Twenty-eighth meeting of the Working Group of the Parties to the Aarhus Convention and Sixteenth Meeting of the Task Force on Access to Justice (2-4 July 2024), Geneva

Statement on behalf of Environment Links UK

1. Introduction

Environment Links UK (ELUK) collectively represents voluntary organisations with more than 8 million members across the UK. It comprises the combined memberships of Wildlife and Countryside Link (WCL), Scottish Environment Link (SEL), Wales Environment Link (WEL) and Northern Ireland Environment Link (NIEL). Each is a coalition of environmental voluntary organisations, united by common interest in the conservation and restoration of nature and the promotion of sustainable development across the terrestrial, freshwater and marine environments.

ELUK welcomes the opportunity to submit a written Statement to the twenty-eighth meeting of the Working Group of the Parties and the sixteenth meeting of the Task Force on Access to Justice ("the meeting"). This Statement sets out our concerns about the UK's non-compliance with the Convention, which have broadened and deepened in recent years due to a number of unhelpful legislative developments and the jurisprudence of the courts. In particular, we draw the meeting's attention to the UK's non-compliance with Article 3(8) (treatment of environmental defenders) and Article 9 (access to justice) of the Convention across the four devolved nations of the UK.

We also take the opportunity to highlight the development of constructive initiatives, including proposals for an Environmental Rights Act in England and Wales and the launch of a consultation on an environmental principles, governance and biodiversity targets White Paper in Wales.

2. Article 3(8) Aarhus Convention – Environmental Defenders

Article 3(8) of the Convention requires Parties to 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.

We welcome the Statement of Mr Michel Forst, the UN Special Rapporteur on Environmental Defenders under the Aarhus Convention, following his visit to the UK on 10-11 January 2024.[1] Mr Forst's Statement reiterated that the right to peaceful protest is a basic human right and an essential part of a healthy democracy: "*Protests, which aim to express dissent and to draw attention to a particular issue, are by their nature disruptive. The fact that they cause disruption or involve civil disobedience do not mean they are not peaceful. As the UN Human Rights Committee has made clear, States have a duty to facilitate the right to protest, and private entities and broader society may be expected to accept some level of disruption as a result of the exercise of this right.*"

[1] Mr Forst's End of Mission Statement dated 23 January 2024 can be found here

The Statement referred to the increasingly severe crackdowns on environmental defenders in the UK, including the exercise of the right to peaceful protest. In particular, the Statement highlighted concerns regarding the following:

- New restrictions imposed under the **Police, Crime, Sentencing and Courts Act 2022**[2] for the criminal offence of "public nuisance" (punishable by up to 10 years imprisonment). The Act provided examples of what might amount to "serious disruption to the life of the community", which were amended by the Public Order Act 1986 (Serious Disruption to the Life of the Community) Regulations 2023. The Regulations sought to define "*serious disruption*" as any disruption which was "*more than minor"*.

  Following the publication of the Special Rapporteur's Statement, on 21 May 2024 the English High Court held the Regulations 2023 unlawful because they are *ultra vires* and followed an unfair and one-sided consultation (*Liberty v Secretary of State for the Home Department* [2024] EWHC 1181). Liberty challenged the legality of the Regulations made by the Secretary of State in the exercise of "Henry VIII" powers to make "provision about the meaning" of "serious disruption" in sections 12 and 14 of the Public Order Act 1986. The provisions confer powers on the police to impose conditions on a procession or assembly which they reasonably believe may result in serious disruption to the life of the community. The Court found that the new definition of "serious disruption" introduced by the Regulations lowered the threshold for police intervention, which impermissibly altered, rather than clarified, the meaning of the phrase "serious disruption". The Court also held that in addition to consulting law enforcement agencies, the Secretary of State should also have, at least, obtained the views of those who might be adversely affected by the proposed measures. The Court stayed the quashing of the Regulations pending an appeal by the Secretary of State. This is an example of the 'suspended quashing order' introduced by the Judicial Review and Courts Act 2022. It means that a decision found to have been unlawfully taken is allowed to remain in force pending the determination of the appeal, despite the consequences for protest rights and the risk of criminalising people under a voided measure (see later).

- New restrictions imposed under the **Public Order Act 2023**[3] - in particular referencing a peaceful climate protester who took part for approximately 30 minutes in a slow march on a public road and was sentenced to six months imprisonment under the Act. We would add that Friends of the Earth, a member of WCL, has previously taken part in slow-walk protests which have been facilitated by local police forces, so this development is very concerning.

