e-law

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LOOKING FORWARD TO AUTUMN

EDITORIAL

UKELA's busy autumn events season has just started and I hope you'll find something to interest you. It starts with the London meeting on renewables, followed by seminars on civil penalties and climate change (although there are very few places left). Some of you may be looking forward to the Wild Law workshop at the end of the month on an organic farm in Somerset.

We're delighted to be able to offer a half day conference in Northern Ireland and are aiming to do the same in Scotland before the end of the year. The regional groups have various meetings planned and there are some key consultations for the working parties – particularly climate change, environmental litigation and planning. If you're a student we also look forward to seeing you at the careers evening and social in November – our thanks to Landmark Chambers for hosting this very popular event again. You should also have received an invitation to the Garner Lecture being given this year by Philippe Sands, on Water and Law. We are very fortunate to be able to hold this at Clifford Chance and enjoy their hospitality.

Later in the month you'll receive an invitation to support the Lord Nathan Memorial Fund for the Environment, which will take care of our "Law and Your Environment" website. We do hope you will consider this. One of our student members has just completed her dissertation looking at how providing environmental information helps deprived communities. You'll be able to read more about her research which focuses on Law and Your Environment in the next edition of e-law. In the meantime hats off to John Joliffe of One Crown Office Row for completing his sponsored swim in Croatia to raise much needed funds.

You can also read in this edition about feedback from the Durham conference and how we did in trying to reduce our carbon footprint from travel (it just goes to show that making the conference easily accessible by train really helps). And what improvements would you like to see at Exeter next year? We're just starting planning now so let us know.

We hope to see you at a UKELA event soon (book as soon as you can – they fill up fast!).

Peter Kellett, UKELA Chair

Read about the Durham Conference at p.15

In this issue

MEMBERSHIP CHANGES

We are delighted to be able to tell you about some changes to our membership package for 2010. As announced by the Chair in the last edition of e-law, the UKELA trustees decided to freeze annual subscriptions for 2010 in recognition of the difficult economic conditions we are all operating under at this time.

I am pleased to say that we are also able to offer 2 new categories of membership – for trainee solicitors, pupil barristers and graduate consultants* and Local Authority corporate members. From 2010, if you are a trainee solicitor/pupil barrister/graduate consultant your yearly membership will now be £30. And for Local Authorities, we have reduced the yearly fee for corporate membership to £75 per year for a maximum of 3 members within the membership.

You will receive further details about these changes in your renewal information in December or go to our website to learn more. UKELA hopes you will agree that these changes will help our newly qualified members and those in Local Authorities. Please let any of your contacts know that now is a great time to join and remember, anyone joining for the first time between October and December will have the added benefit of their membership being extended to the end of 2010.

*applicable for the first 2 years of full time employment only

Joining made even easier!

Do you know someone or a company who is thinking about joining UKELA? Now is a great time to join – as well as the changes we have announced earlier in this edition and the price freeze for 2010, new joiners can now register and pay for their membership online, making the joining process quick and easy. To join UKELA, go to www.ukela.org and click on the join now link.

Paperless Conference?

Do you think UKELA should aim to have a paperless annual conference at Exeter next June? Following consultations with other organisations which aim to run environmentally sustainable conferences, avoiding a large conference folder full of papers is increasingly attractive. But we need to know what members think? Would you be happy to receive the papers on a memory stick at the event which you could take away? Would you even be happy to visit a dedicated area of the UKELA website – only for conference attendees – where you could download the papers you want?

We need your views to help us plan for next year.

Please email Alison Boyd: alisonboyd.ukela@ntlbusiness.com.

If you would be OK to go paperless you can just write “paperless is OK” in the subject line. If you’d like to keep the papers write: “keep the conference papers”. If you have a more complex view to express do feel free to say what you want. We look forward to hearing from you.

Mentors Wanted

UKELA is starting to trial a mentoring scheme to link experienced UKELA members with students and younger members. We aim to keep the scheme simple by finding mentors and matching them with suitable mentees. We will oversee the contact to make sure everyone is happy. There are huge benefits to mentees from being able to meet and talk to more experienced members who may have trodden the same path before. And mentors get a huge amount out of supporting someone and providing useful help and guidance. If you are able to volunteer as a mentor please click here and fill out the form. We look forward to hearing from you

PODCASTS ARRIVE ON WWW.UKELA.ORG

You will now be able to hear some of our events as podcasts on www.ukela.org. Thanks to one of our volunteers, Andy Stone, you can listen to the London meeting on EPP Phase 2 which took place in May. We’ll shortly be adding the London meeting on Major Accidents to the Environment. Of course it’s nothing like being there… but if you can’t get along this is a great opportunity to catch up with some of our expert speakers.

IS PUBLIC LIABILITY INSURANCE ENVIRONMENTAL INSURANCE?

DAVID HART Q.C.

1. This talk is about why the answer to my question is an emphatic "No". Many environmental claims are not covered by the typical public liability policy available in the UK. This is not what many insureds would expect, and it is therefore necessary to see where the line is drawn between events which are covered by the average public liability policy, and those which are not and may need separate or bespoke environmental insurance.

2. So we will look at a conventional policy, and how the law has interpreted it. Public liability policies cover occurrences which happen during the period of insurance; they provide "indemnity against legal liability for damages"; but the occurrences or incidents have to be "sudden" otherwise they are excluded.

3. So now let's have a look at the type of event which causes environmental claims, and the sort of claims which result. Fires cause explosions which can cause widespread air pollution, contamination of land offsite, and contamination of surface and ground water from escaped chemicals or firefighting foam. Structural failures (e.g. many hundreds of thousands of tons of sewage sludge) can damage offsite structures, block rivers, and threaten other businesses both with further slips or by depriving those businesses of water or power. Such events can also cause the insured to spend substantial sums preventing or mitigating losses to others.

4. There are very broadly two types of claims which result. The first are private-law civil claims (usually nuisance claims) brought by neighbours. When it is a one-off event, these are usually claims for compensation for what has already happened. The second are claims brought by the Environment Agency as environmental regulator. The EA has

   (I) powers to clean up and charge those who caused or knowingly permitted water pollution: s.161 Water Resources Act 1991

   (II) may serve works notice instructing D to clean up, under s.161A WRA;

   (III) may serve remediation notice in respect of contaminated land under Part IIA of Environmental Protection Act 1990

   (IV) may serve notice under Environmental Damage (Prevention & Remediation) Regs 2009 (SI 2009 No.153).

The insuring clause: liability for damages

5. The rule of thumb is that the civil claims by neighbours may be covered by a public liability policy, whereas the claims arising out of regulatory action are not covered.

6. The problem with the statutory claims is that the courts have decided that such statutory claims do not give rise to "liability for damages", within the meaning of the typical insuring clause.

7. The clearest decision on these lines was that of HHJ Hegarty QC in *Bartoline v. RSA* [2006] EWHC 3598, [2008] Env LR 1. A fire at Bartoline's factory caused contamination of a stream, and led the EA to spend over £600,000 on clean-up and claim this from Bartoline under s.161. Bartoline also spent nearly £150,000 on complying with an EA works notice under s.161A WRA. Bartoline sued insurers to recover both sums. The judge held that neither sum was recoverable. The liability to pay the £600,000 was not a liability to pay damages; it was a liability to pay a debt under a statute. Equally, Bartoline's expenditure on works carried out by itself could not amount to a liability to pay "damages."

8. *Bartoline*, as a first instance decision[1], is not by itself binding on any other first instance judge. However, the main principles underlying the decision do come from authority in the Court of Appeal, and for all practical purposes, the law is settled unless and until a case reaches the House of Lords on the point.

9. There are essentially two strands of reasoning supporting the judge's conclusions. The first is a series of marine insurance cases (e.g. *Hall Bros Steamship v. Young* [1939] 1 KB 748) in which payments under statute were not held to be liabilities

1 There was an appeal, but this was compromised before being heard.

by way of damages.

10. The second is the decision of the Court of Appeal in the Deighton tip case, *Yorkshire Water v. Sun Alliance* [1997] 2 Lloyds Rep. 21. Yorkshire Water had spent £4.6m on urgent flood allevation works on its own property, with a view to preventing further damage to other properties (who included ICI) and hence to prevent or mitigate further claims from ICI and others arising out of the slip of the sewage sludge. It sued insurers on the basis that these sums were incurred in respect of that slip and were done pursuant to a legal liability to prevent further losses occurring.

11. The Court of Appeal held that this argument was wrong. In this sort of public liability policy, the trigger for the indemnity is not simply the occurrence (the fire or the slip) but the liability to pay damages to others in respect of that occurrence. One's own expenditure cannot be such liability. An attempt to imply a term that the insured would make reasonable efforts to avoid such losses and if he does so the insurer would indemnify him against the costs of such efforts was sharply rebuffed by the Court.

12. Both *Bartoline* and *Yorkshire Water* were examined in a more recent decision of the Court of Appeal, *Bedfordshire Police Authority v. Constable* [2009] EWCA Civ 64. Property-owners sued the police for damage caused by a riot at a detention centre, relying upon a statutory liability under the Riot (Damages) Act 1886 . The police sought indemnity from insurers, who refused to do so on *Hall Bros, Yorkshire Water & Bartoline* principles. The Court of Appeal ruled against insurers. Even though the police's liability was a statutory one and a strict one, the statute reflected an underlying historical common-law liability or "*notional responsibility to preserve law and order in the locality.*"

13. At first sight, the *Bedforshire* case might be thought to case doubt on the earlier cases. Here is a statutory liability, and a strict one at that, giving rise to a liability in "*damages"* for PL purposes. However, if anything, it supports insurers' arguments. First, it amounts to a general application of the *Hall* and *Bartoline* principles, and the judge's analysis in *Bartoline* that the *Hall* principle of "responsibility" was derived from marine insurance cases was expressly broadened by the Court of Appeal so as to apply *"in general, to public liability insurance"* para.28. Secondly, there is an easy point of distinction between the outcome and the earlier cases. There never has been any common-law liability owed by a polluter to the EA; the EA is a creature of statute, and so are the liabilities of polluters under the WRA. Contrast the common-law responsibility of the police for keeping good order.

