



e-law

UKELA Making the law work for a better environment

Issue 68 -
January 2012

www.ukela.org

Editorial

Hearty congratulations to our President, Lord Justice Carnwath CVO, who, together with Lord Reed, has been appointed a Justice of the Supreme Court. Lord Phillips, President of the Court said “The independent selection commission were faced with a very strong field of candidates who applied following open advertisement of the vacancies. Lord Reed brings depth of experience in Scots law and practice, as well as insights into the work of the European Court of Human Rights. Lord Justice Carnwath’s range of experience as a senior judge is complemented by his Chairmanship of the Law Commission, his work reforming the tribunals system and his service as the first Senior President of Tribunals. As I near the end of my time as President of this court, it is encouraging to be welcoming colleagues of such high calibre and I am only sorry I will not have longer to work alongside them.”



Sir Robert commented “It is a great honour to be selected for the Supreme Court. I see it also as recognition of the central importance in the justice system of the tribunals judiciary, whom I have been privileged to lead as Senior President for the last seven years. It is a great honour for me to follow in the footsteps of Lord Slynn, my predecessor as UKELA President. I expect environmental law to take an increasing share of the work of the Supreme Court.”



Lord Justice Carnwath will be sworn in following the retirement of Lord Brown, probably in the first week of the Easter Term.

This e-law is full of news about forthcoming events. Thanks to new contributors, Chris Badger and Elena Elia, of 23 Essex Street for their article Putting Right the Causes of Offending – Mitigation or Aggravation? I am always pleased to hear from members with offers of articles and other contributions. See the back page for guidance and deadlines.

I’d like to set up a panel of book reviewers. If interested please email me your contact details and a note of your particular area of interest/expertise.

Catherine Davey - Editor

catherine.davey@stevens-bolton.com

In this issue

Editorial	1
Membership news	2
Contributions (C Badger and E Elia)	3
News	6
Students	7
UKELA Events	8
Non-UKELA Events	10
Offer to UKELA Members	11
About Us	12

Renew your 2012 membership

You should have received your membership renewal for 2012 in December. Please take a moment to renew now if you haven't yet done so to make sure you don't miss out on news, offers and membership benefits this year. Membership subscriptions have been frozen at 2011 levels for 2012 meaning we continue to offer fantastic value for money. Thanks to all those who have renewed already.

Calling all Graduates!

Have you recently graduated and become a pupil or other trainee? Your annual subscription is now just £15, in line with the student fee, saving you £18 on the current rate. Look out for details when renewing for 2012 and please pass on this good news to your friends and colleagues.

Direct Debit

Have you considered paying your annual subscription by direct debit? It's quick and easy to set up and means you won't have to worry about whether you have renewed your membership in future years as we take care of everything for you. Paying by direct debit also helps us to save money on administration meaning that we can keep subscription rates as low as possible. Look out for information about how to pay this way with your renewal.

Member Reward Scheme

Do you know someone who is considering joining UKELA? Why not encourage them to join now – the good news is that both of you will save money on your subscription. Full details of the Member Reward Scheme can be found [here](#).

Students

The deadline for 2 of our student competitions is getting very near! It's Monday 30th January for both the mooted competitions and the essay competition. If you are planning to enter either competition, don't miss out – get your entries into us as soon as possible. Full details about the competitions including how to enter can be found [here](#).

UKELA's YouTube Channel

The Garner lecture and recent London meetings are the latest videos to appear on UKELA's YouTube channel. This is a great way of keeping up to date with UKELA events, even if you can't attend. You can view the videos by clicking [here](#).

We're also working on some new, short public information videos. If you can help at all – by offering a video you've already made or you've got a camera or editing facilities you could offer – please let us know. UKELA has no budget for this work but our two short videos – on noisy neighbours and access to environmental information – have already attracted over 1200 views which isn't bad given we don't offer entertaining animals or people falling over.

Our thanks To Rebecca Breen at Nabarro's for her help in editing the videos and keeping the YouTube channel up to date.



Networking at the Garner Lecture 2011

Putting Right the Causes of Offending – Mitigation or Aggravation?

Chris Badger
Elena Elia

23 Essex Street

In R v Thames Water Utilities Limited¹, the Court of Appeal held that the cost of putting right the failures that led to a regulatory offence should not be viewed as mitigation. Instead, the Court stated, a failure to do that bare minimum should be viewed as a serious aggravating feature of the offence. This article examines the correctness of such an approach in light of previous caselaw and the practical effect of adopting such an approach to health and safety and environmental criminal cases.



