonstrated (and as Bede attests), the same can be said of the pre-English Ytene territory and people of the New Forest, who maintained a distinct identity after absorption into England, and have a direct and unbroken continuity with the New Forest Commoners today.
- 6.2.5 The **Ulster Scots** are not racially distinct from the wider UK population, and represent populations of Lowland Scottish and Northern English people who moved to Ulster in Ireland during the 17th century – these are very modern origins compared to the ancient roots of the New Forest Commoners.

- 6.2.4 Crucially, the **Commoners identify themselves as a distinct community and are recognised as such by others** in the locality. This subjective self-identification and external ascription is a key element of minority status. The idea that anyone could become a Commoner does not negate their distinctiveness. In practice, commoning is not easily accessible to outsiders; it requires not only acquiring a land right but also integration into the norms and knowledge system of the Forest. Those who do take up commoning inevitably adopt the identity – they become *New Forest Commoners* and are accepted as such within the community by enacting its traditions and customs. This is analogous to someone converting to Judaism or marrying into a Traveller family – they can become part of the minority through commitment, which does not invalidate the minority's existence. Meanwhile, the core of the community is composed of long-standing families who *have* been Commoners by birthright for multiple generations.
- 6.2.5 Genealogically, many Commoners *are* descended from original medieval foresters, who were themselves descended from the Jutish people who first settled the Forest as Ytene; they literally represent a continuity of bloodlines linked to the Forest for over a millennium, predating the formation of England.
- 6.2.6 They also have an **“inseparable bond” with their landscape and a way of life not shared by the general population**. It is fair to describe them as a **tribal or indigenous-like group within England** that has remained remarkably intact while other such minorities elsewhere have vanished – indeed, the official Go New Forest tourism website refers to them as a “distinct and enduring community – an English tribe”
- 6.2.7 Importantly, **national minority status is a broad concept in the FCNM, intended to encompass a variety of identities, not solely classical notions of nationality or language**. The convention's aim is to preserve cultures and identities that enrich the diversity of a country. The New Forest Commoners clearly possess a unique cultural heritage (commoning) and a distinct identity forged by that heritage. They have their own folklore, terminology, and social structure, all of which differ markedly from those of the surrounding majority society. In official discourse, they are already referred to as a “heritage cultural minority” and a living link to historic England. This aligns with recognition as a national minority: the Commoners are a cultural minority native to Britain, just as the FCNM covers minorities who may be native to the state (as opposed to recent immigrants).

- 6.2.8 It is also worth noting that **many national minorities around Europe are defined by traditional ways of life closely tied to land**, even if they share ethnicity with a larger group. For example, in Norway the **Forest Finns** (a recognised national minority) are a historically distinctive community defined partly by a unique form of forest agriculture; in Spain, the **Mercheros** (Quinquis) are a nomadic group within the majority population; and various other sub-national communities maintain special land-use customs. The New Forest Commoners' identity is comparably *sui generis*. They may not seek political autonomy or claim to be a "nation," but national minority recognition does not require separatism – it requires **the wish to preserve one's own culture and the need for support to do so**.
- 6.2.9 The Commoners have explicitly expressed pride in their distinct heritage and a desire to see it continued and respected. In summary, **the absence of a separate language or racial marker is not disqualifying**. The Commoners meet the essential criteria of a minority: long-standing distinct culture, group cohesion and continuity, self-identification as a distinct community, and a contribution to the diversity of the nation. They are, in effect, a minority by virtue of their unique cultural heritage – *precisely* the kind of group the FCNM is meant to protect in order to ensure Europe's rich tapestry of cultures is preserved for future generations.

6.3 Objection: "They are too small and geographically limited to warrant national minority status"

- 6.3.1 Another objection focuses on the **size and scope** of the New Forest Commoners. With only a few hundred active commoning families and around 700 practising and registered Commoners, all concentrated in one corner of England, some might question whether they reach the significance level of groups typically recognised as national minorities. In contrast, the Cornish who claim a national minority identity, and the Irish Traveller population in the UK, are both in the tens of thousands.
- 6.3.2 A sceptic might argue that elevating under a thousand people to minority status is unnecessary or even frivolous. There could be a fear of creating a proliferation of extremely small minorities – for example, if the New Forest Commoners qualify, would that open the door for other tiny groups (say, the inhabitants of a single valley with unique traditions) to demand similar recognition? The term "national minority" itself implies a certain national-level significance, which a hyper-localised group might be seen as lacking.