The outcome

14. There are some fairly obvious anomalies in this result. Take an escape of contaminated liquid from a factory which pollutes a river and causes land contamination. If the river is privately owned, its owner may clean up, and sue the factory-owner for damage to both river and land. If this happens, the factory-owner can claim on his PL policy. But if the EA steps in and carries out urgent river decontamination works, and claims the money under the statute, then the factory-owner must bear those losses himself.

15. There is a similar problem where the factory-owner carries out preventative works so as to avoid causing damage to his neighbour. If he does so, *Yorkshire Water* tells us that he cannot recover those losses from his PL insurers. If he does not do so, and the damage reaches his neighbour, then there is the possibility of recovery in respect of the neighbour's claim. But the factory-owner must not be too slow about his remedial works, otherwise insurers will repudiate on the basis that he failed to take reasonable precautions to avoid the liability in question.

"Sudden"

16. Assuming our insured's claims against him qualify as liability for "damages, he has still not necessarily done enough to achieve an indemnity. This is because since about 1990, there have been pollution exclusions in most PL policies.

17. Although the wording differs slightly between the standard ABI and Lloyds wordings, the gist is the same. Bartoline's policy with the RSA is typical: *"The indemnity will not apply to legal liability…caused by or arising out of pollution or contamination...unless the pollution or contamination is caused by a sudden identifiable unintended and unexpected incident which takes place in its entirety at a specific moment in time and place during any Period of Insurance; Provided that all pollution or contamination which arises out of one incident shall be considered by [the insurer] for the purposes of this policy to have occurred at the time such incident takes place."*

18. The clause operates as an exclusion, and then a limited write-back. But what is written back?

19. It is reasonably clear that in a Bartoline-type case, the policy would respond. If the air pollution or water pollution had

contaminated neighbours, this would be as a result of a *"sudden identifiable…incident."* But there are a whole host of cases where the result is not so clear. A very common occurrence which gives arise to claim is an escape from an underground fuel tank. The usual problem is evidential. Unless insured or insurer has carried out substantial investigations, they will not know how and over what period the leak occurred. There is also an ambiguity in the word "*incident."* Is the incident the leak from the tank, or the event which gave rise to the third party liability, i.e. the escape of the hydrocarbons from the land causing offsite contamination? We have seen that the occurrence giving rise to liability is the latter, but is "*incident"* to be similarly interpreted?

20. An example may help. There is a long-running seepage from an underground tank into the insured's land. A flash flood washes the contaminants from the insured's land onto the neighbour's land. If "incident" refers to the seepage, the claim is excluded. If "incident" refers to the escape of the contaminants, then the claim is not excluded.

21. The answer may depend on how the pollution exclusion fits within the rest of the policy, but I think that there is a lot going for defining the incident as the escape from the land rather than the seepage into the land. There is no case law on it, though the issue arises time and time again in practice.

Policy years

22. These public liability policies are of course claims-occurring policies, rather than claims-made policies. This means that the relevant insurer is the one who wrote the policy in force at the time of the occurrence or incident. This may be many years before the third party brings the claim against the insured. If the same insurer has been on risk throughout, then the only issue may be what level of deductible was applicable in the relevant policy year. But if the insured has chopped and changed his insurers over the years, then he faces a further obstacle. Which insurer was on risk when the "occurrence" or "incident" occurred? That may not be easy to determine, if the leak or escape happened underground.

Conclusion

23. The short answer to my question is that Public Liability insurance is only in a limited sense environmental insurance. This means that those who wish comprehensive environmental insurance will have to negotiate this separately. This can be in done a number of ways. The first, and simplest, is to find an insurer who will be happy to extend conventional PL cover to preventative costs and/or statutory claims by the EA. This may still retain the gradual pollution exclusion – whatever that may mean, and will usually lead to an increased premium, but will provide an indemnity in the *Bartoline*-type case.

24. The second, which will be applicable to the more complex and substantial sites, is to obtain a specific environmental liability policy, but this will almost certainly involve some sort of site-specific audit/investigation and may be only available on a claims-made basis. Hence the insured will have to maintain insurance for as long as he may be on risk for events arising out of his ownership of the land in question.

AARHUS AND PRIVATE LAW CASES RELATING TO THE ENVIRONMENT

JEREMY HYAM 1 CROWN OFFICE ROW

1. In the recent decision of *Morgan and Baker v. Hinton Organics* [2009] EWCA Civ 107 the Court of Appeal for the first time reviewed (without actually deciding) the applicability of the Aarhus Convention to private law environmental disputes. The purpose of this paper is to review the arguments both for and against the extension of the Aarhus principles into the sphere of private as opposed to public law, and to make some suggestions about how the Aarhus principles might be applied in practice.

The appeal in *Morgan and Baker*

2. The appeal raised two key issues of principle:

(a) Was the application for an injunction against the Defendant within the scope of Article 9(4) of the Aarhus Convention[2]?

(b) If yes, what is/was the nature of the Aarhus obligation on the Court when exercising its discretion on costs (regardless of whether or not the Convention is raised by one of the parties)?

3. The background facts were essentially that the Defendant was the owner and operator of a waste recycling facility at Charlton Field Lane, near Keynsham, Bristol. The 1st Claimant was the joint owner and occupier of a property situated around 300 metres from the site. The 2nd Claimant was the owner and occupier of a property around 500 metres from the site.

4. The injunction sought concerned complaints of odours being released from the waste site which adversely affected the Claimants' homes and which were causing them a nuisance. The Particulars of Claim had set out a series of regulatory breaches by the Defendants as supporting their claim in nuisance. Despite such breaches and complaints by the Claimants and other local residents to the Defendant, to Bath and North East Somerset CC (BANES) and the EA, the Claimants considered that no effective remedial action had been taken by the Defendant, and no effective enforcement action (to prevent further breaches) by BANES or the EA.

5. They therefore sought injunctive relief against the Defendant on an interim basis until trial to prevent the Defendant from causing odours to emanate from the site.

6. In the witness statement in support of the injunction the Claimants made plain they considered an undertaking in damages inappropriate for the reason that the Claimants were simply asking the Defendant to comply with its own waste management licence conditions.

7. The Defendant objected to the absence of an undertaking and the Claimants replied by suggesting the proceedings might be avoided altogether by an undertaking which mirrored closely the requirements of the Waste Management Licence.

8. No such undertaking was agreed and the matter came before HHJ Seymour QC on 9th November 2007 who was satisfied that: (i) there was a serious issue to be tried as to whether offensive odours affecting the enjoyment of the claimant's properties were generated by the Defendant or not (ii) that damages would not be an adequate remedy and that (iii) that the balance of convenience favoured the Claimants in relation to the form of order put forward by them.

9. The crafting of the order in the terms approved by the judged was influenced, among other things, by decision of the Divisional Court in *Environment Agency v Biffa Waste Services* [2007] Env LR 16, 330 that an odour condition in terms: '*There shall be no odours emitted from the permitted installation at levels as are likely to cause pollution of the environment or harm to human health or serious detriment to the amenity of the locality outside the permitted installation officer, as perceived by an authorised officer of the defendant[the EA]*'; did not offend against either the principles of certainty (clarity and forseeability), nor did it have the effect of usurping the fact-finding and adjudicative roles of the court by bestowing on an authorised officer the functions of establishing relevant facts and obliging the court to convict whenever it was satisfied that the officer honestly perceived those facts. As Ouseley J. held in that case, at §25:

> *"I construe the closing words of the condition as requiring evidence relevant to the requirements of the condition from an authorised officer of the agency as a necessary ingredient in the case. It is a requirement that is likely to be a safeguard from officers against irresponsible prosecutions. It does not limit the jurisdiction of the court to decide, on the basis of all the evidence presented to it, whether odours had been emitted at levels which offend against standards and conditions."*

10. Essentially the Claimants sought by their order a mechanism whereby an independent body viz. BANES/EA would police the order made and report (as part of their ongoing statutory obligations) if there was any specific breach of it. In the event neither BANES nor the EA wished to be drawn into the dispute or to become adjudicators of it, and thus the matter came back before the judge who eventually discharged the injunction for want of any effective means of enforcement/policing.

Aarhus - background

11. The Aarhus Convention came into force in October 2001 and was ratified by the UK in February 2005. In line with the Convention procedures the UK became a full party to the Convention in May 2005, 90 days after the date of ratification.

12. The key provisions of the Aarhus Convention relevant to the present issues are:

1 The full title is the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters – hereafter "the Aarhus Convention".

Article 3(8): Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement. This provision shall not affect the powers of national courts to award reasonable costs in judicial proceedings.

Article 9(3): In addition and without prejudice to the review procedures referred to in paragraph 1 and 2 above, each Party shall ensure that, where they meet the criteria, if any, laid down in its national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment.

Article 9(4) In addition and without prejudice to paragraph 1 above, the procedures referred to in paragraphs 1, 2 and 3 above shall provide adequate and effective remedies, including injunctive relief as appropriate, and be fair, equitable, timely and not prohibitively expensive. Decisions under this article shall be given or recorded in writing. Decisions of courts, and whenever possible of other bodies, shall be publicly accessible.

13. As is explained in the Sullivan Report, at §10, Aarhus is an international convention, and the parties to the convention have established a Compliance Committee that can investigate alleged instances of non-compliance. But the European Community has also ratified Aarhus, giving the European Commission the right to ensure that Member States comply with the Aarhus obligations in areas within Community competence – see *Commission v France* Case C-239/03 (2004) ECR I-09325, and the opinion of Advocate General Kokott delivered on 15th January 2009, in *Commission v. Ireland* Case C-427/07. Further, and as explained in the Sullivan Report at §11 the Convention has been inserted into two key EC environmental directives:

(I) Art. 10A of the EIA Directive 85/337/EC; and

(II) Article 15a of the IPPC Directive 2008/1/EC.

In both directives there are now provisions that procedures for legal challenges must be "fair, equitable, timely and not prohibitively expensive" – in other words, directly transposing the wording of Article 9(4) of the Aarhus Convention into Community law[3].

14. For a good example of the application of Article 10A, see Collins J.'s decision in the EIA case of *R(Louisa Baker) v. BANES and Secretary of State* [2009] EWHC 595 Admin at §48.