Prior to R v Thames Water Utilities Ltd

In 1992 in *R v F. Howe & Sons (Engineers) Ltd²* the Court of Appeal identified that one particular mitigating feature available to a corporate or individual defendant in a criminal case involving the breach of health and safety legislation or environmental regulations was the fact that the defendant had taken steps to remedy deficiencies after they had been drawn to the defendant's attention.

This principle has been upheld in a series of cases that followed *Howe*. In *R v Friskies Petcare (UK) Limited³* the Court of Appeal endorsed as mitigation the steps that the company had taken since the date of the accident to improve safety, all done with the approval of the Health and Safety Executive. In *R v Balfour Beatty Rail Infrastructure Services Limited⁴* the Court of Appeal set out the principles derived in the *Howe* judgment and, at paragraph 22, specifically endorsed them as a helpful summary of the guidance afforded by the decided cases.

As a consequence, much of the practical stage of mitigating for a convicted defendant has been to demonstrate how much time and effort has been taken by that defendant to put right the key elements that led to the offence in the first place and avoid any subsequent repetition. This often results in carefully selected information being placed before the sentencing tribunal with a view to persuading that tribunal that any penalty can be kept to an absolute minimum.

Much weight has traditionally been placed by the Courts on such mitigation. How can it be possible to sentence a company that has taken steps to put right its previous errors at the same level as a company that does nothing to attempt to improve its position? Furthermore, how can it be possible to sentence a company who has gone far beyond what is required or taken remedial steps immediately and without the prosecuting authority pursuing the improvements at the same level as a company who has been slow or resistant to making those improvements?

The Magistrates' Court Sentencing Guidelines also provides that a mitigating factor may include a Defendant taking steps to remedy the problem as soon as possible⁵.

Mitigation following R v Thames Water Utilities Ltd

Doubt has now been cast over this established approach. Following *R v Thames Water Utilities Limited*, steps taken to ensure that an offence cannot take place again is not mitigation. It is to be expected.

In setting out a principled approach to sentencing a company for environmental offences⁶, Mr Justice Sweeney stated that when considering the extent to which the offender has brought the message home to itself, the cost of putting right the failures that led to the offence, and of ensuring lack of repetition, should not be taken into account in deciding whether there should be a reduction in the amount of fine to be imposed. To quote: "*such corrective action should be regarded, save in the most exceptional*

1 [2010] 2 Cr.App.R.(S.) 90

2 [1992] 2 Cr.App.R.(S.) 37

3 [2000] 2 Cr.App.R.(S.) 401

4 [2007] 1 Cr.App.R.(S.) 65

5 Magistrates' Court Sentencing Guidelines. At 182.

6 In which should also be included health and safety offences

case, as the minimum response to an offence, with failure to carry it out being regarded as a significant aggravating feature”⁷.

This is, in our view, a departure from previous caselaw. Traditionally, the cost of putting right the failures that led to the offence have fallen squarely within the *Howe* approach to putting right the deficiencies that led to the offence being committed in the first place.

Whether a matter is an aggravating feature or a mitigating feature is no idle distinction. For example, it raises a conundrum for prosecuting authorities. It is for the prosecution to set out what it contends to be the aggravating features in any particular case, adopting the approach set out in *Howe* and *Friskies Petcare*. This approach is endorsed by the most recent Attorney-General’s Guidelines on the Acceptance of Pleas and the Prosecutor’s Role in the Sentencing Exercise. The prosecutor is required to draw the Court’s attention to the aggravating and mitigating factors of the offence under consideration and make submissions as to the appropriate sentencing range. Furthermore, it is an approach enshrined in the Farquharson guidance on the role and responsibilities of a prosecution advocate, where at paragraph 6.9 it states “The prosecution advocate should always draw the court’s attention to any matters, including aggravating or mitigating features, that might affect sentence”. An aggravating feature directly affects the starting point for any sentence.

A prosecuting authority may have limited information as to what extent a defendant has taken steps to correct or remedy any deficiencies that led to the offence in question. Often this is a matter solely within the knowledge of the defendant. Certainly the extent of such remedial action is only a matter to be known to a defendant, unless the court in *R v Thames Water* has inadvertently reversed the onus of demonstrating the current state of a site or any remedial steps taken by the time of sentencing onto the Prosecution. Does the decision in *R v Thames Water* mean that such information should be included within the Prosecution opening following further investigation and up-to-date enquiries having been made by the prosecuting authority? Should the approach of the Court be to assume that a defendant has taken no steps to remediate his wrongs, unless it can be positively demonstrated otherwise? There is no scale by which to judge that the offence has been aggravated, nor any benchmark for the defence to be at all certain where the starting point for any sentence will begin.