- 6.3.3 Opponents of recognition might contend that the Commoners are essentially a local cultural interest of the New Forest area and should be dealt with at local governance level, rather than being labelled a national minority which triggers international oversight under the FCNM. In short, this objection is that **the Commoners are numerically and geographically too minor** to justify inclusion under a convention designed for significant minority communities.
- 6.4 Counter-Argument: National Significance Demonstrable; No Minimum Size – Rights and Recognition Are Not a Numbers Game**
- 6.4.1 Minority rights in a democratic society are not allocated by headcount, and even a small community can be of profound significance and deserving of protection.
- 6.4.2 The Framework Convention itself does not set any numerical threshold for what constitutes a national minority. Some recognised minorities under the FCNM in various countries are indeed very small. For instance, the **Jewish** population in Norway or the **Roma** in many smaller countries number only in the low hundreds in those states, but still enjoy minority status because of their distinct identity and historical presence. Likewise, the **Cornish** were recognised based partly on language, despite the number of fluent Cornish speakers being much smaller than the number of those who self identify.
- 6.4.3 The Council of Europe’s approach emphasises **the quality of distinctiveness and the vulnerability of the culture, not sheer quantity of people**. As one analysis notes, “old minorities...resist assimilation with more energy than new ones...their numerical weakness does not diminish their resolve to keep their historic specificity” – a statement that resonates for the Commoners, who despite small numbers have strongly resisted the loss of their traditions over time.
- 6.4.4 In a similar vein, UK courts have held that even a small, inward-looking group can be an ethnic group if it meets the cultural criteria – size was never mentioned as a bar in the **Mandla criteria** (a set of criteria to legally determine ethnic groups in UK law, established in the 1982 *Mandla v Dowell-Lee* judgement) or subsequent case law. In fact, Lord Fraser in *Mandla* noted that an ethnic group can exist within a larger community and may not be “visibly” different at first glance; its existence is determined by social and historical factors, not by count of members.

- 6.4.5 Regardless of this, however, the numbers given are misleading. Though there are only around 700 registered, practising Commoners, there are tens of thousands of unregistered and non-practising Commoners (possibly more – only estimates are possible). Much of this wider population engages with New Forest Commoner culture to a greater or lesser degree, and many feel defined by it and by the New Forest without explicitly or consistently practising the agricultural vocation – much as a Scot does not necessarily need to wear a kilt, nor a Cornish person to speak fluent Cornish, or an Ulster Scot to go regularly to a Protestant church.
- 6.4.6 Rather than considering their small population as a negative, one might view it as all the more reason to protect the New Forest Commoners: **their cultural heritage is fragile and could be overwhelmed or lost if not safeguarded**. Being few in number and unique to a particular locale means the pressures of modern society (development, demographic change in the region, etc.) could easily erode the commoning way of life if not accorded special consideration. The purpose of minority recognition is to prevent the “extinction of a distinct culture” in the face of homogenising forces. In this sense, **the Commoners’ small size is a justification for protection, not an argument against it**. The FCNM explicitly aims to “preserve and develop the culture and identity of national minorities”, implying that those most at risk (often smaller groups) merit attention.
- 6.4.7 On the point of being geographically limited: **many national minorities are region-specific** (for example, the **Sorbs** in Germany live only in Lusatia; the **Csángó** in Romania only in a few villages). The New Forest Commoners are concentrated in and around the New Forest – but that is their ancestral homeland and the focus of their cultural life. They *are* a minority within the UK *as a whole*, so in the national context they are indeed a distinct minority community. **Recognition does not require dispersion or prominence across the whole country**. In fact, the very phrase “Framework Convention” indicates flexibility to accommodate each state’s particular minority groups, however localised. The New Forest Commoners contribute to the national heritage of England precisely through their localised presence – they maintain one of the last remaining extensive lowland commons in the country.
- 6.4.8 Furthermore, the New Forest is recognised by UNESCO as an internationally important landscape, and its very designation as a “national” park demonstrates its national prominence. As the New Forest has always been contingent on and deeply twined with the existence of the New Forest Commoners, any argument that they do not possess national or international significance can be dismissed.

