

Ms Justine Solomons-Moat,
UK Focal Point for the Aarhus Convention
Department for Environment, Food and Rural Affairs
Email: [REDACTED]
27 January 2023

Dear Justine,

Re: MoP-7 Decision VII/8S – UK Action Plan

We write following the Open Session of the 77th meeting of the Aarhus Convention Compliance Committee on 16th December 2022 to discuss the UK Plan pursuant to Decision VII/8S (“**the Decision**”).

The Committee had concluded prior to the meeting that the UK Plan appeared to be only “partially appropriate”. From the meeting, we note that while the Committee welcomes the UK’s willingness to engage in the process and were cognisant of the challenges encountered in the preparation of the Action Plan (including the time taken to engage with the devolved administrations and prolonged periods of political turnover), the Curator Ms Eleanor Sharpston highlighted the very long history leading up to this Decision (going back to 2011) which, aside from the introduction of the Aarhus costs regime in 2013, has since then been characterised by “little forward progress and much backsliding”.

The Committee emphasised that the Action Plans were a planning tool and, as such, were expected to contain granular detail setting out how parties would bring themselves into compliance by 1 October 2024. While not necessarily endorsing the solutions proposed in our letter to the UK Aarhus Focal Point dated 24 March 2022, Ms Sharpston stated that the letter set out the major problems as the Committee saw them, drawing particular attention to their findings in Communications C85 and C86 (the exemption of private law environmental claims from costs protection), variable costs caps and the recent judgments in *Bertoncini* and *CPRE Kent*. In simple terms, the current UK Plan is “general and random”, but in order to meet the 1 October 2024 deadline it will need to get “sharper-edged and more specific”.

We concur with the Committee’s concerns and in light of these comments, and in view of the 1 October 2024 timeframe for compliance, we would like to propose a meeting to discuss the ways in which prohibitive expense can be addressed. This could be a UK-wide meeting, but in order to properly consider the detail, it may be better to organise a series of meetings involving ourselves and representatives of the devolved administrations.

We would be pleased to provide our availability in the near future if you and devolved colleagues would consider this proposed meeting helpful.

Yours sincerely,

Carol Day (Consultant Solicitor) and Rosie Sutherland (Head of Legal), the RSPB

Katie de Kauwe (Interim Head of Legal), Friends of the Earth England, Wales and Northern Ireland



Angus Eames, Lawyer, UK Environment, ClientEarth

Ben Christman (in-house solicitor), Environmental Rights Centre for Scotland

Mary Church, Head of Campaigns, Friends of the Earth Scotland