15. Such judicial consideration of the Aarhus Convention as there has been by the domestic courts has been limited, and has focussed largely on Aarhus obligations in relation to consultation and PCO's in the context of judicial review:

(I) R (Burkett) v LB Hammersmith and Fulham [2004] EWCA Civ 1342; para's 74-80

(II) R (Greenpeace) v Secretary of State for Trade and Industry [2007] EWHC 311 at para 49: "…Whatever the position may be in other policy areas, in the development of policy in the environmental field consultation is no longer a privilege to be granted or withheld at will by the executive. The United Kingdom Government is a signatory to…[the Aarhus Convention].

(III) Val Compton v Wiltshire Primary Care Trust [2008] EWCA Civ 749 – at §20 in particular;

(IV) R(McCaw) v. Westminster City Magistrates Court 19th June 2008 *(unreported)* Divisional Court[4]

(V) R (Buglife) v Thurrock Gateway Development Corp and another [2008] EWCA Civ 1209, in particular at §17.

16. No case had directly considered the question of the extent of the Aarhus obligation on the Court (i.e. the obligation derived from Articles 9(3) and 9(4)) the Aarhus convention) in relation to injunctive proceedings (whether in the context of private or public law).

Is an injunction in private nuisance proceedings within the scope of Article 9(4) of the Aarhus Convention?

2 See for example implementing directive 2003/35 referred to in the *Commission v. Ireland* case supra.

3 In this case the Divisional Court (Latham LJ and Nelson J.) held that the application under consideration (a procedural argument as to whether multiple applicants could be named on a single information charging statutory noise nuisance) did not fall within the Aarhus Convention and declined to grant a PCO. Although certifying the point of law as one of public importance the Divisional Court refused permission to appeal to the House of Lords.

17. The first question to be answered is whether or not the provisions of the Aarhus Convention apply to a private law application for an interim injunction in nuisance proceedings.

18. This question boils down to asking whether a particular private law claim under consideration is claim about a contravention of the *national law relating to the environment.*

19. What then is the "*national law relating to the environment"*. The common law? Statutory provisions relating to the environment?

The Claimants' case

20. The Claimant's case was that the application for the interim injunction was a challenge to an act or omission by a private person [the Defendant] which contravened provisions of national law relating to the environment – see Article 9(3).

21. If, the Claimants at trial were to prove their factual case then:

(I) they would have established a tort;

(II) they would have established contravention of the terms of the Waste Management Licence made under the EPA 1990;

(III) and potentially would have established a statutory nuisance under s.79 EPA 1990; –

The consequence was (it was argued) that an interim injunction pending determination of those facts, must also be covered by the Convention. The specific reference in Article 9(4) of the Aarhus Convention to "*injunctive relief if appropriate*" reinforces this. The reference to "injunctive relief" cannot, on a proper interpretation, be limited to final relief at trial.

22. The argument ran that there are no criteria laid down by national law which prohibit the Claimants making the application for interim relief, and the logical interpretation of the Convention is that the Claimants, as members of the public, should be deemed to have the right to seek such a judicial remedy.

23. Therefore, as a matter of fact, and law, the claim for interim injunctive relief plainly fell within the scope of the Convention[5].

The Defendant's response

24. The following is taken from the Defendant's speaking note for the Court of Appeal as drafted by Stephen Tromans Q.C. and Richard Wald:-

1. There is a fundamental distinction between actions to vindicate general public rights to a clean and healthy environment for the benefit of present and future generations, and actions to protect private property rights.

2. Private nuisance is concerned solely with the latter:

Hunter v. Canary Wharf Ltd [1996] 1 AC 655

687G-688E per Lord Goff, quoting at 688B Prof Newark: "A sulphurous chimney in a residential area is not a nuisance because it makes householders cough and splutter but because it prevents them taking their ease in their gardens"; see also 692C; 694H-695A

696A-C per Lord Lloyd

707C-E per Lord Hoffmann

724D-F per Lord Hope

4 See footnote to paragraph 51 of the Sullivan Report viz. the question of whether or not a particular case falls within the scope of the Aarhus Convention is a matter for judicial determination.

There may be an issue of how an award of damages to the owner relates to just satisfaction of a claim by non-owning occupiers under Art 8 ECHR (see Dobson v. Thames Water Utilities Limited [2009] EWCA Civ 28) but that does not affect the basic distinction.

3. In its own terms , it was never the intention of Aarhus 9(3) and 9(4) to affect private actions between private parties: the thrust of the provisions is to allow the citizen to enforce national environmental laws, which may be done in various ways (administrative complaints, criminal prosecutions, "person aggrieved" type procedures as under section 82 EPA 1990 for statutory nuisance, statutory "citizen suit" provisions as under US federal and state environmental laws, constitutional actions as in MC Mehta v. Union of India (1998), or constitutional rights to sue for harm to public resources as in Ontario Province Bill of Rights).

The Aarhus Implementation Guide [Authorities 3/134 under the heading "Adequate and effective remedies" gives a further clue when it talks about "The ultimate objective of any administrative or judicial review process is to obtain a remedy for a transgression of law"

4. The fundamental distinction between a person seeking a remedy to protect their private rights and the citizen seeking an injunction or other remedy to enforce legislation is clearly stated in Gouriet v. UPW [1978] 1 AC 435:

481A-F, 482A-D per Lord Wilberforce

490E-H, 494G-H per Viscount Dilhorne

497G-h, 498F-H, 499D-H per Lord Displock

508G-h, 512F, 517G-H per Lord Edmund-Davies

520H, 521C-E per Lord Fraser

5. A claimant seeking an injunction in private nuisance may incidentally assist in improving general environmental standards and possibly reinforcing national laws: bit that of itself does not make it an Aarhus proceeding.

6. Equating private nuisance claims with Aarhus article 9(3) actions would open up a broad and indeterminate field of private law claims which could be argued as subject to a different costs regime and possibly other procedural differences. Note in this regard the breadth of private nuisance: Laws v. Florinplace Ltd [1981] 1 All ER 659.

7. Equally, providing a special regime for any civil action which can be said to "challenge acts and omissions by private persons ... which contravene provisions of national law relating to the environment" is wide and indeterminate when the concept of the environment which appears at Art. 1(3) of the Convention is noted.

8. In this case the claim was always a private nuisance action (see Skeleton paras. 13, 14). Seeking, ultimately unsuccessfully, to use the Waste Management Licence "officer's nose" condition as a peg on which to hang a formula to try and make the order workable, does not bring this claim within the ambit of Aarhus.

9. Further, there is the problem of how to give legal effect in proceedings between private parties to an international convention. There is no route via Community law for the reasons given in our Skeleton, paras 20-21. The fact that the Community does not regard private actions as within its sphere of competence also appears from the way it has dealt with the Aarhus Convention in the Environmental Liability Directive 2004/35, Arts. 12 and 13.

The Court of Appeal's response

25. The Court of Appeal answered this question in the following way:

44. These arguments raise potentially important and difficult issues which may need to be decided at the European level. ***For the present we are content to proceed on the basis that the Convention is capable of applying to private nuisance proceedings such as in this case****. However, in the absence of a Directive specifically relating to this type of action, there is no directly applicable rule of Community law. The UK may be vulnerable to action by the*

Commission to enforce the Community's own obligations as a party to the treaty. However, from the point of view of a domestic judge, it seems to us (as the DEFRA statement suggests) that the principles of the Convention are at the most something to be taken into account in resolving ambiguities or exercising discretions (along with other discretionary factors including fairness to the defendant).

45. Mr Tromans also relies on the need to see the requirements of the Convention in the context of the full range of proceedings permitted by domestic law. The Convention gives a right to access to justice, but no right to any particular form of legal remedy. As Mr Tromans points out, there are other procedural routes which might have been chosen by the claimants. He mentions four:

i) Seeking judicial review of failure by the Agency or the Council to enforce the relevant site licence conditions or serve a statutory nuisance abatement notice.

ii) Making a complaint to the Parliamentary Ombudsman or Local Government Ombudsman in respect of such failure.

iii) Initiating a private prosecution for alleged breach of the relevant waste management licence conditions.

iv) Making a complaint of statutory nuisance under the summary procedure provided by section 82 of the Environmental Protection Act 1990.

Thus, he says, even if it were found that the private nuisance claim entailed "prohibitive cost", there would be no breach of the Convention unless it were established that the other possible routes were also defective in that or some other way.

46. We accept that the particular remedy sought in a particular case needs to be seen in the wider context of available remedies generally. However, the argument brings with it other questions. Reference to the Ombudsman raises the same issue of legal enforceability mentioned by the Advocate-General in respect of the Irish Ombudsman. The other remedies would need to be considered individually in terms not only of cost but of legal efficacy. The very diversity of jurisdictions leads to another question which has been the subject of lively debate but no resolution: that is the possible need for a separate environmental court or tribunal to further the Aarhus ideals by ensuring that remedies in the environmental field are both coherent and accessible (a "one-stop shop", as Lord Woolf and others have proposed: see Carnwath Environmental Litigation – a way through the Maze? (1999) JEL 3 13).

Summary

26. Although not definitive of the position in domestic law the Court's response in §44 is an encouraging sign from the point of view of an environmental law claimant. Aarhus may apply to private law cases. The problem which seemed to trouble the Court was not so much the potential applicability of Aarhus, but the practical application of its principles to cases which might come before it in various guises, e.g. by way of an injunction in a private law nuisance/trespass claim. At most, thought the Court it was a factor to be taken into account, not a trump card capable of overriding the general discretion as to costs vested in the Court under the CPR.

27. It has been suggested (perhaps by reference to Article 300 of the EC Treaty) that the provisions of Aarhus are directly effective even in the absence of a directive specifically implementing the provisions to the private law sphere relying in part upon Article 300 of the Treaty which concerns the ability of the Community to become party to international treaties, and, by doing so, make agreements which *"shall be binding on the institutions of the Community and on Member States"*: Art.300(7).

28. But such an argument, which results in saying that Aarhus has "trump card" or "direct effect" status, will give rise to issues as to whether it is sufficiently clear precise and unconditional.

29. Although the Community is itself a party to the treaty, and by becoming such a party the terms of the Convention becomes a document adopted by the Community, it is usually by its specific application to particular situations that it obtains its clear and precise meaning –Phrases such as that contracting states provide "*adequate and effective remedies, including injunctive*

relief as appropriate, [which are] fair, equitable, timely and not prohibitively expensive" may be matters of context, and it may be argued they must be seen in the light of the provisions (both procedural and substantive) of national law to which they relate.