- 6.4.9 As for the “floodgates” concern – the idea that recognising Commoners would inspire many other micro-groups to claim minority status – this fear is exaggerated. No communities in the UK have the strong combination of attributes that the New Forest Commoners do: pre-English continuity of over 1000 years, legally recognised traditional rights, a formal governance role (Verderers, etc.), distinct ecological necessity, and pre-existing acknowledgement by government as a distinct cultural group. It is not expected that any other community would suddenly qualify under such rigorous historical, environmental and cultural criteria.
- 6.4.10 Should any other group come forward, their claims would be assessed on their own merits. Extending recognition to one deserving group does not oblige recognition of all who ask; it simply shows that the state is open-minded in fulfilling its treaty commitments to **all minority identities within its jurisdiction, no matter their size**. The Cornish case already set a precedent that even a small indigenous community within England can be recognised – and the sky did not fall; it enhanced the UK’s reputation for celebrating diversity, as did the recognition of Ulster Scots in Northern Ireland.
- 6.4.11 In summary, **the small population and local concentration of the New Forest Commoners do not disqualify them**. If anything, these factors underscore the need for protective recognition, lest such an ancient community be lost. The measure of a minority’s worthiness lies in the uniqueness and value of its culture, not in its headcount – this fact is at the very heart of all minority legislation in the UK.
- 6.5 Objection: “The Commoners’ way of life is already protected – there is no discrimination or threat to address”**
- 6.5.1 It may be argued that formal minority recognition is unnecessary because **the New Forest Commoners are not an oppressed or neglected group in need of international intervention**. Unlike some minorities, Commoners do not face overt persecution or widespread societal prejudice. On the contrary, one might claim they enjoy substantial support: they benefit from agri-environment subsidies, have dedicated housing schemes to assist them, and are supported by bodies like the New Forest National Park Authority and Forestry England. Their rights are enshrined in law and enforced by the Verderers’ Court. From this perspective, the Commoners’ situation is healthy: the UK government and local authorities already recognise the practice of commoning as part of the Forest’s heritage and take steps to accommodate it.
- 6.5.2 In short, the Commoners’ cultural practice is being preserved through existing measures, and they are not subject to discrimination in daily life – if anything, they are respected figures in the community.

- 6.5.3 Additionally, sceptics might suggest that some of the FCNM's typical provisions (on language rights, schooling, anti-discrimination, etc.) are not really applicable here, since the Commoners speak English and attend English schools and are not victims of racial discrimination. The argument posits that there is no *rights deficit* that minority status would fill. Recognising them under the FCNM could be seen as a symbolic gesture with little practical benefit, or worse, an empty bureaucratic exercise. It might even create complexities – for example, would documents need to be translated for them (unnecessary, as they speak English), or would it divert resources from minorities who truly suffer from inequality?
- 6.5.4 In essence, this objection asserts that **the Commoners are doing fine under existing heritage and environmental frameworks**, and there is no compelling case for adding a layer of minority rights on top.

6.6 Counter-Argument: Gaps in Protection – Cultural Resilience Is Not Guaranteed

- 6.6.1 While it is true that the New Forest Commoners receive certain support and are not subject to egregious persecution, **it does not follow that their cultural future is secure or that they face no challenges.**
- 6.6.2 In fact, the Commoners *do* encounter serious pressures and a form of marginalisation, albeit different from the classic racial discrimination paradigm. The very need for schemes like the Verderers' Grazing Scheme and the Commoners' Dwelling Scheme indicates that without proactive assistance, commoning would likely decline due to economic and social strains, which have already been explored in this report.
- 6.6.3 Among the threats already identified are: skyrocketing land and house prices in the New Forest (making it hard for younger generations to remain in the area), the lack of profitability in commoning, encroachment of inappropriate development, dilution of representation in local government, and increasing population/visitor pressure on the Forest.