There is potentially a contrast to be drawn between a “co-operative attitude” towards remedial action (often viewed with some scepticism; see the recent case of *R v New Look Retailers Limited*⁸ where the defendant company responsible for 600 and more shops appointed a single fire safety advisor in response to the prosecution!) and one where the offender demonstrates resistance to the suggestion that there are matters to be put right yet is effectively forced to take those steps.

However, co-operation was not a mitigating factor identified in *Howe*. Instead, a failure to co-operate with the regulating authority is identified in the Magistrates’ Court guidelines⁹ as a specific aggravating feature. Failure to answer questions in an interview is regarded particularly poorly by the courts when considering the position of a corporate defendant. Failure to allow a regulator to do the job with which they are entrusted and have a duty to perform is another aggravating feature.

Mr Justice Sweeney in *R v Thames Water* contrasted putting right the failures that led to the offence with the making of substantial voluntary reparation. His view was that this should, depending on its nature and amount, generally be regarded as a significant mitigating feature in this respect, typically requiring at least some reduction in the level of the deterrent element of the notional fine thus far identified. It may, in an appropriate case, result in a very significant reduction. In an exceptional case it may even reduce the deterrent element of the notional fine to a nil amount.

Such was the voluntary reparation in *R v Thames Water* that the fine imposed on the company was reduced on appeal from £125,000 to £50,000, with the important caveat that following the commission of any subsequent offence, the Court should not be misled as to the seriousness of the offence merely due to the modest fine imposed as a consequence of voluntary reparation.

Yet what counts for voluntary reparation in one case (paying £500,000 to reinvest in the River Wandle) is of no consequence to most cases. Defendants are often not in a position financially to substantially mitigate their offences through the payment of vast sums of money. The principled approach may therefore favour large corporate defendants in the sentencing process with means compared to smaller defendants who find themselves on the wrong side of a regulatory breach.

Regulation 44 of the Environmental Permitting (England and Wales) Regulations 2010

The conflict in the sentencing approach is starkly identified when considering Regulation 44 of the Environmental Permitting (England and Wales) Regulations 2010¹⁰, which specifically permits for a sentence to be mitigated through remediation. The section reads:

- 7 Paragraph 54 (iv)
- 8 [2011] 1 Cr.App.R.(S.) 57
- 9 Costing the Earth, Guidance for Sentencers, section 3.9
- 10 S.I. 2010/675

44.— Power of court to order cause of offence to be remedied

(1) This regulation applies where a person is convicted of an offence under regulation 38(1), (2) or (3)¹¹ in respect of a matter which appears to the court to be a matter which it is in the person's power to remedy.

(2) In addition to *or instead of* a punishment imposed under regulation 39 the court may order the person to take such steps for remedying the matter within such period as may be specified in the order (emphasis added).

(3) The period may be extended, or further extended, by order of the court on an application made before the end of the period or the extended period, as the case may be.

(4) If a person is ordered to remedy a matter, that person is not liable under regulation 38 in respect of that matter during the period or the extended period.

This section allows a Court to allow a defendant to remedy the cause of the offence in lieu of a punishment. It is statutory authority to permit a defendant to take steps to correct an environmental wrong and avoid a heavy fine. Yet if these steps were the minimum expected by Mr Justice Sweeney in the context of an environmental offence, how can it be that such diverse views exist?

The answer lies in the fact that again we must return to the conclusion that there is a different sentencing approach to be adopted for large corporate defendants and those defendants, both corporate and individual, who operate on a much smaller scale. This is the legislative section that evens up the playing field for the smaller defendant. Under this section, Courts can use their sentencing discretion to reduce a potential sentence where a company or individual demonstrates a determined and genuine effort to remediate a wrong, even in cases where that defendant does not have the means to pay for voluntary reparation in a manner envisaged by Mr Justice Sweeney.

The way forward

R v Thames Water provides a framework and principles to be adopted when dealing with the sentence for a major corporate defendant. It should be read in conjunction with *R v Balfour Beatty Rail Infrastructure Services Limited*. But the principle of voluntary reparation and the minimum expected of a defendant is of limited practical use when dealing with the vast majority of defendants in regulatory cases. It is a case that is biased towards those defendants with deep pockets. It ignores *Howe* and the subsequent cases that have upheld the principles in *Howe*. It creates an assumption of an aggravating feature rather than allowing for the potential for mitigation. And it conflicts with other legislative options available to the Courts that focus on an outcome, rather than a penalty.