30. In C-213/03 *Syndicat des pêcheurs v. EDF* at §39 it was held that: *"a provision in an agreement concluded by the Community with a non-member country must be regarded as being directly applicable when, regard being to its wording and the purpose and nature of the agreement, the provision contains a clear and precise obligation which is not subject, in its implementation or effects, to the adoption of any subsequent measure.."*.

31. It is likely to be argued that Article 9(3) of Aarhus presupposes at least some implementing measures by the member states – since we do not know what these are, and since the Community has refrained from stepping into the sphere of private law environmental claims (amongst other things out of respect for the principle of subsidiarity) it is hard to say that such provisions are obviously sufficiently unconditional, clear and precise.

32. Against that it may well be said that the provisions which have been transposed into, for example Article 10a of the Environmental Impact Assessement are sufficiently clear – see Collins J. in *R(Lousie Baker) v. BANES* supra.

33. The consequence is that absent any specific applicable EC Directive the Convention by itself does not create any enforceable obligations on the Court other than to march in step with the thrust of the an international obligation to which the UK is a signatory. In the absence of an EU Directive specifically governing the dispute in question, the Aarhus Convention is simply a factor to be taking into account when the Court exercises its wide discretion on costs.

What then does Article 9(3) and (4) require of a Court when exercising its discretion in relation to a case which falls within its scope?

34. First, it requires the Court to have regard to the fact that the costs in relation to the proceedings, and any costs order made are "*not prohibitively expensive*" to the Claimant.

35. *Prohibitively expensive,* here, the I suggest has the meaning given to it in the Implementation Guide at p.134, viz.:

> … the cost of bringing a challenge under the Convention, or to enforce national environmental law may [must] not be so expensive that it prevents the public, whether individuals or NGO's, from seeking [judicial determination] in appropriate cases.

36. In other words, no costs order (whether pre-emptive or consequential) should be framed in such a way as effectively to prohibit the maintenance or continuation of the litigation by the person challenging, or seeking to enforce, provisions of national law.

37. The "costs" referred to here are not simply the costs of issuing the application, see the Court of Appeal at § 47 adopting the reasoning of AG Kokott in *Commission v. Ireland*.

38. Further, the question of whether the "costs are prohibitively expensive" is really one of fact. This would tend to suggest a subjective, rather than objective test (see Sullivan report footnote 44 p.21 for an interpretation that it is more an objective test). In practice it is unlikely to make that much difference. An adverse award of costs of £25,000 against a private persons seeking to enforce the terms of a Waste Management Licence in circumstances where, on their case, there has been ineffectual enforcement action by the relevant state bodies despite continuing breaches may well be "prohibitively expensive".

39. However, any Court deciding an "Aarhus" case must take into account as a relevant consideration the UK's obligation that any order it does make with regard to costs should be (i) fair; and (ii) does not prohibit the or prevent the commencement, continuance or disposal of the proceedings by reason of expense.

40. There a many ways in which this can be done.

Cost-capping

41. It is suggested that the scope for the court to impose cost capping orders at the outset of an Aarhus case may be one way of seeking to avoid proceedings being or becoming prohibitively expensive. The current White Book commentary on cost

capping (CPR 3.1.8) is relevant, and there is clearly good sense in the suggestion that the appropriate time to apply for a costs capping order is at an early stage of the proceedings when the parties and the court can together plan the steps needed to bring the matter to trial, the costs implications of those steps and whether a cap is appropriate. How such costs-capping will work in practice, and whether a reciprocal costs cap (c.f. *Cornerhouse/Compton PCO's)* are required as a matter of routine, remains to be seen. It sometimes may be as much to the advantage of a Defendant than that of a Claimant for their to be a cap on costs.

Undertaking as to damages

42. Equally, the Court is likely to take into account as an additional factor against the requirement of an undertaking in damages, the obligations under the Convention. It would be wrong however to think that the Aarhus obligation will necessarily remove the need to provide an undertaking in damages as the price of the injunction, rather, it is likely to result in cases where there is a serious issue to be tried coming on before the Courts more quickly.

Use of experts

43. Any environmental claimant, unless his/her case is very straightforward will usually need at least some expert evidence to prove the claim. In a complex case more than one expert may be necessary. How can the needs of justice and fairness be met while at the same time ensuring that proceedings are not "prohibitively expensive". For most people of moderate means (say a family with a joint income of £50K (well over the legal aid threshold), a mortgage etc.) a disputed nuisance claim which requires expert evidence is, or is likely to be beyond their means without some means of funding of legal expenses i.e. BTE or ATE insurance. How are such claims to be best case-managed? These are difficult but important questions. The CPR is a sufficiently flexible instrument to allow for orders to be made limiting the amount of expert evidence to that strictly necessary, single joint experts etc, but even using those powers, the District Judge confronted with an Aarhus claim must somehow arrange the proceedings so they are fair (to both sides) timely and not prohibitively expensive.

Conclusions

44. Looked at in the round the decision of Morgan and Baker, provides the first real insight into how the Court is likely to deal with Aarhus private law claims. It is suggested that while their may be dispute at the margins of what is or is not a dispute concerning the national law relating to the environment, there will be a central core of cases, perhaps *nuisance/trespass/Rylands v. Fletcher cases* which clearly relate to damage to the environment even if that environment is the back garden or flats of a group of private persons, whose pre-condition to the protection of the "national law" is their interest in the relevant property.

45. In all cases where an Aarhus point is to be taken there is no doubt that it should be taken as early as the case permits. The procedural means by which the Aarhus objectives are then achieved are various, and it will be of real interest to both Claimant and Defendant environmental lawyers see how they are developed. Such development must also be seen in the context of a more wide-ranging review of the funding of litigation in particular by CFA by Jackson LJ.

46. In short, the practical application of Aarhus principles in civil cases is far from straightforward and will need careful working out, most probably on a case by case basis. In the meantime, it is hoped that seminars such as this may provide a useful starting point for consideration of how these cases might be developed.

ECJ CASELAW

Thanks to The EEL news service for the following ECJ Caselaw updates

C-411/06, Commission v. Parliament and Council
ECJ 08-09-2009

By this action, the European Commission asked the European Court of Justice to annul Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste in so far as it is based solely on article 175(1) EC and not on both articles 175(1) and 133 EC. According to the Court's settled case-law, if it is established that a Community measure simultaneously pursues a number of objectives or has several components that are indissociably linked, without one being secondary and indirect in relation to the other, such an act will have to be founded on the various corresponding legal bases. In the present case the dispute relates solely to the question whether the contested regulation, apart from the objective of protection of the environment, also pursues a common commercial policy objective and has components falling within that policy which are indissociably linked to environmental protection-related components of such importance that the act ought to have been adopted on a dual legal basis, namely articles 133 EC and 175(1) EC. The Court concluded that the contested Regulation aims to implement the obligations under the Basel Convention and that, both by its objective and content, it is aimed primarily at protecting human health and the environment against the potentially adverse effects of cross-border shipments of waste. Therefore, the Court recognized article 175(1) EC as the valid legal basis and the action was dismissed.

Sector: Waste
T-326/07, Cheminova and others v. Commission
ECJ 03-09-2009

The applicants sought the annulment of Commission Decision 2007/389/EC of 6 June 2007 concerning the non inclusion of malathion in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance. The applicants raised an objection of illegality under article 241 EC and 10 pleas in law setting out grounds of annulment: the lack of an objective scientific basis for the contested decision; infringement of Article 95 EC and Articles 4(1) and 5(1) of Directive 91/414; breach of the principle of protection of legitimate expectations; breach of the principle of proportionality; infringement of article 8(7) of Regulation No 451/2000; breach of the 'principle of non-discrimination'; breach of the principle of sound administration; breach of the rights of the defence; breach of the principle of subsidiarity and infringement of article 5 EC; and infringement of article 13 of Directive 91/414. The ECJ rejected all pleas and dismissed the action in its entirety.

Application No 12605/03, &&&&Leon and Agnieszak Kania v. Poland
ECtHR 21-07-2009

The applicants, two Polish nationals, relying on Article 6 § 1 (right to a fair hearing within a reasonable time), Article 13 (right to an effective remedy) and Article 8 (right to respect for private and family life) of the European Convention on Human Rights, filed a complaint before the European Court of Human Rights (ECtHR) against the Republic of Poland complaining about the excessive length of administrative proceedings related to the functioning of a craftsmen's cooperative established next to the their home in 1978. The applicants further alleged that due to the cooperative's continuous activities they have been subjected to serious noise and pollution for a number of years, which resulted serious and long-term health problems. On 21 July 2009, the ECtHR held that there has been a violation of the applicants' right to a fair hearing, since the length of the administrative proceedings was excessive and failed to meet the "reasonable time" requirement. With regard to the applicants' right to respect for private and family life, the Court reiterated that even if there is no explicit right in the Convention to a clean and quiet environment, Article 8 of the Convention may apply in environmental cases, regardless of whether the pollution is directly caused by the State or the State's responsibility arises from failure to regulate private-sector activities properly. Nevertheless, the Court concluded that it has not been established that the noise levels considered in the present case are so serious as to reach the high threshold established in cases dealing with environmental issues. Therefore, the Court held that Article 8 of the Convention had not been violated.

EEL also report the following news items:-

Directive 2009/90/EC on technical specifications for chemical analysis and monitoring of water status

On 31 July, Commission Directive laying down technical specifications for chemical analysis and monitoring of water status has been adopted. The Directive entered into force on 21 August 2009. The objective of this Directive is to establish common quality rules for chemical analysis and monitoring of water, sediment and biota carried out by Member States. The Directive shall be transposed within 2 years from entry into force.