- 6.6.4 These factors can be viewed as **structural challenges that put the Commoners at risk of being squeezed out** – not through deliberate discrimination, but through neglect or competing interests. For example, if planning policy does not strongly consider Commoners’ needs, new housing for wealthy outsiders or more roads and tourism facilities could gradually fragment common grazing lands or drive property costs even higher, thereby undermining the viability of commoning. Already, the “viability of this pastoral economy is increasingly threatened” and land prices are “a significant barrier to young Commoners”, according to the NFNPA’s biodiversity plan. The same document urges that all possible support be maintained and new ways sought to make commoning economically sustainable long-term– clearly suggesting that without sustained attention, the tradition could wane.
- 6.6.5 Formal recognition as a national minority would **strengthen the Commoners’ hand in ensuring these challenges are met with adequate solutions**. Under FCNM Article 5, the state must promote conditions for national minorities to maintain and develop their culture. This could translate into more robust commitments (political and financial) to support commoning – treating it not just as a quaint local custom, but as part of the UK’s minority cultural heritage. It would also bolster the Commoners’ voice in consultations: FCNM Article 15 calls for effective participation of minorities in matters affecting them, and while Commoners do have representation at a local level (e.g. some are members of the National Park Authority, and the Verderers represent them on certain issues), national level decisions can be even more impactful, and national minority status could require newly restructured or devolved authorities to more formally include Commoners in decision-making processes at both extremes.
- 6.6.6 For instance, if the UK reports under the FCNM on Commoners, it would need to consult their representatives regularly and take their views on board for any policy changes impacting the Forest. This is not a trivial gain – it ensures *continuity of attention*. A major risk to the Commoners is authoritarian complacency: current support might erode if political winds or popular fashions change, or if local government reorganisation dilutes their value as a voting demographic. Minority recognition enshrines an enduring obligation on the state to keep supporting this community’s survival and not let it be forgotten or side-lined.

- 6.6.7 It is also important to recognise forms of misunderstanding or conflict the Commoners face which a minority rights lens can help address. For example, there have been tensions with some national media, newcomers and authorities over issues like petting livestock, road traffic accidents involving ponies, or illegal encampments. Commoners often feel their way of life is not fully understood by the wider public (who may see free-roaming livestock as a nuisance, or the Forest as mere recreation space rather than a working common). This is a subtle form of marginalisation – being a tiny minority, their perspective can be drowned out by the majority's priorities (e.g. tourism and recreation interests or commuter development).
- 6.6.8 **Official minority status would confer recognition of the legitimacy of their culture and rights at the highest level, helping educate the public and officials that this is not an anachronism but a protected heritage.** Just as recognising the Gaelic, Cornish and Ulster Scots cultures has encouraged public bodies to respect those identities (through inclusion in educational materials, reframed narratives, etc.), recognising Commoners could inspire better public awareness, thereby reducing social friction. Indeed, the Government in Northern Ireland, by recognising Irish Travellers in law, acknowledged that even a small community can suffer disadvantage if their way of life isn't understood, and moved to address that. The Commoners likewise deserve that acknowledgement.
- 6.6.9 From a legal perspective, many FCNM provisions could be applied in tailored fashion. They do not all hinge on language, race or religion. Article 5 (culture preservation) and Article 15 (participation) are highly relevant. Even Article 6, which urges tolerance and intercultural dialogue, could support measures to foster understanding between Commoners, tourists, and other residents (preventing any prejudice or resentment, for example regarding livestock on roads, cycling, or other use of land).
- 6.6.10 While the Commoners may not need minority-language education, they *do* have unique vocabulary and knowledge (e.g. commoning techniques, forest lore) that could be encouraged in local curricula or museums, aligning with Article 12 (promoting minority cultures in education and research). There is thus practical benefit in framing existing and new support in the minority rights context – it ensures a holistic, rights-based approach rather than ad-hoc patronage.

6.6.11 In sum, **the absence of blatant discrimination does not mean the Commoners' cultural rights are fully secured.** Their marginal status in numbers makes them vulnerable to being overlooked. Recognition under the FCNM would fill a gap: it would provide a **formal guarantee that their cultural heritage will be safeguarded and that they will be consulted on decisions impacting their life,** well into the future. It leverages international oversight (through periodic reviews by the FCNM Advisory Committee) to keep the government accountable in its support. Thus, what might appear unnecessary on the surface is, on closer inspection, a valuable reinforcement of the Commoners' long-term security and dignity as a distinct community.