The starting point for any sentence should, in our view, begin with just how far below the relevant expected standard a particular defendant has fallen, reflecting the defendant's culpability. Remediation, on the other hand, is an option that should be encouraged in every regulatory case. Achieving that requires that recognition of appropriate and effective remediation should be reflected in an appropriate reduction in penalty.

If the starting point of the expected standard of remedial action is to remain, our view is that before the more punitive sentencing option is taken, a further option to achieve remedial action should be considered more widely. Deferred sentences may be an appropriate and fair method of achieving the standard the court in *R v Thames Water* sought, to give the Defendant opportunity to take steps to remedy the damage caused and put preventative measures in place to ensure lack of repetition. Circumstances where this may be appropriate may include where the smaller Defendant has struggled to achieve the expected standard by the time the Sentencing hearing takes place. Failure to do so by the next hearing date could then constitute the "significant aggravating feature".

The future?

The court in *R v Thames Water* found that protection and preservation of the environment was a relevant principle in the case¹². Clearly, deterrence in these cases, a need for ongoing risk assessments by Defendants and all the general purposes of sentencing are in pursuit of the above principle; protection of the environment. Has the decision in *R v Thames Water* moved away from the environmental rehabilitation and towards a largely punitive system? Or are we moving towards a system whereby environmental protection and remedial actions are expected as of course, thereby raising the standards expected of those whose work most effects the environment? We will wait and see.

11 Operating a regulated facility except under and in accordance with an environmental permit; knowingly permitting or knowingly causing such a contravention; failing to comply with a permit condition or failing to comply with a specified notice.

12 Paragraph 39 (1).

PLC Environment – What to expect in 2012

PLC Environment (Practical Law Company) has published an article setting out the key environmental developments expected in 2012, including next steps on topics such as civil sanctions, FITs and RHI, CRC, duty on companies to report on their greenhouse gas emissions and contaminated land. The article is free so everyone will be able to access the link: <http://environment.practicallaw.com/0-517-0167>.

UKELA Conference 2012 – programme nearly ready!

The conference team putting together the programme for the 2012 conference in Southampton has been working hard and is aiming to have the programme settled by the end of January.

We've got some great speakers lined up already. Andrew Lee, Director of Strategy at the new South Downs National Park Authority (one year old in April) will be talking about the challenges facing such a large area designated for its natural beauty and facing development and other pressures. A National Trust speaker and David Elvin QC will be talking about the Localism agenda and how that is affecting the future of planning. Dr Cameron Hepburn of LSE and Marcus Trinnick of Eversheds will be examining the challenge of meeting our energy needs without compromising our environment irreversibly.



Credit: Jim Champion (Creative Commons Licence)

There are fantastic field visits planned to the nearby New Forest National Park and the Montagu Motor Museum with a pending visit to the brand new Titanic Museum in Southampton (which only opens in April in time for the centenary of the sinking).

All that plus a briefing on the latest cases from Gordon Nardell QC, Robert McCracken QC and Thea Osmund-Smith and working party sessions means a packed programme which remains excellent value. To book click [here](#).

We're very grateful to the main sponsors of the 2012 conference for their support – Landmark Chambers, WSP Environment and Energy and 39 Essex Street. We're also delighted that the following sponsorship opportunities have attracted support and thanks to these sponsors: bags (Argyll Environmental); carbon offsetting (Environ); organic and local produce (Francis Taylor Building); welcome drinks (6 Pump Court); student places (LexisNexis). If you would like to support the event we would still welcome another main sponsor and there are opportunities for sponsoring drinks, memory sticks and outings. If you're interested please email the Chair, Mark Brumwell for a full briefing: mark.brumwell@dundas-wilson.com

Garner Lecture

If you missed the 2011 Garner lecture by David Kennedy, CEO of the Committee on Climate Change, you can view it and his slides [here](#).

The lecture is currently being edited and will be published in the March edition of e-law and Lawtext Publishing's Environmental Law and Management. In the feedback many of you rated this year's lecture "excellent". The link ups to the regions were very popular (despite some minor hitches due to unfamiliarity with the technology) – it was great to feel the UK network working well together. Really big thanks go to the team at Clifford Chance who supported UKELA by hosting such a complex event and agreeing to try out the links.

Plans for the 2012 lecture are currently being considered - we hope to be able to repeat the link ups and the quality of the event this year.

UKELA's Council has two, new student advisers. They take over from Kathleen Wainwright (thanks to Kathleen).