UN agrees on the establishment of a Global Framework for Climate Services

The World Climate Conference-3 (WCC-3), which has brought together from 31 August to 4 September 2009, in Geneva, Switzerland, more than 2000 climate scientists, sectoral experts and decision-makers declared the establishment of a Global Framework for Climate Services "to strengthen production, availability, delivery and application of science-based climate prediction and services". Proposed by the World Meteorological Organization (WMO), "the Global Framework for Climate Services aims to enhance climate observations and monitoring, transform that information into sector-specific products and applications, and disseminate those products widely," said Mr Alexander Bedritsky, WMO President and Chair of the WCC-3 Expert Segment. The Declaration requests the Secretary-General of WMO to "convene within four months of the adoption of the Declaration an intergovernmental meeting of member states of the WMO to approve the terms of reference and to endorse the composition of a task force of high-level, independent advisors to be appointed by the Secretary-General of the WMO". The European Commission welcomed the initiative.

European Environment Agency estimates reduction in EU greenhouse gas emissions in 2008

Provisional data released on 31 August 2009 by the European Environment Agency (EEA) indicate that the EU's greenhouse gas emissions for 2008 fell again for the fourth consecutive year. Compared to the 2007 official emissions published earlier this year, the annual reduction is estimated to be about 1.3 % for the EU-15 and 1.5 % for the EU-27. Based on these estimates, the greenhouse gas emissions in 2008 stand approximately 6.2 % below the Kyoto base-year emissions for the EU-15, and 10.7 % below the 1990 level for the EU-27. According to the EEA, the main reasons for the reductions were lower CO2 emissions from fossil fuel combustion in the energy, industrial and transport sectors. The EEA estimates are based on a range of economic data sources published at national and European level, including verified emissions from businesses participating in the EU Emissions Trading System (EU ETS) and they do not take into account the effects of changes in land use. The official 2008 greenhouse gas emissions for the EU will be available in June 2010, when the EEA publishes the EU Greenhouse Gas Inventory 1990–2008 and Inventory Report 2010, to be submitted to the UNFCCC.

The Council of Europe Parliamentary Assembly adopted four reports on climate change

On 4 September 2009, the Assembly Committee on the Environment of the Council of Europe adopted in Paris four climate change reports. According to the Rapporteur of the first report, an ambitious agreement on the reduction of CO2 emissions needs to be reached in Copenhagen. The report takes stock of the implementation of the Kyoto Protocol and reviews developments in the positions of key Parties to the negotiations in Copenhagen, focusing on the European Union, the United States, China and Australia. The second report stresses the importance of recognizing access to water and sanitation as a fundamental human right. The third report deals with the adoption of an additional protocol to the European Convention on Human Rights, which would recognize the right to a healthy and sustainable environment. The inclusion of this right in the Convention would in fact enable the Court to rule directly on violations of that fundamental right. In the fourth report the Committee calls for the establishment of a new governance of the oceans. These four reports will be debated at the Assembly's forthcoming session from 28 September to 2 October in Strasbourg.

UKELA ANNUAL CONFERENCE 2009 – UNIVERSITY OF DURHAM

Delegates' feedback

Alison Boyd- Member Support Officer - alisonboyd.ukela@ntlbusiness.com

We thought that members would be interested in the feedback received on the Durham Conference. Feedback Questionnaires we issued to all attendees. We received responses from 30% of those who booked.

Overview

Once again, the Annual Conference has received very positive feedback from delegates. Particular highlights were the Gala Dinner, the high quality of the speakers and the opportunity to network with friends old and new. Moving the Working Party sessions to Sunday morning was a success with more sessions than usual offered and good attendance at the majority. Durham as a venue was welcomed, with good transport links and attractive to visit. Delegates welcomed the continued efforts to become more environmentally friendly for example by sourcing local food. The campus itself was rated reasonably highly – the Conference facilities themselves particularly so but a mixed response to the standard of accommodation. All of those who responded would attend a future Conference and would recommend it to others.

"Very well structured including Working parties, AGM and Hot Topics to finish"

"It brought together a wide range of committed people to talk about important and timely subjects. And it was good fun."

"The speakers were all excellent and it's good to meet new people and renew acquaintances."

Organisation, Administration and Accommodation

As usual there was high praise for the organisation of the Conference; for Origin Events, UKELA staff and the Council. For the first time, the online booking system was used and this was generally found to be easy to use and worked well. The majority would prefer to complete the feedback form electronically. Delegates liked the campus, although many commented that the distance between the accommodation and the lecture theatre was too far, although signage was much improved on last year. There was a clear divide between those staying in the en suite accommodation and those in the shared facilities rooms. The latter was poorly rated in the main – dirty and with a poor standard of facilities. The en suite rooms were mostly rated as fine, although those unfortunate enough to be roomed alongside students suffered from excessive noise on the Friday night and it was felt that paying customers and students should not be mixed.

"Excellent, smooth, seamless, effective and friendly."

Green Housekeeping and Waste

Delegates welcomed the efforts made to increase the sustainability of the Conference, from making information available about travelling by public transport to Durham to the sourcing of local food at the Gala Dinner. There was concern about the provision of bottled water only which resulted in large amounts of plastic waste and it was felt that this should be addressed for next year with access to tap water available. Delegates were also concerned about the huge quantity of cheese served at the Gala Dinner – was it necessary at all?

"I like the effort that was made to emphasise the local & sustainable eg food at Gala and other dinners. That was superb. Also good to calculate carbon footprint of delegates"

The Presentations and Working Party Sessions

Delegates rated the speaker sessions very highly in the main rating them excellent, informative and varied. There was concern that the devolved regions were not represented. Moving the Working Party sessions to Sunday morning proved very successful with more sessions offered than in recent years and attendance high – helping to keep delegates at the Conference rather than them leaving early to go home. The Hot Cases sessions were, as ever, well received, although one comment was that it might be worth sprinkling them throughout the whole event to lighten the load a little.

> *"In keeping with the usual high standards of this annual event. My job requires me to have a wide general knowledge base, so all such sessions are always going to be useful to me, even if not within a particular speciality of mine. "*

The Field Visits

As ever, a number of respondents have suggested that the afternoon field visits be sacrificed for an earlier finish to allow delegates to get away first thing on Sunday morning. But equally, respondents welcomed the opportunity to have a break and see something of the local area and socialise with their fellow delegates in a relaxed atmosphere.

All the visits this year seem to have been well received. The addition of an activity on campus was welcomed (the museums). There were drop outs on the day for all trips – this seems to be the way it goes every year. Luckily on my trip to Beamish Museum we were only required to pay for those that came along rather than those booked. This would not have been the case on the walking tour and wildfowl visit and of course, rather large coaches were used to transport a relatively small number of people. Those who chose not to go on a field visit preferred just to relax under their own steam.

> *"relaxed and informed. Interesting too – will go back again"*

The Gala Dinner and Drinks Reception

The Gala Dinner was very much enjoyed by delegates, particularly the locally sourced food and the pleasant location.

Discounted Places

Not many of the respondents had a view on whether more discounted places should be offered or if the existing package largely met needs, but those that did agreed that discounted places should continue to be offered and increased if possible, but not at the expense of increasing the overall cost and, therefore, fee to full-paying delegates

Lessons learned – things to consider for next year

- Distance between accommodation and lecture theatre
- No more plastic water bottles
- Keep WP sessions on Sunday morning
- Consider shortening Conference to allow for earlier get away on Sunday
- If offering 2 standards of accommodation, important to ensure lower standard is still at a suitable level

REPORT ON CO2 MONITORING OF JOURNEYS TO AND FROM THE 2009 DURHAM CONFERENCE

By Rosie Oliver, UKELA working party support officer

This year carbon footprint monitoring was undertaken by a team of students and volunteers (Claire Collis, Gudrun Gaudian, Melanie Strickland, David Waterston and myself) who asked delegates at the conference to fill out forms giving journey details. We then used the journey emissions calculator at www.travelfootprint.org to calculate lifecycle CO2 emissions for each stage of people's journeys. Lifecycle emissions comprise 'tailpipe' emissions for the particular journey, as well as emissions associated

with the fuel cycle (primary production, extraction, transportation, refining, and vehicle operation) and vehicle cycle (vehicle manufacture, assembly and disposal). The calculator requires very specific information, so we had to make a number of assumptions about vehicle/train type and number of passengers.

Results

Of the 200 or so people who attended the conference, 107 people filled out the carbon monitoring forms. The total journey lifecycle CO2 emissions for these 107 people was 5.21 tonnes. Average CO2 emissions were 48.7kg per person.

Assuming these journeys were representative of all delegate journeys, the total journey lifecycle CO2 emissions of everyone attending the conference would be 9.73 tonnes.

Rail

Most people (80%) used the railway for some/all of their journey. CO2 emissions from all train journeys account for 48% of the total.

Car

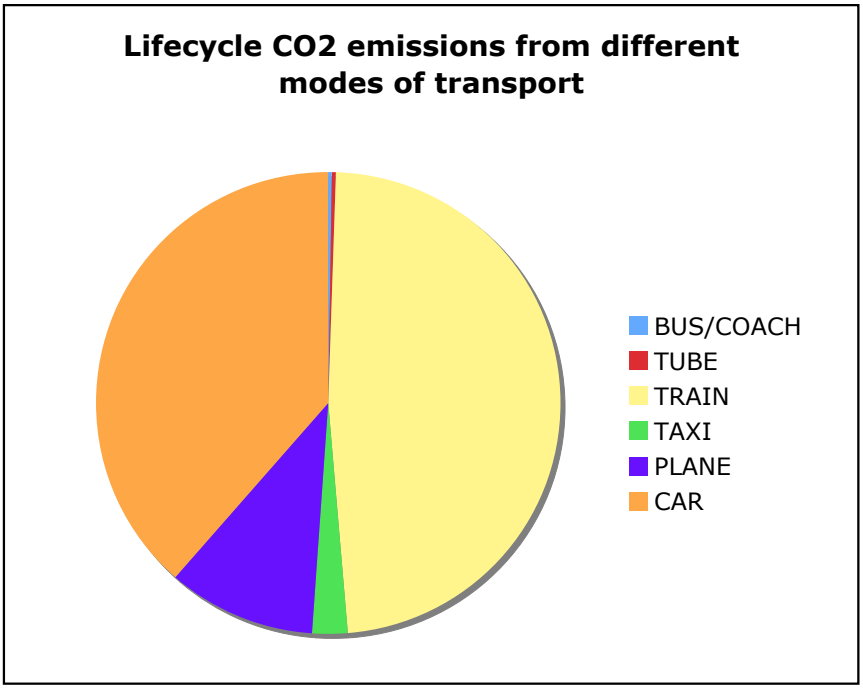
Of the 107 people surveyed, 38 used a car for some some/all of their journey. Of these, 22 people travelled exclusively by car for the outward and/or return journey. CO2 emissions from their car journeys account for 36% of total emissions. Emissions from all car journeys that data was available for[6] (including also the shorter journeys to connect to a railway station/airport) make up 39% of total CO2 emissions.