6.7 Objection: "Recognition would redefine 'national minority' beyond its intent and set a problematic precedent"

- 6.7.1 Some critics may take a more conceptual or principled stance, arguing that recognising the New Forest Commoners would **stretch the definition of a national minority in novel ways** that were not intended when these protections were established.
- 6.7.2 National minorities have, in practice, often been popularly understood as groups with a collective identity rooted in racial origin or language distinct from the majority. By recognising a group defined by an occupational and ecological tradition, the UK might be seen as expanding the minority concept to encompass what could be termed an "interest group" or "cultural niche."
- 6.7.3 There could be concern at the international level that this dilutes the focus on racial and linguistic minorities who still struggle for basic rights in many places. In other words, using the minority rights framework for a case like the Commoners might be viewed as unorthodox or even trivialising minority rights (which in many countries are matters of life and death or core identity tied to nationhood).
- 6.7.4 Additionally, the UK's own interpretative declaration on the FCNM references "racial groups" as defined in the Race Relations Act. One might argue that in legal terms, it is questionable whether "New Forest Commoner" can be considered a racial or ethnic group under that definition. Though they seem to fulfil the legal criteria, there has been no court case to establish Commoners as an "ethnic group" for Equality Act purposes, whereas groups like Sikhs and Travellers have already been through that process. Without a clear legal precedent, a government lawyer might be wary that recognising Commoners could lack a firm basis, or conversely, might inadvertently create one (with unpredictable implications).

- 6.7.5 Furthermore, on a policy level, the government might fear that recognising a lifestyle-based minority could open itself up to lobbying from various other traditional occupational communities (hill farmers, fishermen, etc.) or from local patriot movements (e.g. people in Yorkshire or Shetland asserting distinct identities). It touches on a sensitive question: **where does cultural heritage end and minority status begin?** The objection here is that by blurring that line, the state may find it harder to justify denying other claims in the future, leading to a slippery slope or at least more contentious debates.
- 6.7.6 The precedent could be seen as “problematic” because there are few directly comparable cases in Europe of recognising a small enviro-occupational cultural group as a national minority. The UK might worry about how this would be viewed by the FCNM Advisory Committee or other states (though the Advisory Committee generally encourages inclusive approaches, this could still be seen as a pioneering or progressive move).
- 6.7.7 In summary, this objection is that **recognising the Commoners may be seen as conceptually outside the mainstream of minority protection, and could complicate the minority regime.**

6.8 Counter-Argument: Evolution of Minority Concepts – The Commoners as a Legitimate and Unique Case

- 6.8.1 The understanding of “national minority” is not static and has never been strictly limited to racial or linguistic categories – it has evolved to accommodate the varied ways in which human cultural identity is expressed. While this report has already demonstrated that such an objection relies on both a misunderstanding of New Forest Commoners and a misunderstanding of the national minority framework, the **Council of Europe has deliberately left the term flexible**, precisely so that states can recognise the minorities actually present within their territories, even if they don’t fit a textbook definition.
- 6.8.2 The case of the New Forest Commoners may be unique, but it is not in conflict with the spirit of the FCNM; on the contrary, it exemplifies that spirit by aiming to protect a vulnerable cultural heritage. The Convention’s explanatory report emphasises respect for a diversity of identities, and the Advisory Committee has often praised states for extending protection to groups on cultural-historical grounds (as the UK did with the Cornish and the Ulster Scots) rather than criticising them.

- 6.8.3 Recognising the Commoners would thus represent a continued *evolution* in the application of minority rights, consistent with emerging trends and established precedents. Around the world, we see increasing acknowledgement of indigenous and tribal communities and other traditional lifestyle groups within majority populations: for example, Scandinavian countries protect the culture of the **Sámi** reindeer herders; Spain's legislature has discussed protections for certain traditional **Roma** trades; and at the UN level, concepts like "minority or indigenous stewardship of land" are gaining ground. The New Forest Commoners share some characteristics with indigenous peoples (deep attachment to ancestral land, distinct resource management customs, self-regulatory institutions) – indeed the fact that Commoners have been in the New Forest for longer than the **Māori** have been in New Zealand, or the **Inuit** have been in North America, is a striking reminder of their antiquity.
- 6.8.4 The New Forest Commoners are **absolutely a distinct cultural community tied to a specific territory since time immemorial**. The FCNM is perfectly able to accommodate such a group. There is nothing in its text that would exclude a community like this; terms like "culture," "traditions," and "identity" are broad enough to cover it. If anything, the Commoners force us to recognise that Europe's diversity includes not just different languages and religions, but also different traditional socio-economic and socio-environmental systems that are just as integral to the continent's heritage.
- 6.8.5 The fear of setting a "bad precedent" can be assuaged by the simple fact that **the bar for recognition remains high**. The Commoners present a unique combination of features that no other groups can claim in tandem: officially recorded rights from medieval charters; continuous practice, territory and distinct culture over more than a millennium; a clearly defined membership (through the rights-holding system); a demonstrable contribution to the nation's cultural wealth; a defining contribution to an internationally important environment.
- 6.8.6 No other occupational group meets these criteria. For instance, "hill farmers" as a class are far more diffuse and lack a singular identity or legal tradition uniting them across generations; "Yorkshiremen" or other regional identities are certainly culturally real, but they are large parts of the majority with no need for special protection and no specific threatened practice analogous to commoning.
- 6.8.7 Recognising the New Forest Commoners will not compel recognition of any random group – it will stand as a **carefully justified exception** based on extraordinary heritage value. The UK can clearly articulate why this case is unique, which actually strengthens the credibility of its minority rights commitments: it shows the government is responsive to its own national context and treasures *all* aspects of its cultural mosaic, not just the obvious ones.