Bianca Chavez-Novoa

I am one of this year's Student Advisors to UKELA council. My responsibilities will consist of: organising the Mentoring scheme of 2012, initiating environmental discussions on UKELA's Facebook page, composing articles from the student perspective, help co-ordinate the competitions day and come up with new ideas to involve students further in UKELA.

I am a final year Undergraduate of Law at Newcastle University where I have recently commenced my Environment Law elective; I am particularly drawn to this area of Law given its increasing relevance in everyday life and the exciting opportunities it presents as one of the fastest expanding areas of Law. I joined UKELA last autumn. I initially became interested in Environmental Law after attending the Water Expo in Zaragoza a few years ago, and through charity work for "Surfers Against Sewage" my awareness of the importance of environment law increased. UKELA provided the perfect solution to gain wider understanding of the environment sector before even commencing my elective through its exciting events and academic activities. It has given me a wider insight into my studies and enabled me to apply a new dimension of how theory is translated into practice when analysing the Laws' effectiveness in this area. For these reasons and more I cannot encourage students enough to make the most of their membership and get involved with the competitions and many other activities of UKELA.



If you have any suggestions of what you would like UKELA to organise/provide or would like to know how to find out more about the student competitions and opportunities available through UKELA or have any other general questions, please do not hesitate to contact me at bianca263@hotmail.co.uk

Ben Du Feu

I am the second of the two new student advisors to UKELA. I am currently studying for an LLM in Environmental Law and Policy at University College London. I am also a member of the UCL Students' Climate Forum and worked in the 'Situation Room' at the Legal Response Initiative during the recent UNFCCC COP17 in Durban. I graduated in Law (LLB) from Durham University in June 2011 and will start the BPTC at BPP London in September 2012.

I joined UKELA in the summer of 2011, having recently moved to London. I am by no means a seasoned member of UKELA but since joining I have attended as many events as I have been able to. Two things have stood out for me at these events. The first is the opportunity to hear a variety of very interesting presentations on all aspects of environmental law directly from the experts. The second, and perhaps the most important, is the unparalleled opportunity to meet people at the very top of their game in the field of Environmental Law and moreover how keen they are to speak to you. For example, at the first event I attended, I met several people from the business-led charity Carbon Leapfrog, who I now do pro-bono work for. I'm sure those of you who have attended a few of the events have had similar experiences of the warmth of UKELA membership towards student members. For those who haven't attended many of the events I thoroughly recommend as many as you can. As Student Advisor to the UKELA Council, my role consists of: advising UKELA's Council on how to retain the current student members and to attract new student members (on this point if anyone has any comments I would love to hear from you – b.j.dufeu@gmail.com). I will also be assisting in keeping the academic database up to date, helping to keep the student section on the website (www.ukela.org) and contributing articles for e-law. I look forward to getting to know more of you at forthcoming UKELA events.



Student Competitions

The deadline for the student competitions is fast approaching (30th January). The application form along with all of the details of both the student moot and the essay competition can be found on the student section of the [website](#). The competitions are a great opportunity to get involved in UKELA and to take part in what promises to be an enjoyable day. They also provide a useful topic of conversation in any future interviews you may have.

Don't forget to book your place at the [competition day](#) on the 29th March by emailing [Alison Boyd](#). All are welcome to attend - you don't need to be a finalist and there's a lot you can learn just from observing.

The Simon Ball Prize for Outstanding Achievement is open until May so do please review the rules and see if you might want to enter or encourage someone else to do so.

Finally, please pass the information about the competitions on to anyone who you think might be interested in taking part and do

Students

consider taking part yourself – it looks great on the CV.

Thanks to the sponsors of the competitions: No 5 Chambers (moot prizes – cash and work placements); Lexis Nexis and LexisPSL Environment (Andrew Lees free conference place prize and other prizes); LawtextPublishing (subscriptions to Environmental Law and Management for the moot winners).

We've just had some great additional prizes added by Lexis Nexis for the Andrew Lees Prize. They include free subscriptions and a paid internship. You can read more about it [here](#).

Twitter and facebook:

Remember that you can follow UKELA on twitter @ukela_law and join the [facebook group](#) or up to date UKELA news and discussions.

Bursary Awards

The student bursary for 2011 has been awarded to two candidates: Charles George and Alastair MacIver.