Mr Forst's Statement highlighted that, prior to these legislative developments, it had been almost unheard of for members of the public to be imprisoned for peaceful protest in the UK since the 1930s.

The Statement also raised concerns that, in recent cases, presiding judges have forbidden environmental defenders from explaining to the jury their motivation for participating in a protest (or from mentioning climate change at all). Since Mr Forst's Statement was published, the Court of Appeal has confirmed that the motivations of climate protestors are not relevant to the defence of consent (that had the person had a greater understanding of climate change, they would have consented to the damage) in cases of criminal damage, and cannot be put before a jury.

Mr Forst also drew attention to the harsh bail conditions being imposed on peaceful environmental defenders while awaiting criminal trial. Mr Forst questioned the necessity and proportionality of such

2 The Police, Crime, Sentencing and Courts Act can be found here

3 The Public Order Act 2023 can be found here

conditions for persons engaging in peaceful protest.

In addition to the new criminal offences, the Statement raised concerns about the use of civil injunctions to ban protest in certain areas, including on public roadways (with the possibility of two year's imprisonment and an unlimited fine). Even persons who have been named on one of these injunctions without first being informed about it – which, to date, has largely been the case – can be held liable for the legal costs incurred to obtain the injunction and face an unlimited fine and imprisonment for breaching it. It was a matter of grave concern to Mr Forst that a significant number of environmental defenders are currently facing both a criminal trial and civil injunction proceedings for their involvement in a climate protest on a UK public road or motorway, and hence are being punished twice for the same action.

In May 2024, Friends of the Earth England, Wales and Northern Ireland (FoE EWNI) filed an application to the European Court of Human Rights, concerning the use of persons unknown injunctions targeting protestors. Friends of the Earth has challenged these types of injunctions in the UK courts, particularly in the context of fossil fuel projects. Its application follows the Supreme Court's decision in *Wolverhampton City Council and others (Respondents) v London Gypsies and Travellers and others* (Appellants) [2023] UKSC 47 (FoE EWNI and Liberty intervening), in which the Supreme Court imposed restrictions on the use of these injunctions in the context of Gypsy and Traveller communities, but did not apply such restrictions in the protest context. FoE EWNI's application challenges these injunctions as a matter of principle, on the basis that they breach Articles 10 and 11 (freedom of expression) and Article 6 (right to a fair trial) of the European Convention on Human Rights. Its concerns centre on the chilling effect of such injunctions on peaceful and lawful protest, the intrinsic unfairness in the process for adopting them, the considerable adverse cost consequences for anyone seeking to challenge them (given the lack of cost protection available; adverse costs can amount to tens of thousands of pounds; far in excess of the default cost caps available to claimants in public law environmental challenges) and the severe penalties for anyone found in breach.[4]

Mr Forst also drew attention to the fact that derision of environmental defenders in the mainstream UK media and political sphere can put them at risk of threats, abuse and even physical attacks. The Special Rapporteur witnessed such abuse first-hand and remarked that it has a "*significant chilling effect on civil society and the exercise of fundamental freedoms*".

On 26 March 2024, WCL wrote to The Rt Hon Steve Barclay MP (Secretary of State for the Environment, Food and Rural Affairs) and Lord Bellamy KC (Parliamentary under Secretary of State, Ministry of Justice) to seek a response to Mr Forst's Statement. The response (dated 13 May 2024) stated: "*The UK has been working with Mr Forst and the Aarhus Convention Secretariat in accordance with formal Convention procedures. We look forward to welcoming Mr Forst when he returns to the UK in the coming months for further discussions with the Government regarding the matters outlined in his statement*".

3. <u>Article 9 Aarhus Convention (Access to Justice)</u>

Prohibitive Expense

[4] WCL wrote to the ACCC Secretariat on 2 February 2024 to raise concerns about the lack of costs protection in cases of this kind following the judgment in *Wolverhampton City Council and others (Respondents) v London Gypsies and Travellers and others* (Appellants) [2023] UKSC 47 in the context of Decision VII/8s. The letter can be viewed here

The UK Action Plan to implement the recommendations of Decision VII/8S of MOP-7[5] regarding prohibitive expense was published on 1 July 2022.[6] The Plan contained no tangible proposals, simply stating that: "*The UK Government will consider whether it is appropriate to amend the Environmental Cost Protection Regime (ECPR) in the Civil Procedure Rules (CPR) or make other changes following the conclusion of the Call for Evidence*". The Plan confirmed the Government would work with the Civil Procedure Rule Committee (CPRC) and rely on the routine biannual CPR Statutory Instruments adopted in April or October, to implement any proposed changes arising from the review.