- 6.8.8 Legally, while the Commoners have not been declared an ethnic group by a court, this is not a prerequisite, and the government has intentional latitude in how it interprets its FCNM obligations. That said, the Race Relations Act definition includes groups defined by “ethnic origins”, and an argument can certainly be made – and would be supported by anthropological evidence – that the New Forest Commoners have a distinct ethnic origin in the broader sense of a community of descent (many are descended from historic forester families) and a shared cultural origin in the New Forest area.
- 6.8.9 The government could, if cautious, seek an advisory opinion or consult the Equality and Human Rights Commission on this point, but given the precedent of **Irish Travellers being recognised via executive action in Northern Ireland law and via courts in Britain**, there is no insurmountable legal barrier. **The Commoners fulfil the *Mandla* criteria** as discussed earlier: a long shared history (check), a cultural tradition of their own (check), and even a common geographical origin (the New Forest) – meeting the core requirements for an ethnic group in UK law.
- 6.8.10 Regardless of this, New Forest Commoners are not required to be considered an ethnic minority for recognition as a national minority. Recognising them under the FCNM without such ethnic classification would be consistent with the UK’s own racial/ethnic discrimination framework, as was the case with Ulster Scots and the Cornish.
- 6.8.11 Far from trivialising minority rights, this step would underline an often-overlooked dimension of cultural diversity: the link between traditional cultures and environmental stewardship. It would send a positive message domestically and internationally that the UK values not just the headline minorities, but also its smaller heritage and socio-environmental communities. The New Forest Commoners’ recognition could become a model for how minority protection can intersect with preserving **intangible cultural heritage**, aligning with UNESCO’s goals as well. It demonstrates that even within a largely homogeneous nation-state, there are pearls of distinct culture worth safeguarding. Any precedent, therefore, would be a *progressive* one – showcasing an expansive yet thoughtful interpretation of “national minority” that remains true to the intent: preserving identities at risk. As long as the UK continues to apply rigorous criteria and good judgment, this precedent is manageable and, indeed, laudable.

7. Timing and Rationale for Seeking Recognition Now

- 7.1 The convergence of political changes surrounding English devolution and local government reorganisation across Hampshire, creates a timely and strategic moment to seek formal minority recognition for the New Forest Commoners.

- 7.2 Firstly, the Government's agenda of empowering local identity and leadership provides a sympathetic backdrop. There is an implicit recognition in the devolution framework that one size does not fit all, and that local communities should shape their own destiny. What community is more "local" and steeped in place than the New Forest Commoners? By asserting their status under the FCNM now, it aligns with the spirit of the times – celebrating and safeguarding distinctive local heritage, culture and landscape as part of the levelling-up narrative.
- 7.3 Recognising the Commoners now, just as Hampshire is poised for devolution and restructuring, would cement the Commoners' status as a distinct people of the Forest whose rights need consideration in the new order. It sends a powerful message that modernisation of governance will not trample minority traditions, but rather will go hand-in-hand with protecting them.
- 7.4 Secondly, the practical stakes are high during transitions. Once the new mayoral authority and unitary councils are set up, they will establish their operating procedures, priorities, and cultures within the first few years. If the Commoners' status is unclear or informal at that point, there is a risk they could be overlooked in foundational decisions (such as the drafting of constitutions, stakeholder forums, or key policy frameworks).
- 7.5 By contrast, if the New Forest Commoners are acknowledged in principle as a protected cultural minority, the incoming authorities can be instructed to build that into their plans from the outset, while early recognition can also influence the Government's own devolution deal and reorganisation conditions. Essentially, there is a narrow window in which to "bake in" minority protections before the new system settles into place, whereupon incorporating such recognition would become more challenging and resource-intensive. It is significant that both the 2014 Cornish recognition and the 2022 Ulster Scots recognition came as part of larger devolution or reorganisational works. The same can be true in the case of the New Forest Commoners.
- 7.6 Thirdly, many of the challenges facing the Commoners are *immediate* or on the near horizon (development pressures, agricultural economy pressures, funding changes, environmental stresses), and the decisions in the next few years will be critical for the long-term viability of commoning. Seeking FCNM recognition is a process that itself may take time (involving national deliberation and communication to the Council of Europe). Beginning that process now means the Commoners could secure recognition as part of the new governance becoming fully operational (circa 2026–2027) with negligible additional cost in resources. It would be unfortunate to miss this wave and only later realise that an opportunity was lost.