Plane

2 of the people surveyed travelled by plane. Emissions from those return flights account for 10% of the total.

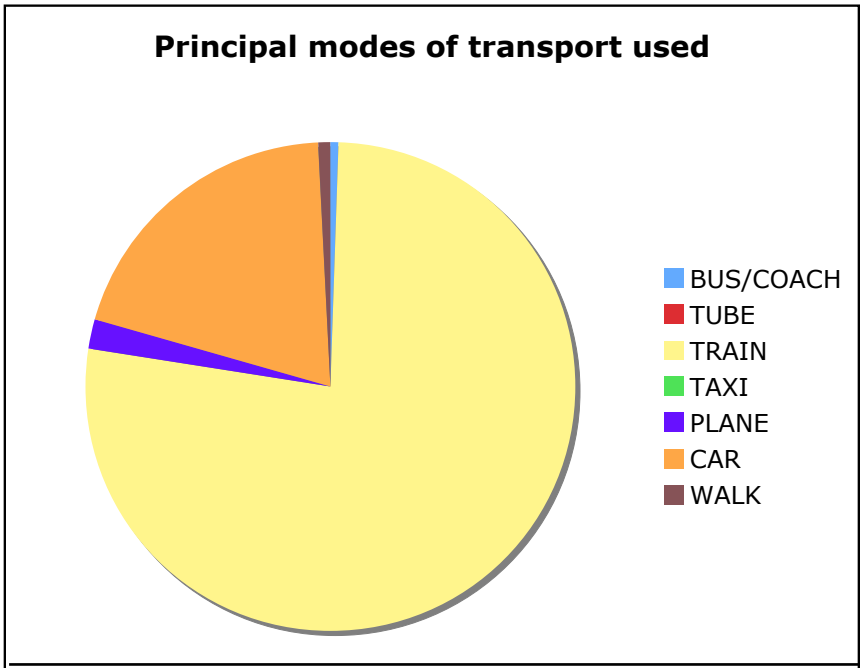
Bus/coach, taxi and tube

Nearly everyone who used buses, coaches, taxis or tubes did so to connect to a railway station, rather than as the principal means of transport for their journey. These emissions make up of 3% of the total.



Note to first pie chart: This reflects proportions of the total lifecycle CO2 emissions from different modes of transport. It accounts for emissions from every stage of every journey, unlike the second pie chart.

1 We were unable to calculate emissions of four return car trips to and from railway stations due to lack of information about the starting point.



Note to the second pie chart: Principal mode of transport refers to the mode of transport used to cover the most distance in the trip to or from Durham. For example, if a person took a local bus to the railway station, then a long distance train, and then a taxi to the university, train would be the principal mode of transport for that journey. This pie chart shows the proportions of journeys relying principally on each mode of transport.

Comparison with previous years

Journey carbon emissions monitoring was undertaken for the 2007 Bath conference and 2008 Canterbury conference. As different methodologies and calculators have been used each year, a detailed, meaningful comparison is not possible. It is, however, interesting to note that average CO2 emissions for 2007 and 2008 were 82.7kg and 58.1kg respectively, significantly higher than the average this year of 48.7kg. To the extent that this reflects a reduction in emissions rather than differences in the methodology, this may be due to the greater use of air travel among those surveyed in 2007 and 2008 than in 2009.

Carbon offsetting

For those wishing to offset their journey emissions, here are links to carbon offsetting schemes approved by DECCís Quality Assurance Scheme:

- Carbon Footprint Ltd - www.carbonfootprint.com
- Carbon Passport - www.carbonpassport.com
- Clear - www.clear-offset.com
- PURE the Clean Planet Trust - www.puretrust.org.uk
- Carbon Retirement - www.carbonretirement.com

LEAPFROG- *GALVINISING PRO BONO SUPPORT FOR CLIMATE CHANGE PROJECTS*

UKELA is supporting a unique business-led, not-for-profit organisation that already involves a number of our membership in its pilot projects and you are invited to the Launch Event on September 24th.

ABOUT LEAPFROG (www.carbonleapfrog.org)

Leapfrog galvanises pro bono (free) services from top businesses into activities that deliver carbon reductions, helping transformational change to happen. This includes lawyers, engineers, environmental consultants, renewable energy specialists, surveyors, academics and project managers. The organisation is in the final stages of preparation for its formal launch which

takes place on the morning of 24th September in central London.

The projects are selected and screened by Leapfrog specialists and fall into three main work-streams:

- Delivering UK carbon reduction and renewable energy projects at the community level
- Delivering international carbon reduction and renewable energy projects
- Helping early stage carbon technology companies accelerate their business plan

Each project is matched with a bespoke pro-bono professional service team operating within a co-ordinated project management framework. Leapfrog's key objective is to help these projects deliver greater carbon reductions more quickly, by working together.

There are a number of ways that you could get involved. You could :

1. Attend the Launch Event please reply to the attached invitation.

2. Support the delivery of the new organisation itself perhaps with a contribution to the launch event. Please contact David Hopkins (david.hopkins@carboninternational.com) to find out more.

3. Sign-up to get involved in one of the exciting projects (http://leapfrog.sixdegreepeople.com/)

4. Propose a project. Your firm or someone you know may have a project in mind that could benefit from Leapfrog support. You may already be supporting a project as part of your CSR or pro bono programme, or personally, that could benefit from wider collaboration. (http://carbonleapfrog.org/contact)

5. Leapfrog is recruiting a Chief Operations Officer (COO) on a permanent basis but as an interim measure this could be a wonderful intern/secondment opportunity. Leapfrog believes that this a fantastic role for someone from the corporate world interested in an opportunity to operate at the heart of the low carbon economy. Please feel free to pass this on if you feel you may know someone with the right profile to meet the demands of the role. If you do, please forward this link – leapfrog.sixdegreepeople.com/vacancies/coo.

60 second interview

SASHA BLACKMORE

What is your current role?

Barrister at Landmark Chambers, and Assistant Director of the Landmark Chambers Centre for Environmental Law

How did you get into environmental law?

I had always been passionate about environmental issues, and after my undergraduate degree completed a master's degree in sustainable development in 2002. That's also when I first attended a UKELA conference. I was called to the Bar in 2005.

What are the main challenges in your work?

One of the main challenges is the diversity of the legal framework for handling environmental issues. A planning matter, for example, starts with the decision of a council, and may proceed to a Public Inquiry, to enforcement in the criminal courts, and/or the county courts (by injunction or subsequent committal), and/or the High Court (by way of statutory review or judicial review). At each stage, different procedural, legal and tactical issues arise. Whilst there is a developing underlying coherency in the approach of the Courts (and other decision-makers) to the issues and underlying principles, there is a long way to go.

What environmental issue keeps you awake at night?

60 second interview

Climate change and its impact.

What's the biggest single thing that would make a difference to environmental protection and well-being?

I used to say a change in US President. Now? President Obama delivering on those hopes and expectations!

In the short-term, the greatest threats to environmental protection are being caused by the demands of industrialisation in developing countries, particularly those with weak governance. There are no easy solutions to facilitating the emergence of a robust civil society, but that would be my "biggest single thing".

In the medium term, it will be breakthroughs in the capacity (and price) of technological innovations which reduce and/or capture carbon emissions.

Even with this, ultimately we face a choice between standards of living and growth and its impact.

What's your UKELA working party of choice and why?

Environmental litigation or climate change - for obvious reasons.

What's the biggest benefit to you of UKELA membership?

Meeting like-minded people and sharing knowledge and experience.

Jobs and volunteering roles

UKELA HON ASSISTANT TREASURER

UKELA is looking to appoint an Hon Assistant Treasurer. This is a new role. You will gain a useful insight in the running of UKELA and have input to its strategic direction. The intention is that the person would be co-opted on UKELA's Council once a space becomes available and will be providing assistance to the treasurer, Andrew Wiseman with a view to taking over as an officer in the future. For an informal chat about the role please contact Andrew at andrew.wiseman@shlegal.com or 020 7809 2528

EHS CONSULTANT FOR ARABIC-SPEAKING COUNTRIES

Enhesa is looking to recruit an Arabic-speaking EHS consultant. We are looking for an environmental, health and safety professional who is able to advise companies on how to comply with environmental, health and safety (EHS) legislation and how to develop their corporate environmental, health and safety strategies. Typical activities will involve research of EHS laws and regulations, contact and liaison with regulatory officials, preparation of reports to industrial companies on regulatory compliance, and EHS audits.

Full-time position

Conditions:

- Academic qualification, preferably a Law Degree.
- Fluency in written and spoken English and Arabic. Fluent in French or other languages is a major asset.
- Environmental experience or training. Professional experience in EHS issues. Project management capabilities. Auditing experience. Extended computer literacy. Candidates who have any of these skills will be preferred.

Location:Brussels or Washington DC Office

Reference:2009-10-Arabic

Status: Candidates are invited to submit an application letter and CV in English, using the above reference, by email to recruitment@enhesa.com.

WILD LAW CAMP 25th – 27th SEPTEMBER 2009: CONNECT WITH YOUR WILD SIDE

Bookings for the Wild Law camp are now closed. But watch this space for details of the next event at Loch Ossian Youth Hostel in Scotland next April.

CIVIL PENALTIES SEMINAR BY UCL AND THE ENVIRONMENTAL LITIGATION WORKING PARTY: MONDAY SEPTEMBER 28th

This seminar is fully booked.

UKELA NORTH WEST REGIONAL GROUP MEETING, IN ASSOCIATION WITH ENDS, ON CLIMATE, CARBON & CRC - THOERY AND PRACTICE

The next meeting of the UKELA North West Regional group, in association with ENDS, will be on Thursday 1 October 2009 on:

Climate, Carbon & CRC - Theory and Practice

Time: 5pm registration for 5.30pm start followed by drinks and nibbles. End at 8.30pm.