England and Wales

The UK Aarhus Focal Point, Mr Tom Fuller, indicated that an English consultation on the ECPR would be published early in 2023. When that failed to materialise, WCL wrote to The Rt Hon Steve Barclay MP (Secretary of State for the Environment, Food and Rural Affairs) and Lord Bellamy KC (Parliamentary under Secretary of State, Ministry of Justice) on 26 March 2024 to express concern that the procedural timing outlined in the Plan meant the UK could no longer meet the 1 October 2024 target date. Moreover, the letter highlighted that unless the Call for Evidence was announced imminently, the announcement of a General Election later in 2024 would prevent the UK from bringing itself back into compliance with the Convention for many months afterwards (as it happens a General Election was subsequently announced on 22 May 2024 with Government business formally ceasing on 31 May 2024).

The Government responded on 13 May 2024 to confirm that following the announcement of a review into delivery of major infrastructure projects (the "NSIP Review" - see below), the Government *"took the pragmatic decision to delay the publication of the Ministry of Justice Call for Evidence on reviewing the Environmental Costs Protection Regime and to await the outcome of the review …*".

WCL sees no basis for this Statement. It was made explicit to us by Lord Banner that the NSIP Review would not make any recommendations in relation to the Aarhus costs caps on the basis that this was to be the subject of a separate Call for Evidence by the Ministry of Justice pursuant to Decision VII/8s.

Our Statement to the Fifteenth meeting of the Task Force on Access to Justice in 2023[7] set out our concerns about prohibitive expense and some possible solutions. We do not repeat the content here, instead we draw the meeting's attention to recent developments that have further undermined the UK's compliance with Decision VII/8s.

Aarhus Cap variation

A report published in June 2023 '*A Pillar of Justice II*' by RSPB, FoE EWNI and the Environmental Law Foundation (ELF) analysed the impact of legislative reform on trends in environmental judicial reviews. It included evidence collated by ELF that community groups and individuals are sometimes not pursuing meritorious environmental claims, out of fear of the cost consequences.[8]

That variations to the costs caps are happening creates financial uncertainty for claimants. It is concerning that there continue to be instances where claimants' cost caps are being raised, sometimes even to the level of the cap for the defendant public body. As far as we are aware, there are no cases at all of a defendant public body's cap being raised upwards.

5 Decision VII/8s can be accessed here

6 The UK Action Plan can be accessed here

7 Accessible here

8 A Pillar of Justice II report is available here

In *R (Biofuelwatch UK) v Secretary of State for Energy Security & Net Zero* (AC-2024-LON-000713), the Claimant, Biofuelwatch UK) applied for a standard (£10,000) cap on adverse costs liability under the Aarhus costs regime.[9] While the Defendant made no objection, the Interested Party (Drax Power Limited) applied for an increase in the cap - at first making no suggestion as to the appropriate level, but subsequently arguing that the entirety of the organisation's unrestricted reserves should be taken into account. The Claimant filed a Reply, although it is unclear whether the court considered it. When refusing permission to apply for JR on the papers, the Court increased the Claimant's cap to £30,000 and directed the standard cap of £35,000 for the Defendant. The Claimant decided this was prohibitively expensive and regretfully chose not to renew the application for Judicial Review (JR).

Similarly, in *R (oao Greenpeace) v Secretary of State for Energy Security and Net Zero* [2023] and *R(oao Uplift) v Secretary of State for Energy and Net Zero [2023],*[10] challenges to the decision to open the 33rd round of licensing for North Sea Oil and Gas extraction and to the legality of the so-called "climate compatibility checkpoint", the cost liability for the claimants was increased by Order of Justice Lang to £35,000 each. The justification for this was their resources and their fundraising capabilities. The cost cap for the defendant, a central government department, remained however at the default level of £35,000. Uplift's cost cap was subsequently reduced to £20,000 by the Order of Justice Waksman, but that is still double the default cost cap for organisation claimants.

