

# TRENDS IN CLIMATE CHANGE LITIGATION

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## CLIMATE CHANGE LITIGATION SPANS A BROAD SPECTRUM OF CASES; INCLUDING:

1. Claims brought against states/governments to increase climate change mitigation and/or reduce harmful practices.
2. Cases brought against private corporations to curb carbon-emissions (often as tort or nuisance claims).
3. Planning and permission challenges to fossil fuel projects, roads investment.
4. Claims targeted at forcing institutions or businesses to take account of climate change risk in making investments, or to disclose the climate risk arising in respect of existing investments.

A report published by the LSE, Columbia Law School and the Centre for Climate Change Economics and Policy observed that climate litigation cases had been filed across six continents in the year to May 2020.



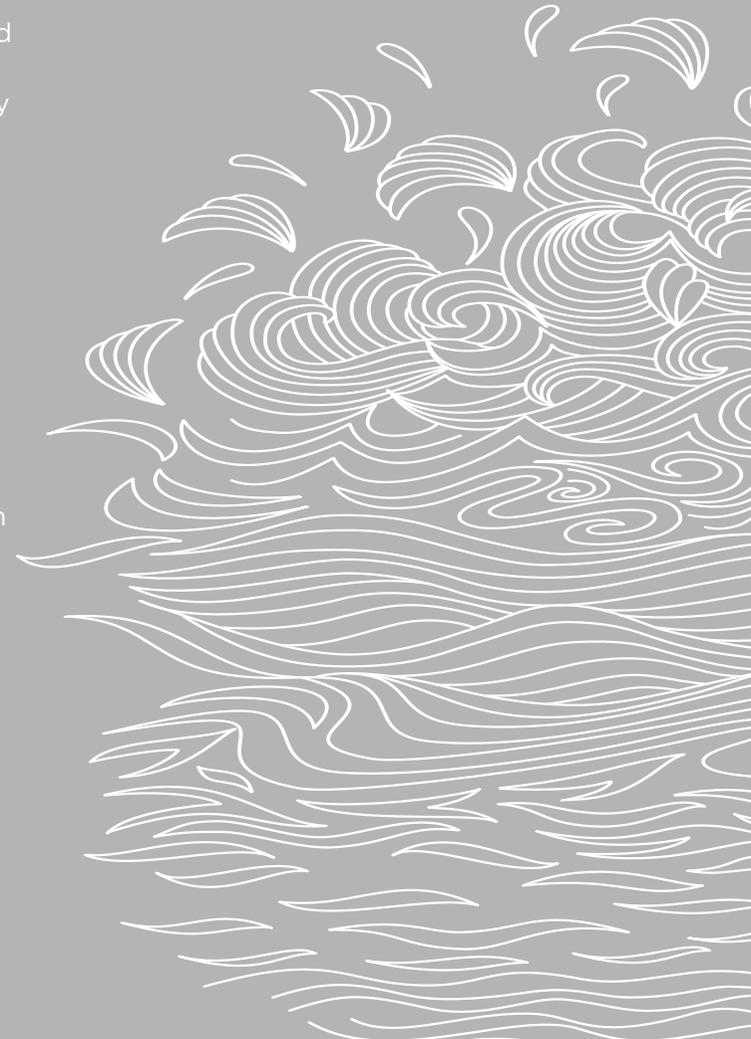
# RECENT CASES IN THE ENGLISH COURTS

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Cases are being brought at an increasing rate year on year and businesses should be alive to this increasing risk (which may affect them even if they are not a party). Recent high profile climate change cases in the English courts include cases brought by Plan B (a UK charity with the mission to realise the goals of the Paris Climate Change Agreement), in relation to fracking and in opposition to the proposed third runway at Heathrow. The Supreme Court gave judgment in the Heathrow case in December 2020, overturning the Court of Appeal's decision that the Secretary of State's decision to designate a third runway at Heathrow Government policy was a violation of the Planning Act 2008 and the Human Rights Act 1998. The Supreme Court held that the Secretary of State had properly taken the Paris Climate Change Agreement into account and acted rationally by making the decision by reference to the Climate Change Act 2008 (CCA), which enshrined Government policy on carbon targets and emissions into UK law.

In an extensive challenge to the UK Government's approach to climate change, Plan B sent a pre-action letter alleging that COVID 19 recovery plans, (including the allocation of funds to companies including Ryanair, EasyJet, Airbus and Nissan) amounted to unlawful allocation of government and Bank of England funds, contrary to the CCA. The UK Treasury responded highlighting the emergency nature of the recovery plans which it said were set up to deal with short term and acute liquidity issues resulting from economic repercussions of the actions taken to combat the pandemic. The Treasury indicated that it did not consider the COVID 19 recovery plans to be incompatible or inconsistent with the CCA and stated that the Paris Agreement has no direct effect in domestic law.

In addition to domestic cases, the English courts are a venue for international climate change litigation. Most recently, the Supreme Court ruled in February 2021 that two Nigerian communities can bring claims in the English courts for clean-up and compensation against Royal Dutch Shell plc and its Nigerian subsidiary.



# PREPARE FOR CLIMATE CHANGE LITIGATION

## AG's experience

Many of these claims involve large group actions or representative claims and also involve third party litigation funders. AG's litigation team has huge experience acting on both sides of group litigation and have over 10 years' experience in litigation financing through Control 360 [click here](#) for more information.

AG's litigators work hand in hand with our environmental, transport, projects and procurement specialists and our regulatory colleagues to give you the right team to help manage your litigation risks.



**Louisa Caswell**  
Partner

☎ +44 (0)7894 251121

✉ [Louisa.Caswell@](mailto:Louisa.Caswell@addleshawgoddard.com)

in [addleshawgoddard.com](http://addleshawgoddard.com)

[Connect with Louisa](#)



**Mark Chesher**  
Legal Director

☎ +44 (0)7738 843664

✉ [Mark.Chesher@](mailto:Mark.Chesher@addleshawgoddard.com)

in [addleshawgoddard.com](http://addleshawgoddard.com)

[Connect with Mark](#)



**Nathalie Allen**  
Legal Director

☎ +44 (0)7774 336584

✉ [Nathalie.Allen@](mailto:Nathalie.Allen@addleshawgoddard.com)

in [addleshawgoddard.com](http://addleshawgoddard.com)

[Connect with Nathalie](#)