Venue: Hammonds, Trinity Court, 16 John Dalton St, Manchester, M60 8HS

Speakers:
John Barwise (Quality of Life Limited) - John will speak about climate change and sustainability and CRC.

Kieran Conlon (Cascade Consulting) - Kieran will speak about the practical ways in which companies may reduce their carbon levels in the context of corporate carbon reduction targets and CRC.

Bill Sneyd (The Carbon Neutral Company) - Bill will speak about the services Carbon Neutral offer in terms of setting targets and carbon offsetting in the context of the CRC.

Followed by question and answer session, chaired by Paul Bratt, Partner at Hammonds and Convenor of the North West region.

1 CPD point

UKELA WEST MIDLANDS REGIONAL GROUP MEETING - WHAT DOES THE FUTURE HOLD?

The next meeting of the UKELA West Midlands Regional group will be on Thursday 1 October 2009 on:

What does the Future Hold?

Time: 4.30pm for 5.00pm start followed by drinks and nibbles. End at 7.30pm.

Venue: Pinsent Masons, 3 Colmore Circus, Birmingham B4 6BH

Speakers:

Sara Feijao, Head of PLC Environment, Practical Law Company - UK and EU environmental developments: what to look out

for in 2009/2010

Mike Smith, Director of Products & Innovations, URS - Developments in the low carbon agenda - moving forwards to an environmental asset economy.

Followed by debate, chaired by Simon Colvin, Environment Solicitor, Pinsent Masons and Convenor of the West Midlands region.

This meeting carries 1 CPD point

CLIMATE CHANGE SEMINAR, OCTOBER 8th

CAN THE EU LEGAL SYSTEM DELIVER THE INTERNATIONAL AGENDA ON CLIMATE CHANGE?

Note: this event has only a few places remaining

This seminar will bring together the combined areas of interest and influence of UKELA and the UK Association for European Law (UKAEL) to focus on the role of the EU in leading climate change policy globally. The event will be chaired by Lord Justice Carnwath, UKELA's President, and Tom Bainbridge of the Climate Change Working Party, with a panel of three high profile speakers drawn from government, academia and the EU institutions.

This event, being organised by UKELA in collaboration with UKAEL, and is hosted by Freshfields Bruckhaus Deringer, and should prove both interesting and topical in the run up to Copenhagen.

HALF DAY SEMINAR ON ENVIRONMENTAL REGULATION AND ACCESS TO JUSTICE IN NORTHERN IRELAND

With the establishment of the new Environment Agency in Northern Ireland, but not in the fully independent way that had been hoped for, speakers from law firms, government and NGOs will reflect on environmental regulation and governance issues at this half day seminar.

Registration is from 1.30

Speakers are from 2pm and the event will finish with drinks at 5pm

Tuesday, October 13th at Malone House, South Belfast

Chaired by Professor Robert Lee, who has worked as a consultant to the Department of Environment, Northern Ireland and including James Maurici (Landmark Chambers); Sara McGuckin, Head of Better Regulation Unit; Andrew Ryan (Carson McDowell) and Claire Ferry, RSPB.

Places at this seminar are open to both UKELA members and non-members, who are most welcome. There are also 10 free student places (which must be booked). Thereafter student places will cost £5. Other places are £20 for UKELA members and £25 for non-members; £10 for NGOs and low waged.

UKELA is grateful to Landmark Chambers and Carson McDowell for supporting this event.

NORTH EAST REGIONAL GROUP: THE SiLC QUALIFICATION, LAND CONDITION RECORDS AND AN UPDATE ON LAND CONTAMINATION AND REMEDIATION – 22 OCTOBER 2009

This early evening speaker meeting at Pinsent Masons office in Leeds will provide an opportunity for attendees to hear from an expert on The SiLC qualification, Land Condition Records and to receive an update on land contamination and remediation. Chaired by Helen Peters, the NE Convenor, the evening will conclude with light refreshments and the opportunity to network with colleagues.

Speakers

Kevin Eaton - Environ Limited (environmental consultant at Environ and SiLC champion).

Chaired by Helen Peters, Convenor of the North East regional group

Bookings will open shortly.

STUDENT SOCIAL AND NETWORKING EVENING – 25 NOVEMBER 2009

Students (members and non members of UKELA) are warmly invited to our annual social and meet the professionals evening. Talk to environmental lawyers from all sectors, public and private practice, NGOs, plus environmental consultants and regulators. Meet other students with an interest in environmental law. Kindly hosted by Landmark Chambers, this event starts at 6pm and concludes at 8.30pm. Talk on careers in environmental law at 7pm. To book your free place, email alisonboyd.ukela@ntlbusiness.com (no admissions on the door).

UKELA ANNUAL GARNER LECTURE 2009 – 2 DECEMBER 2009

Wednesday 2 December 2009, 6pm at Clifford Chance LLP (5.30pm registration).

Speaker: Professor Philippe Sands

Professor Sands will give the annual Garner Memorial Lecture, on Water and Law. Water is probably the most important international issue, after climate change, and Professor Sands will be addressing it from an international perspective.

Philippe Sands is Professor of Law and Director of the Centre on International Courts and Tribunals at UCL, and a key member of staff in the Centre for Law and the Environment. His teaching areas include public international law, the settlement of international disputes (including arbitration), and environmental and natural resources law. He is also a member of Matrix Chambers.

Philippe is a regular commentator on the BBC and CNN and writes frequently for leading newspapers. He is frequently invited to lecture around the world. He was co-founder of FIELD (Foundation for International Environmental Law and Development), and established the programmes on Climate Change and Sustainable Development. He is a member of the Advisory Boards of the European Journal of International Law and Review of European Community and International Environmental Law (Blackwell Press). As a practicing barrister he has extensive experience litigating cases before the International Court of Justice, the International Tribunal for the Law of the Sea, the International Centre for the Settlement of Investment Disputes, and the European Court of Justice. He frequently advises governments, international organisations, NGOs and the private sector on aspects of international law.

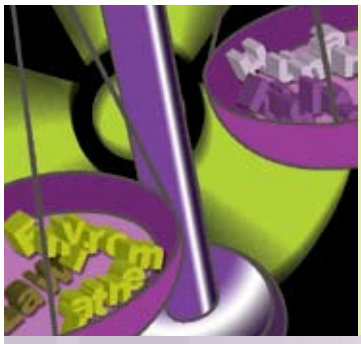
Start Time: 5.30pm registration for 6pm start.

The event will conclude at 9pm after a drinks and canape reception.

Drinks and canape reception to follow the Lecture.

Cost: UKELA member - £20; Non member - £30; Students - limited free places (all places must be booked)

To book click here.



Environmental Justice, Human Rights and Environmental Law

Monday 2nd November in the Buchanan Suite at the Royal Concert Hall 2 Sauchiehall Street Glasgow

The influence of European Union law, together with international instruments such as the European Convention of Human Right and the Aarhus Convention have already influenced the practice of environmental law in Scotland. The conference will examine the existing and potential scope for environmental law to be influenced by the rights agenda. The conference will examine the environmental justice agenda, the scope of rights provided by the European Convention of Human Rights, the recent planning reforms in Scotland and the potential for human rights challenges, the Aarhus Convention and rights to information.

The conference will be of interest to lawyers in both private practice and public authorities, policy makers, non-governmental organisations and academics and anyone else who has an interest in human rights law or environmental law.

A collaborative conference between:

- The Centre for the Study of **Human Rights Law**
- **Environmental Law Centre** Scotland

http://www.law.strath.ac.uk/hrenv

Environmental Law Centre Scotland

Sponsored by

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University of Strathclyde Glasgow

Programme

9.00-9.30am	**Registration and Tea/Coffee**
9.30-9.45am	**Welcome address** ***Lord MacKay***
9.45-10.30am	**"Defining Environmental Justice"** ***Ms Aimée Asante, The Law School, University of Strathclyde***
10.30-10.45am	**Break**
10.45-11.30am	**"Using Law to deliver Environmental Justice"** ***Professor Mark Poustie, The Law School, University of Strathclyde***
11.30am-12.15pm	**"Rights created under the ECHR"** ***Aidan O'Neill QC***
12.15-1.00pm	**"Rights in EU Environmental Law"** ***Professor Ludwig Kramer, Patron, Environmental Law Centre Scotland***
1.00-1.45pm	**Lunch**
1.45-2.15pm	**"Aarhus Convention and Access to Justice in Scots Law"** ***Ms Frances McCartney, Environmental Law Centre Scotland***
2.15-2.45pm	**"Planning Reforms and Human Rights"** ***Ralph Smith QC***
2.45-3.00pm	**Break**
3.00-3.30pm	**"Rights to Environmental Information"** ***Jonathan Mitchell QC***
3.30-4.15pm	**Panel discussion, questions and closing remarks**
4.15-5.00pm	**Drinks reception**

The conference fees including lunch, refreshments and drinks reception is **£150.**
Concessions are available for academics, delegates from charitable organisations and community groups at the rate of **£80.**

To book, please complete a **REGISTRATION FORM** and send with a cheque payable to the "University of Strathclyde" to Carol Hutton, The Law School, Level 3, Lord Hope Building, 141 St James Road, Glasgow G4 0LT.

Access the Registration form here.

EARTHWATCH LECTURE: MEETING MARINE NEEDS

Thursday 15th October 2009, 7.00pm – 8.30pm at the Royal Geographical Society, 1 Kensington Gore, London SW7 2AR

Speakers Dennis Sammy, Nature Seekers, & Nienke van Geel, The Hebridean Whale & Dolphin Trust. Chaired by Nigel Winser.

Human activities and climate change pose multiple threats to marine species. Hear about Earthwatch's research in projects as wide ranging as Trinidad's leatherback sea turtles and Hebridean whales and dolphins.

Please see: http://www.earthwatch.org/europe/get_involved/events09/lecture09-marine

Ticket only - free to students and current Earthwatch donors; otherwise a donation will be requested on the door.
For tickets and/or more information contact our Events Department on (01865) 318856; events@earthwatch.org.uk

NEWZEYE EVENTS:

UKELA Members will receive a 10% discount by going online to book - choose the UKELA discounted price option.