Judicial Review and Courts Act 2022

The Judicial Review and Courts Act 2022 unhelpfully broadened the menu of remedies the courts in England and Wales may choose to grant in JR. Section 1 gives a court discretion in how it makes a quashing order, with the option of suspending the quashing order in some cases, so that the public body is first given the opportunity to correct any failure that the court has identified. The court also has a discretion to limit the retrospective effects of the quashing order, so that things done by the public body before the quashing order was granted remain lawful.

These new forms of remedy raise the prospect of a Claimant winning a JR, but with only a limited remedy to show for it. The Bill met strong opposition in the House of Lords because of the implications for the rule of law and the legal principle of fairness, preventing claimants from achieving meaningful redress as required by Article 13 of the European Convention on Human Rights (the right to an effective remedy) and Article 9(4) of the Aarhus Convention.

In *ECPAT UK v Kent County Council and Secretary of State for the Home Department* [2023] EWHC 1953 (Admin), the Hon Mr Justice Chamberlain suspended the effect of an order quashing a Protocol permitting the Home Secretary to make arrangements for the transfer of responsibility for unaccompanied asylum seeking children without participation of the entry authority for three weeks. In Liberty's case (referred to above), a suspended quashing order was granted by the court. We are concerned that as judicial familiarity with these new remedies increases, their use may be extended more frequently to environmental cases.

Scotland

With respect to the reference to a public consultation on court fees in Scotland which is mentioned at page 3 of the UK Action Plan, the Scottish Government introduced an exemption for some Aarhus cases from court fees in May 2022.[11] The exemption applies to Aarhus cases heard in the Court of Session only. Aarhus cases heard in other courts (including sheriff courts) do not enjoy the same

9 Civil Procedure Rules 46.24 here

10 EWHC 2608 (Admin)

11 The Court of Session etc. Fees Order 2022, Article 7.

exemption.[12]

Against this background, the Protected Expenses Order (PEO) regime remains fundamentally flawed in failing to recognise that the actual costs incurred by an unsuccessful petitioner are not limited to the £5,000 default cap on adverse costs liability, but also include their own legal costs. Furthermore, in the event of a successful judicial review, a PEO limits the amount the petitioner can recover from the other side to only £30,000 (costs often amount to much higher than £30,000). Up until 2018, it was only possible to vary the cap down, but the introduction of powers under the 2018 PEO rules now allows for the default cap to be varied up or down "on cause shown", which has introduced legal uncertainty. The default levels of the cap and the cross cap are arbitrary and fail to reflect a realistic assessment of the overall costs faced by an Aarhus petitioner.

There are also significant barriers to accessing legal aid in environmental matters. Civil legal aid is available only to 'persons' and therefore environmental NGOs and community groups are ineligible. Individuals applying for legal aid also face difficulties. The Civil Legal Aid (Scotland) Regulations 2002 limit any grant of legal aid where a person applying has a 'joint interest' in the matter with others. It is likely that in most environmental litigation there will be a number of individuals with similar concerns about the issue in dispute (e.g. in the case of a large development in a conservation area, or air pollution in a city).

There is an urgent need to review and overhaul the costs regime in its entirety. Consideration should be given to the overall costs faced by an Aarhus litigant, with options including introducing one-way cost shifting, exemption from court fees, and the reform of legal aid for Aarhus cases.

We understand that the PEO regime is currently under review by the Scottish Civil Justice Council (SCJC) and that new PEO legislation will be published soon. We are disappointed that the SCJC has not held a public consultation to inform the new PEO legislation.

We are pleased that the Scottish Government abolished court fees for cases heard in the Court of Session and falling within the scope of the Aarhus Convention in July 2022. Removing court fees was an important step towards reducing the prohibitively expensive nature of litigation. However, much more needs to be done to make such litigation affordable.[13]

Northern Ireland

Despite the welcome progress made in relation to the adverse costs protection regime, the Cost Protection Regulations only address part of the affordability problem. They do not address the difficulty an applicant may have in being able to afford their own legal costs in the event that they lose the case. In theory, it is possible for applicants to appeal for *pro bono* legal assistance in taking cases and human rights-based organisations such as The PILS (Public Interest Litigation Support) Project have led the way in this capacity. However, applications are determined on an *ad hoc*, case by case basis and very much depend on there being the expertise and most importantly, capacity, among legal professionals to undertake *pro bono* work in complex environmental and climate change cases.