Charles has a full-time internship from the 4th of January to the 30th of March with the Rights and Justice legal team of Friends of the Earth. He says: "I am attracted to this field because of my first-hand witness of the detrimental impact that could be caused by abuses to the environment. Whilst travelling in Nigeria as a child, I saw the extensive pollution caused by the reckless actions of oil and gas companies such as Royal Dutch Shell in the Niger-Delta region. Since then, I was interested in how environmental law regulated the actions of such companies. After the internship with the Friends of the Earth, I will be going to Brazil with the International Citizens Service to help cultivate farming and forestry plots using natural and organic methods, developing new ideas for selling the produce to more people in more places and raising awareness amongst teenagers of the risks of HIV/AIDS. I aim to start my LPC in August 2012 at the College of Law in Birmingham".

Laura Gyte of Friends of the Earth says: "Friends of the Earth really appreciates the contribution the UKELA bursary makes to ensuring internships are accessible".

Alastair's placement is in the Chambers of Sir Konrad Schiemann, judge at the Court of Justice of the European Union. He is originally from Edinburgh with a degree from Durham University and has an LLM in European Legal Studies from the College of Europe in Bruges. He has previously worked in environmental law as a paralegal in both the UK and Brussels and is currently undertaking a stage with the Legal Service of the European Parliament. His placement will expose him to environmental cases under consideration by Judge Schiemann and require him to work in close collaboration with both the judge and his clerks in identifying and analysing the legal problems arising in each case and in formulating a tentative answer which the Court might give in its judgment. Aware of the CJEU's considerable contribution to the protection of the environment, particularly in clarifying the scope of rights under the Aarhus Convention, Alastair is greatly looking forward to acquiring an insight into the Court's deliberative process from the perspective of one of its most learned and respected members. Alastair intends to complete the BPTC at Northumbria University during the 2012-2013 academic session.



At present a decision on offering a bursary in 2012 has been put on hold as UKELA currently has a deficit budget for the year. The Council will keep this under review.

UKELA Events

January 18th: Waste Working Party meeting

Meet at SJ Berwin at 4pm for a routine waste working party meeting. Contact the convenor if you would like to attend: angus.evers@sjberwin.com.

February 7th: East Region AGM

The first Annual General Meeting for the UKELA East Region will be held at The Environment Agency Anglian Regional Office, Kingfisher House, Goldhay Way, Orton Goldhay, Peterborough, Cambridgeshire, PE2 5ZR on 7th February 2012 at 6pm. The meeting will elect a regional group committee. Nominations or enquiries re attendance to amanda.timcke@ashtonkcj.co.uk. For more details about the meeting visit the Regional Group page on the [website](#).

February 8th: London Meeting on Rio Plus 20

Your chance to find out what's on the agenda for the follow up to the 1992 Rio Summit on Sustainable Development.

Venue: Herbert Smith, Exchange House, Primrose Street, Exchange Square, London EC2A 2HS.

Start time: 5.30 (registration) for speakers at 6pm.

In 1972 nation states and some interested environmental groups and businesses converged in Stockholm, where the first ever international conference was held on environmental issues. Rio '92 was the twentieth anniversary of the Stockholm Conference and Rio 2012 marks the fortieth year since that ground-breaking summit. During these last four decades the most important international commitments that have defined a pathway for sustainability development include the [Stockholm Declaration](#) (1972), [Agenda 21](#) (1992), the [Rio Declaration on Environment and Development](#) (1992), and the [Johannesburg Plan Of Implementation](#) (2002).

The United Nations Conference on Sustainable Development – Rio 2012 - is being jointly convened by the UN Department of Economic and Social Affairs (UN DESA) and the Brazilian Government. The conference will seek to secure meaningful commitments on achieving sustainable development at the highest level, although it has already run into trouble with the preparations for the event marred by disagreement. This summit offers a once in a decade opportunity for States, intergovernmental and non-governmental organisations, as well as civil society to take bold steps towards redefining the relationship that humans have with the natural world and how humans see themselves in the world. The issues of resource exploitation and scarcity, planetary and natural systems boundaries, as well as the negative impacts of irresponsible human activity that are already rippling throughout the world, will pervade the discussions and final negotiations at the conference. 1.5 CPD points will be available for all attending.

Speakers include Peter Roderick, legal consultant to WWF and Kate Raworth from Oxfam on the limits to planetary boundaries work, Steve Waygood, from Aviva, on the proposed Convention on Corporate Sustainability and Emily Benson of the Green Economy Coalition. Unfortunately Jolyon Thomson from Defra has had to postpone. Chaired by Tim Clare of WSP Environment and Energy.