"Contaminated Land and Brownfield Remediation"
Venue: Novotel Hotel, Tower Hill, London
22nd September 9:00am

Topics to be discussed include:

Policy, legislation and economics
* Directives update- the big 4: water, soil, environmental and waste.
* Waste Code of Practice- interpretation, lessons learned, feedback, evolution, next steps
* Remediation Permits
* Forecast for growth and how will demand be stimulated in the current economic environment
* Homes Community Agency. What is it and why it is interested in remediation?
* The SiLC land condition skills development framework- an output from the National Brownfield Strategy Remediation in practice
* American Developments
* Sustainable Remediation: primary and secondary impacts, carbon calculating, options for sustainable remediation technology selection
* UK megasites panel discussion- update on planning, sustainability and evolving remediation technology choices
* Case studies: Use of microwave energy for the remediation of hydrocarbon contaminated soils; In-Situ Radio Frequency Heating, technology update.

Link: http://www.brownfieldbriefing.com/contaminated+land+and+brownfield+remediation

"Brownfield Remediation Innovation Awards"
Venue: Grange City Hotel, London
22nd September

(No discount available for this event)

The awards are divided into categories that include the different remediation techniques

* Most innovative remediation method
* Best conceptual design
* Best verification process
* Best communications and stakeholder engagements
* Most sustainable remediation method
* Best recovery of land for heritage or community use.
* Best use of a single remediation treatment technique
* Best use of a combination of remediation techniques

New for 2009 is the first Award recognizing the work of an outstanding
* "Young Brownfield Professional"

Link: http://www.brownfieldbriefing.com/events/remediation-innovation-awards

"Contaminated Land Risk Assessment 2009"
Venue: Novotel Hotel, Tower Hill, London
23rd September 9:30am

Topics to be discussed include:
* Crunch-economics: ecological interests an constraints, financial implications and remedial costs
* Examining the conservatisms in the Contaminated Land Exposure Assessment (CLEA) model
* Update on Health Criteria Values
* Making the most from your funding application to Defra
* Human Health an unacceptable intake
* Key issues to consider when deciding whether a site meets Part 2A requirements for human health
* Data management and spatial statistics
* Plugging the Soil Guidance Values Vacuum: The New Land Quality Management (LQM) Chartered Institute of Environmental Health (CIEH) Generic Assessment Criteria (GAC)
* Environmental Industries Commission's General Assessment Criteria: what are the numbers and what are the implications?
* Ecological risk assessment. Understanding the wildlife on and around a site for avoiding potential liabilities
* Use of Groundwater models in Risk Assessment
* The use of X-Ray Fluorescence in the investigation of land contamination

Link: http://www.brownfieldbriefing.com/events/contaminated-land-risk-assessment-2009-0

Butterworths® 5TH ANNUAL ENVIRONMENTAL LAW CONFERENCE

PRACTICAL ANALYSIS OF THE KEY DEVELOPMENTS INCLUDING CARBON REDUCTION, CLIMATE CHANGE AND THE ENVIRONMENTAL DAMAGE REGULATIONS

www.conferencesandtraining.com/environmental-law

15% discount for UKELA members

30 September 2009 | London | 6 CPD hours

Register today by emailing **ebookings@lexisnexis.co.uk**

Butterworths® 5th Annual Environmental Law conference brings together a panel of recognised environmental experts who will offer guidance on the latest legal and practical developments. Share ideas with regulators, legal practitioners and environment officers from the public and private sector and gain practical solutions to the above problems.

This practical programme includes a keynote address from the Department of Energy and Climate Change who will update you on the latest developments in carbon reduction. There will also be case studies to help your organisation adapt to climate change and ensure sustainable procurement.

How will you benefit from attending this conference?

- Get to grips with the implementation of the Carbon Reduction Commitment
- Gain a comprehensive update on the key environmental case law
- Understand how companies should protect themselves under the Environmental Damage Regulations
- Discover the latest in climate change and what might emerge from the Copenhagen negotiations
- Hear the pros and cons for business of the Regulatory Enforcement and Sanctions Act

- Analyse the Defra consultation on the Waste Framework Directive

Conference speakers will include:

- Ross Fairley, Burges Salmon (Conference Chair)
- David Stott, Environment Agency
- Bob Gilbert, London Borough of Islington
- Owen Lomas, Allen & Overy LLP
- Robert McCracken QC, Francis Taylor Building
- Valerie Fogleman, Stevens & Bolton LLP
- Angus Evers, SJ Berwin LLP

Pricing:

UK Environmental Law Association members receive a 15% discount:
£509.15 + VAT (£76.37) = £585.52 per delegate– Simply quote **UKELA** to receive your discount

(Full price £599 + VAT)

To Book:

To book, simply email **ebookings@lexisnexis**.co.uk or call us on **020 7347 3573** quoting **UKELA**.

THE ENERGY FORUM

Marketforce & the IEA's 10th Anniversary Conference
12th & 13th October 2009 –

The energy industry is facing the triple challenge of ensuring ongoing security of supply, an urgent need to decarbonise and the worst economic downturn in recent memory. At this critical time, *The Energy Forum* will offer delegates a stimulating environment in which to listen, learn and share strategic insight across the industry. To mark the tenth anniversary of the conference we have extended it to two days, offering delegates even more in-depth analysis of the issues at the heart of the energy sector! UKELA members receive a 10% discount when quoting ELA10 (this cannot be used in conjunction with the early registration discount).
www.marketforce.eu.com/energy09

WATER 2009 –

Marketforce & the IEA's 10th Anniversary Conference
14th & 15th October 2009

Water 2009 will be held at a critical time for the water sector. As the PR09 process nears completion, the industry must strike a balance between the immediate priorities of financing and delivering its investment programme and creating long-term sustainability. This conference is recognised as one of the leading industry events, attracting over 200 attendees last year, and is once again set to provide an invaluable opportunity for discussion about the challenges ahead. UKELA members receive a 10% discount when quoting ELA10 (this cannot be used in conjunction with the early registration discount).
www.marketforce.eu.com/water09

Book review

REGULATION, ENFORCEMENT AND GOVERNANCE IN ENVIRONMENTAL LAW

By Richard B Macrory

Laws concerning environmental protection have a long history in the UK, but the last thirty years have seen unprecedented development in both the substantive body of environmental legislation and in thinking about underlying principles and institutional arrangements. The materials in this book demonstrate how far environmental law has come in less than a generation, focussing in particular on the major themes of regulation, institutional arrangements, and enforcement which underlie the substantive detail of the law. Whilst acknowledging the growing importance of public international law relating to the environment, the book is largely concerned with UK and EC law, though many of the core themes have much wider relevance. Chapter 1 is concerned with major issues concerning regulatory reform, while chapter 2 considers challenges to current institutional arrangements, including the need for a specialised environmental court and tribunal, and the environmental implications of the major constitutional changes that have taken place in the United Kingdom in the last decade. Chapter 3 reflects on the shifting dynamics of environmental law, new environmental standards, new technologies and the need to develop new notions of responsibility. Chapter 4 is a selection of reports of leading cases over the last decade illustrating how the higher courts have grappled with the interpretation of environmental legislation and the development of legal principle. The final two chapters focus on European dimensions, such as the key principles of EC law and its enforcement through unique, but by no means perfect, mechanisms developed under the Treaty.

Richard Macrory is well known to UKELA members. He is a patron of UKELA. He is a barrister with Brick Court Chambers and Professor of Environmental Law at University College London where he is director of the Centre for Law and the Environment. At different times he has been chairman of the UK Environmental Law Association, editor of the Journal of Environmental Law, Standing Counsel to the Council for the Protection of Rural England, a member of the Royal Commission on Environmental Pollution, and chair of the steering board of European Environmental Advisory Councils. He has also been a specialist adviser to select committees in both the House of Commons and the House of Lords, a board member of the Environment Agency, England and Wales, and Hon. President of the National Council for Clean Air and Environmental Protection. In 2005-6 he was appointed by the Cabinet Office to conduct the Review on Regulatory Sanctions. He is currently legal correspondent to ENDS Report, and in 2006 was appointed a member of General Electric's Ecomagination Board. In 2000 he was made C.B.E, for services to law and the environment and in 2008 was appointed a Q.C. (Hon Causa) for his work on the development of environmental law.

ISBN: 9781849460354; 766pp, Oct 09, Price: £30

Discount price to UKELA members: £24

To place your order, click here: http://www.hartpub.co.uk/books/details.asp?isbn=9781849460354

Note: When you place your order, please be sure to quote 'UKELA' in the special instructions field. The discount will not show up on your order confirmation but will be applied when the order is processed. A receipt will be sent with the book.

Member offers

New Planning Guide – 20% off for UKELA members

Bircham Dyson Bell (BDB), in conjunction with Butterworths, has announced the publication of the first Guide to the revolutionary new process for obtaining consent for national infrastructure projects under the Planning Act 2008.

Under the Planning Act 2008 far-reaching changes to the way in which nationally important infrastructure is both identified and approved will be introduced. The changes are significant and will impact upon the future development of a wide range of projects from nuclear power stations to new airport runways, reservoirs, ports, highways and rail projects.

The "Practical Guide to National Infrastructure Projects" has been published by Butterworths. Click here to find out more/ purchase a copy . When you download the flyer you will need to reduce the amount yourself by 20% (ie take £26 off the price) - this will be honoured by the publisher as the flyer has a code on it for UKELA members.

UK ENVIRONMENTAL LAW ASSOCIATION

Registered Charity number: 299498 (Registered in England and Wales), Company limited by guarantee: 2133283 (Registered in England and Wales)

For information about working parties and events, including copies of all recent submissions contact:

UKELA, PO Box 487, Dorking, Surrey RH4 9BH

Vicki Elcoate
Executive Director
The Brambles
Cliftonville
Dorking RH4 2JF
vicki.elcoate@ntlworld.com
01306 501320

MEMBERSHIP ENQUIRIES

Alison Boyd
Email: alisonboyd.ukela@ntlbusiness.com
Tel: 01306 500090

E - LAW

The editorial team wants articles, news and views from you for the next edition due to go out in November 2009
All contributions should be dispatched to Catherine Davey as soon as possible by email at:
catherine.davey@stevens-bolton.co.uk by 13 November 2009
Please use Arial font 11pt. Single space. Ensure headings are in bold capitals.

Letters to the editor will be published, space permitting