



Light Rail (UK) Group

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A warning for the near future

Government, Local Authorities and Polluters can now be sued!

1. According to Air Quality News Feb 2022 and Client Earth who successfully have taken the UK Government to court, their top adviser says individuals can sue EU/UK Governments/Local Authorities/Polluters over dirty air and has said that individuals should be able to demand compensation from EU/UK governments over harm they suffer as a result of illegal air pollution.
2. The opinion, by Advocate General Kokott, was issued to guide an ongoing court case in France, in which a citizen is asking for €21m in compensation for damage to his health caused by air pollution.
3. Kokott's opinion confirms that people have an individual right to clean air and can claim damages based on that, if certain tests have been met. She also highlights the particular impact of illegally dirty air on structurally underprivileged communities. Environmental lawyers have hailed this latest step towards protecting the right to healthy air for people across the EU.
4. ClientEarth lawyer Irmina Kotiuk said: 'Advocate General Kokott has reiterated that air quality has profound links with fundamental rights – and when those rights are infringed, people have the right to take their government to task and demand compensation for harm they suffer.'
5. 'Individuals have the right to breathe clean and healthy air and there are specific EU laws designed to guarantee this. But across the bloc, governments are failing people, with lifelong impacts, and shocking rates of premature deaths. This legal confirmation that there are routes to hold those in power to account is a major breakthrough in the fight for clean and healthy air.'
6. The EU is in the process of updating the Ambient Air Quality Directive (AAQD) – its key air pollution law. ClientEarth's lawyers say that the revised law should include a clear legal framework to clarify how people can hold their governments accountable for damage wrought on their lives by illegal air pollution.

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7. Irmina Kotiuk said: 'People everywhere in the EU are suffering the cumulative harm of constant exposure to air pollution. We need to move past an era where this is somehow considered acceptable. Legal mechanisms to hold those in charge accountable are major part of the route forward.'
8. Irmina Kotiuk, Senior Lawyer and Fundamental Rights Specialist in the clean air programme at environmental law charity ClientEarth, explains how *human rights law can be used to fight for clean air.
9. *This will be easier under the UK Bill of Rights announce today, 22 June 2022 using existing and amended UK Legislation including Health & Safety at Work 1974. **This will include identified polluters. It is possible that this Bill may be scrapped.**
10. There is by now overwhelming scientific evidence showing that air pollution has disastrous impacts on people's lives. Yet courts are only just beginning to recognise the link between one's health and the levels of air pollution in their environment. The concepts of right to life and right to health are well-established human rights concepts and we are gearing up to see them applied more and more to air pollution.
11. The damages caused by air pollution to people's health is, by this point, unequivocal. Air pollution affects the health and quality of life of people across the world on a daily basis. World Health Organization (WHO) experts decided that the new evidence on the adverse effects of air pollution demanded a response – and as a result made their guidelines more stringent in September 2021.
12. Let us not forget that protecting people's health is not only essential for wellbeing, but it also has tangible economic benefits. Analysis conducted by the Confederation of British Industry concluded that work absences related to poor air are costing Britain about £600m annually.
13. While the evidence base on air pollution impacts is strong, judges have been slow to catch up. Two recent cases are changing this – by bringing the dangers of air pollution beyond statistics to an acutely personal level.
14. **In 2020, a court in France quashed an expulsion order against a Bangladeshi immigrant living in France because his country of origin has very high levels of air pollution that would be detrimental to his asthma.** The court recognised the link between the man's asthma and air pollution in Bangladesh. It acknowledged that his asthma would be aggravated there and combined with the standard of healthcare in Bangladesh, which would significantly increase his risk of death.

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15. As local authorities there is a need to approach the air pollution issue from the perspective of fundamental rights. The health damage and risks to life posed by air pollution naturally extend to the questions of protecting the right to life and the right to health, which are well-established concepts within the human rights legal framework.
16. As Government fails to hit Environmental Targets and severe pressure from the public as the above issues become more widely known, Governments will be forced to tighten the pollution limits which from a Public Health perspective to the point that polluting rubber wheeled vehicles including public transport vehicles which pollute to be severely restricted if not withdrawn until to pollution clears. Easing of targets is not an option
17. This raises a large number of questions on the future viability of trunk roads which do not have steel on steel trams which are not affected and in reality with a high modal switch circa 28% -32%, the major tool in the bigger environmental picture
18. We have seen from around the world that when transport pollution becomes excessive, drastic measures follow including the banning of the polluting vehicles initially on alternating days based on their registration plates and Clean Air Zone Taxation. This will clearly impact on our Public Transport systems especially buses which will be forced off the road
19. How will we enable people to get to work, maintain connectivity, generate wealth etc?
20. As buses run on rubber tyres and are a significant contributor of fine particulate pollution 18% and rising, and a low modal switch, we see buses in this arena as at risk and should only be used as feeder vehicles to the low-cost tram corridor

In conclusion, the Draft Local Plan has significant missed or fail to take into account or forward project the climate changed world to come in the next 20 + years, instead reflects a thinking and provisions of a world of the sixties, using a predict and provide methodology long since proven in effective and ineffective as shown in this draft document. JH

Trams for Warrington, Respondent 0395
Submission to September 2022 Public Inquiry
on Warrington Draft Local Plan