The situation is further complicated by the continued prohibition of Conditional Fee Arrangements (CFAs) in Northern Ireland. It was the general assumption that where *pro bono* legal advice or representation has been provided, that this was essentially "free" and therefore did not count towards costs and could not be recovered at the conclusion of a legal challenge. However, regulations appear

12 The court fee exemption is discussed here.

13 See https://www.ercs.scot/news/ercs-welcomes-exemption-of-court-fees-for-some-aarhus-cases-but-more-is-needed/.

to exist in law which may afford some level of costs recovery where *pro bono* legal assistance is utilised in Aarhus compliant cases. It remains to be seen how these regulations are applied in practice and forthcoming legal challenges look certain to bring this issue to the fore in the very near future.

The absence of CFAs and scant provision of legal aid for environmental cases make the burden of an applicant's own legal costs prohibitively expensive regardless of any cost capping arrangements. This explains why a significant number of applicants have felt obliged to bring applications to the High Court, in major environmental challenges, without the benefit of any legal representation.

4. **Intensity or standard of Judicial Review**

In 2017, ELUK members the RSPB, FoE EWNI and FoE Scotland submitted a Communication to the Compliance Committee arguing that the standard of review applied in UK courts fails to provide a review of procedural and substantive legality in accordance with Article 9(2) and (3) of the Convention. A substantive hearing took place before the Compliance Committee in November 2019, and their findings are keenly awaited. In the interim, we welcome the Committee's Findings that the failure by the High Court of Northern Ireland to undertake its own assessment of whether particular legal tests relating to an Environmental Impact Assessment were adhered to, amounted to non-compliance with the Article 9(2) requirement to provide for a review of the substantive legality of those decisions.[14]

5. Other Developments

England and Wales

NSIP Review

On 7 March 2024, the Government announced that Lord Charles Banner KC would lead an independent review to "*look into speeding up the delivery of major infrastructure projects*".[15] While there were no published terms of reference, the announcement confirmed the review would build on wider government reforms to streamline the process for Nationally Significant Infrastructure Projects (NSIPs)[16] and "*explore whether NSIPs are unduly held up by inappropriate legal challenges, and if so what are the main reasons and how the problem can be effectively resolved, whilst guaranteeing the constitutional right to access of justice and meeting the UK's international obligations*". WCL met Lord Banner on 9 April 2024. He submitted his report in late May 2024, but the announcement of a General Election on 22 May 2024 prevents the Government from considering or implementing any recommendations during the pre-election period of sensitivity (the purdah period).

Environmental Rights Bill

WCL has published an Environment Rights Bill, the aim of which is to incorporate the Aarhus Convention into domestic law.[17] Part 1 of the Bill would establish in UK law the basic right to a clean, healthy and sustainable environment for everyone. The Act would also seek to protect the public's fundamental right to fight for environmental rights without fear of persecution and harassment. Parts 2, 3 and 4 of the Bill implement the Aarhus right of access to environmental information (building on the Freedom of Information Act 2000 and Environmental Information Regulations 2004), the right to public participation in environmental decision-making and rights of access to justice respectively. Ensuring the full implementation of the Aarhus Convention will provide the tools to allow people to

14 See Communication ACCC/C/2013/90 United Kingdom

15 The press release can be found here: https://www.gov.uk/government/news/lord-banner-kc-to-lead-review-on-national-infrastructure

16 See, for example, 'Getting Great Britain building again: Speeding up infrastructure delivery' (2023) available here

17 The draft Bill can be accessed here

hold public bodies to account in meeting their statutory obligations and addressing the current failure to meet those standards in relation to air quality, water quality and biodiversity.

Public Scrutiny of Trade Agreements: Coalition Communication under Article 8
In 2022, a coalition of NGOs, including WWF, the Soil Association, and the Tenant Farmers' Association, lodged a formal complaint with the Aarhus Convention Compliance Committee asserting that the UK Government has breached its international obligations by not providing adequate opportunities for public consultation on trade deals, which have significant implications for environmental goals. Article 8 of the Convention requires legislation with environmental impacts to receive meaningful public consultation, while "options are still open" to change the contents of such law. There is widespread concern among civil society representatives, academics, and businesses about the UK's current arrangements for scrutinising free trade agreements, whilst Parliament has been bypassed with no debate afforded to the Australia and New Zealand trade deals, or the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP).