There will be a small contribution to cover costs at £25 for Members and £35 for Non-members. Students and Unwaged members are free. Your booking is not confirmed until payment has been received. If you book but don't let us know you can't attend before the event we will chase you for payment as every booking incurs costs.

If you wish to accept please contact by e-mail Angela Pallett at Herbert Smith:

angela.pallett@herbertsmith.com.

All cheques should be made payable to UKELA and sent to:

UKELA, c/o Angela Pallett, Exchange House, Primrose Street, London EC2A 2HS, (DX 28 London)

Our thanks to Angela and Herbert Smith for organising and hosting

March 22nd: Water White Paper discussion

6pm at Pinsent Masons LLP's London Offices (30 Crown Place, London, EC2A 4ESThe Water Working Party is pleased to announce a Spring session (open to all UKELA members subject to numbers) on the recently released *Water White Paper: Water for Life* (see <http://www.defra.gov.uk/environment/quality/water/legislation/whitepaper/>).

Speakers from DEFRA and Ofwat will summarise the changes expected to follow from the White Paper and will explore some of the practical implications of key policies such as taking forward a catchment based approach to water quality; reforming the abstraction regime; increasing competition in the industry and planning for the future. There will be no charge for attendance. If you are interested in attending this event, please contact Julie Adshead (J.D.Adshead@salford.ac.uk) to confirm your place.

March 29th: UKELA Student Competitions Day

To be held at the University of London, Faculty of Laws, Bentham House, Endsleigh Gardens, London WC1H 0EG. Likely timings: 11am Andrew Lees prize final; 2pm moots semi-finals; 4.30 moot finals.

Judge of the Moot Final is Lord Justice Carnwath.

If you're interested in attending (you don't need to enter to attend – all are welcome) please email Alison Boyd alisonboyd.ukela@ntlbusiness.com.

Our thanks to No5 Chambers for sponsoring the competitions day and the Moots and to LexisNexis for sponsoring the Andrew Lees prize.

April 24th: Seminar - Climate Change and Energy: Science, Law and Politics

All are welcome to this seminar organised by the Climate Change and Energy Working Party which will be held at the offices of Nabarro, 84 Theobald's Road, WC1, from 4 until 7pm. CPD points will be applied for.

The aim of the seminar will be to review, both from a policy and from a legal point of view, the balance, domestic and international, between necessary constraints (driven by the potential effects of climate change) upon energy production and distribution, and the need to encourage a successful market for the generation and supply of energy of various kinds. There will be two sessions with a break between them for refreshments and networking. There will be a range of distinguished speakers from Parliament, from government, from industry and from academia.

The keynote speech will be by Lord Anthony Giddens, author of "The Politics of Climate Change" (second edition just

UKELA Events

published).

Bookings will open in early February.

4th to 7th May: Wild law – Cairngorm Lodge

Sir Crispin Agnew – Scottish Regional Group convenor and Wild Law Scotland organiser – has arranged a weekend meeting at the Cairngorm Lodge Scottish Youth Hostel Association hostel. There is shared accommodation in the hostel or camping nearby. The intention is for the party to eat together for the evening meal in the hostel after which to have wild law discussions on topics of mutual interest. Otherwise members attending should make their own arrangements for breakfast and lunch, which can be provided by the hostel for an additional charge, or there is self-catering in the hostel. We've reserved 20 places in the hostel (there will be other groups staying as this is quite a big hostel). Cost for the weekend - £155.

The plan is to ask the RSPB to guide us around the Abernethy Forest reserve, a wonderful Scottish pine woodland area with the [Loch Garten osprey centre](#) nearby on Saturday and on Sunday to undertake expeditions locally around Loch Morlich or perhaps go up onto the Cairngorms to see the effect of the funicular and ski infra-structure on the wild land of the Cairngorms; for those interested see the [Cairngorm Funicular case](#) where WWF and RSPB tried to stop the funicular.

A minibus will be available to take up to 16 people from Edinburgh to Cairngorm and back or to pick up members at Aviemore and a member should have a car to transport the balance over the weekend around the area.

Bookings open. Visit the events page on www.ukela.org.



May 23rd: Launch of the joint report by UKELA, King's College London and BRASS at Cardiff University: The State of Environmental Law in 2011-2012

Bookings will open in February – please note in your diary. This will be an early evening presentation/discussion session at King's College London.

July 6th-8th: UKELA Annual Conference 2012, Southampton - Planning for the Energy Challenge

Bookings are now open for this year's annual conference – more information including how to book [here](#).

Non-UKELA Events

The series of Castle Debates continues with the next one scheduled for the 1st February. Full details including how to book can be found [here](#).