- 7.7 Acting now, the Commoners' case can also ride on current awareness: local and national officials are actively engaged in dialogue about "what makes Hampshire and the Solent region special" during devolution consultations – the perfect context to highlight commoning as a unique cultural asset to the region, with an audience primed to listen.
- 7.8 Finally, formal recognition at this point would buttress the Commoners' legal rights at a time of change, providing an extra layer of security. It would complement existing protections (like the New Forest Acts) by adding an international commitment that the UK must uphold. This is not about creating new exclusive privileges, but about acknowledging the Commoners as a community with a distinct identity that merits the same consideration as other minorities. As the Guardian reported regarding the Cornish recognition, it does "not mean [the region] is breaking away... but ensures traditions, culture and heritage now have the same status as everyone else's".
- 7.9 In the New Forest context, it would reassure Commoners that even as bureaucratic structures shift, their culture is officially valued and safeguarded at a national level. It would likewise signal to the new Mayor and councils that commoning is an integral part of the region's heritage, to be preserved in policy and practice.

8. Conclusion

- 8.1 The New Forest Commoners form a small but distinct community with an identity forged through centuries of tradition, law, and lived experience. In an era of rapid change, recognising them as a national minority under the FCNM would be a forward-looking step to ensure that this ancient way of life does not fade away. Such recognition would acknowledge the Commoners' rightful place in the rich tapestry of British cultural heritage – on par with better-known groups like Irish Travellers or the Ulster Scots – and would activate legal and policy tools to support them. It offers a path to address critical issues (housing affordability, economic sustainability, social pressures, political voice) in a manner consistent with the UK's commitments to fairness and diversity. Crucially, protecting the commoning culture of the New Forest is not only about safeguarding traditions for their own sake; it also underpins the internationally important landscape and ecology of the New Forest, which benefits countless others.
- 8.2 Having examined the objections and their counter-arguments in detail, this report finds that **recognising the New Forest Commoners as a national minority under the FCNM is both appropriate and justified**. The Commoners emerge as a clear example of a group that, while unique in minority terms, fits the fundamental purpose of the Framework Convention: they are a **distinct, long-established community within the state, possessing a rich cultural heritage that is not shared by the majority population, and that is deserving of protection and encouragement**.

- 8.3 The report demonstrates that concerns about definitions or precedents, while understandable, can be addressed through careful articulation of the Commoners' unique status. Recognising them would not distort the meaning of "national minority" but rather enrich it, acknowledging the full spectrum of the UK's cultural landscape – which includes not only linguistic and racial minorities but also historic indigenous communities like the Commoners who have their own identity. The Commoners meet the underlying criteria used in UK law for minority groups: **a long shared history and a distinctive cultural tradition maintained over time**. They also fulfil the test of adding to the diversity of the nation; indeed, they have been explicitly called a "heritage cultural minority" by authorities, even if not formally recognised under the Convention yet.
- 8.4 The report also addressed the misconception that because the Commoners are not oppressed in the conventional sense, they do not need recognition. The reality is that their small numbers and the socio-economic trends demonstrably threaten their continuity. Current support, while valuable, is not considered sufficient to mitigate these intensifying trends, and may not be invulnerable to future changes. National minority status would secure a *formal commitment* to their survival, giving them a stronger platform to negotiate the challenges ahead and ensuring that Britain does not inadvertently allow a millennium-old culture to dwindle away. The cost of recognition is minimal – it is largely a policy stance and a signal – but the benefit, in terms of cultural justice and preservation, is significant.
- 8.5 Perhaps most persuasively, the New Forest Commoners exemplify how protecting cultural rights can have multi-dimensional benefits: their case **unites cultural preservation with environmental conservation**. In recognising them, the UK would also be championing a form of sustainable living that has proven its worth over a millennium in maintaining an extraordinary landscape. This aligns neatly with contemporary values of safeguarding both cultural and natural heritage. In effect, the Commoners stand at the intersection of the UK's obligations under the FCNM and its commitments under environmental treaties (like the Convention on Biological Diversity, which calls for respecting traditional knowledge). Their recognition could be a flagship example of integrated heritage protection.
- 8.6 In implementation, recognising the New Forest Commoners as a national minority would likely involve including them by name in the UK's periodic State Reports under the FCNM, consulting with their representative organisations on relevant issues, and reviewing whether any additional measures (educational, economic, or protective) are needed to fulfil the Convention's articles in their context. The current consultation on devolution and local government reorganisation across Hampshire presents the perfect opportunity to engage with this process.