Since 2022, public consultation has shown no signs of improvement, even as negotiations progressed. From 2022 to 2024, expert stakeholder insight groups were suspended while negotiations, including the agreement on the CPTPP, with Canada, the Gulf Cooperation Council, and India progressed.

In September 2022, the Aarhus Compliance Committee decided the complaint was preliminarily admissible, requiring the UK to file a detailed response. In May 2023, the government argued that current scrutiny arrangements are satisfactory and that trade agreements do not have an environmental impact. However, the government's own impact assessments of the Australia deal and the recently signed CPTPP indicate otherwise. We are conscious that the issue has been before the Committee for over a year and a half and, in the meantime, the UK continues to pursue international trade negotiations with minimal scrutiny and public consultation, which constitutes a continuing breach of the Convention. We look forward to a full hearing of the complaint as soon as practicable.

Wales
Welsh legislation on environmental governance
The Welsh Government's Stakeholder Task Group on Environmental Governance recommended that the Aarhus Convention rights be articulated in Welsh law, together with EU Environmental Principles and the establishment of an independent environmental watchdog. Following calls from WEL, In January 2024 the Welsh Government launched a consultation on a White Paper to embed environmental principles into Welsh law, strengthen environmental governance in Wales by establishing a new body to oversee compliance with environmental law by Welsh public authorities, and introduce a new and ambitious biodiversity targets framework to combat the ongoing nature emergency (see here – outcome awaited). WEL is pressing for legislation to be brought forward in the next legislative programme.

The Welsh Government is also currently considering recommendations made by the Human Rights Legislative Options Working Group (established by the Government to investigate establishing human rights in Welsh law) that there should be a right to a healthy environment in Wales. WEL supported this recommendation, which reflects WCL's calls for such a right to be enacted through an Environment Rights Bill (see above).

Scotland
Environmental Court Consultation
The Scottish Government was required by law to publish a consultation on whether the law in Scotland on access to justice on environmental matters is effective and sufficient, and whether and, if so, how

the establishment of an environmental court could enhance environmental governance arrangements.[18]

The Scottish Government published its consultation and an accompanying report (the Report) in June 2023.[19] The consultation was very disappointing.[20] The Scottish Government has not yet published its analysis of the consultation responses.

The Scottish Government is opposed to the establishment of an environmental court. Its consideration of the matter and the justification for its position are set out in the Report over a chapter that was two pages long with no references.[21] The Scottish Government's conclusion on this matter appears predetermined.

The Environmental Rights Centre for Scotland instructed the opinion of John Campbell KC on whether the Report was sufficient to discharge the Scottish Government's consultation duty vis-à-vis the potential establishment of an environmental court. His opinion was that the Report was not sufficient to discharge the statutory duty.[22]

There is a strong case for establishing an environmental court or tribunal (**ECT**) for several reasons.[23] One of the main reasons for creating an ECT is the need to improve access to justice. An ECT could be designed to make litigation over the environment significantly more accessible and affordable than the current arrangements in Scotland.

Enshrining Environmental Rights in Scots Law
We note the slow progress from the Scottish Government on its 2018 commitment to enshrining the right to a healthy and safe environment in Scots Law, with both procedural and substantive elements. It is not clear when a draft bill will be published to incorporate the right into Scots Law.

For queries contact Hannah Blitzer, Senior Policy Officer at Wildlife & Countryside Link: hannah.blitzer@wcl.org.uk

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This Environment Links UK statement is also supported by the following organisations:

Amphibian and Reptile Conservation Trust
Bats Conservation Trust
Butterfly Conservation
ClientEarth
Environmental Rights Centre Scotland

18 UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021, Section 41.
19 The consultation can be accessed here and the consultation report here.
20 ERCS's response to the consultation can be accessed here.
21 Pages 35 to 36 of the Report.
22 John Campbell KC's opinion can be accessed here.
23 See B Christman, 'Why Scotland needs an environmental court or tribunal' (2021), available at https://www.ercs.scot/wp/wp-content/uploads/2021/12/Why-Scotland-needs-an-ECT-Oct-2021.pdf.

Friends of the Earth England, Wales and Northern Ireland
Institute of Fisheries Management
Keep Wales Tidy
League Against Cruel Sports
Marine Conservation Society
Open Spaces Society
River Action
RSPB
Scottish Wild Land Group
Seal Research Trust
Wild Justice
Wildfish