Climate Week

Britain's Biggest Climate Change Campaign - 12th to 18th March 2012

Climate Week is a supercharged national campaign to inspire a new wave of action on climate change. It culminates with thousands of events and activities taking place throughout the week of 12 to 18 March 2012, planned by organisations from every part of society. Showcasing real, practical ways to combat climate change, the campaign aims to renew our ambition to create a more sustainable, low-carbon future.

Climate Week is backed by every part of society - from the Prime Minister to Paul McCartney, the NHS to the Met Office, the TUC to the CBI, Girlguiding UK to the National Association of Head Teachers. During the first Climate Week in 2011 over 3,000 events were attended by half a million people across the UK. Last year engagement from the legal sector included BPP Law School's environmental law pro bono group holding a free screening of *Beyond the Brink* and Allen & Overy LLP held a week of challenges, presentations and enhanced communication to raise awareness and to support environmentally-smart behaviour change.

The Climate Week Challenge in 2011 was Britain's biggest ever environmental competition, with over 145,000 people participating in the one day and one-hour versions. You can register now for the 2012 Climate Week Challenge, which will be revealed on Monday 12 March at 9am.

Entries are now open for the prestigious Climate Week Awards, recognising the most inspirational and impressive actions taking place in every sector. In 2011 the judging panel contained figures such as the eminent economist Lord Stern, the former President of Ireland, Mary Robinson, and Booker Prize-winning author, Ian McEwan.

Other highlights from 2011 include the Climate Week T-shirt, modeled by celebrities such as Lily Cole, Gemma Arterton and James Blunt. The Climate Week Pub Quiz took place in hundreds of pubs and workplaces. There were over 1,000 pieces of media coverage about Climate Week, with articles in most national newspapers and coverage on BBC1, including a whole episode of

Non-UKELA Events

Blue Peter inspired by the campaign.

Organisations can get involved right now by starting to plan an event for Climate Week. This provides a unique opportunity to profile their own initiatives and innovations to stakeholders and staff, customers and the community, members and the media. They can also spread the word in advance, so that others find out about Climate Week in time to plan their own activities.

To find out more about Climate Week go to www.climateweek.com, email info@climateweek.com or telephone on 020 3397 2601.

Offer to UKELA Members

The Practical Law Company (PLC) is offering free access to UKELA members to their online web services. PLC says: “over 20,000 in-house lawyers and 120,000 private practitioners use PLC’s subscription-based web services to do their jobs smarter, quicker and more cost effectively. With an unrivalled reputation for providing clear, concise and accurate material that is uniquely practical in its outlook, we are pleased to make PLC’s suite of 27 multi-jurisdictional guides available, free of charge, to your members”.

There are multi-jurisdictional guides to the law and leading lawyers in over 27 key practice areas with each guide offering

- Detailed Q&A country chapters written by some of the world’s leading law firms
- Special analytical articles addressing the most pertinent topics within each area
- Trusted and valued independent research listing the leading firms and individuals in each area
- Extensive profiles of leading lawyers

The content

- Gives users practical guidance on the law
- Based on Q&A templates designed by leading in-house experts in each field
- Takes a comparative approach giving users a multi-jurisdictional overview
- Edited by PLC’s team of legally qualified editors

If you want to take up this free offer please visit:

www.practicallaw.com/environment-mjg?ukela

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

E – LAW

The editorial team wants articles, news and views from you for the next edition due to go out in March 2012. All contributions should be dispatched to Catherine Davey as soon as possible by email at:
catherine.davey@stevens-bolton.com by 7 March 2012.

Please use Arial font 11pt. Single space. Ensure headings are in bold capitals.
Letters to the editor will be published, space permitting.

© United Kingdom Environmental Law Association and Contributors 2011

All rights reserved. No parts of this publication may be reproduced or transmitted in any form or by any means or stored in any retrieval system of any nature without prior written permission except for permitted fair dealing under the Copyright Designs and Patents Act 1988 or in accordance with the terms of a licence issued by the Copyright Licensing Agency in respect of photocopying or/and reprographic reproduction. Applications for permission for other use of copyright material including permission to reproduce extracts in other published works should be made to the Editor. Full acknowledgement of author, publisher and source must be given. E- Law aims to update readers on UKELA news and to provide information on new developments. It is not intended to be a comprehensive updating service. It should not be construed as advising on any specific factual situation. E-Law is issued free electronically to UKELA members. An additional charge is made for paper copies. The views expressed in E-Law are not necessarily those of UKELA