- 8.7 In light of the evidence, it is clear that **the New Forest Commoners meet the criteria for national minority status and have much to gain from it**. The case merits serious consideration by both the community itself and the authorities who value the New Forest's future. National minority status does not mean extravagance or separatism – it simply formally includes New Forest Commoners in the fold of the UK's minority communities. **Given the analysis above, this inclusion is not only justified but overdue.**

9 Recommendation

- 9.1 **The Government should proceed to recognise the New Forest Commoners under the Framework Convention for the Protection of National Minorities.** This can be done by a simple ministerial announcement, similar to the Cornwall recognition in 2014 and the Ulster Scots recognition in 2022, stating that henceforth the Commoners will be afforded the same recognition as other national minorities in the UK. The announcement should highlight their unique culture, their contributions to the national heritage (both cultural and natural), and the government's commitment to ensuring this living tradition endures. Devolution and local government reorganisation across Hampshire presents an excellent opportunity to combine this measure with those announcements, and both new and existing authorities should be encouraged to initiate, continue and enhance support accordingly, framing it within the minority rights context. By taking this step, the UK would affirm that its concept of "One Nation, Many Cultures" reaches even into the ancient forests of Hampshire, honouring those who have tirelessly kept that corner of England both culturally and ecologically vibrant through the centuries.
- 9.2 In order to achieve this, support should be pursued from the Commoners' Defence Association, the Verderers, the New Forest National Park Authority, the New Forest Association of Local Councils, the New Forest District Council, and the Hampshire County Council, as well as from other stakeholders and interested parties. If feasible, a working group should be formed with representatives from the above bodies, alongside any others considered appropriate. The NFDC and HCC should present recognition of national minority status as a necessary aspect of any final devolution or local government reorganisation plan, and the support of relevant MPs (such as Julian Lewis and Desmond Swayne) should be leveraged to apply pressure in parliament. Cultural events, such as the New Forest Show, should likewise be considered opportunities to promote national minority status.

9.3 None of the objections raised withstand close scrutiny when weighed against the compelling evidence of the New Forest Commoners' distinct identity and the benefits of recognising them. Instead, each challenge transforms into an opportunity to broaden our understanding of national minorities and to reinforce the values of inclusion and preservation. **The New Forest Commoners are, in every meaningful sense, a national minority community – one that Britain can proudly acknowledge and protect, to the benefit of present and future generations.**

9.4 Further Reading:

- 9.4.1 The Framework Convention for the Protection of National Minorities.
Strasbourg, 1995.
<https://rm.coe.int/168007cdac>
- 9.4.2 Cornish National Minority Report 2. March 2011.
<https://www.cornwallheritage.com/wp-content/uploads/2024/02/Cornish-Minority-Report-Two.pdf>
- 9.4.3 New Decade, New Approach: Recognition of Ulster Scots as a National Minority under the Council of Europe Framework Convention for National Minorities - Legal and Policy Implications of the UK Government Commitment Working Paper.
August 2020.
<https://caj.org.uk/wp-content/uploads/2021/02/NDNA-Ulster-Scots-National-Minority-Working-Paper-August-2020-1.pdf>
- 9.4.4 Census of the New Forest Commoners 2011: A report based on census data and the marking fee register from 1965 to 2010. Jo Ivey, August 2011.
<https://web.archive.org/web/20220902135300/https://www.realnewforest.org/wp-content/uploads/2018/11/Final-census-report-August-2011.pdf>