

**EARTH PROTECTORS
HARM &
SUBMISSIONS DOSSIER**

NOTES TO ASSIST YOU IN COURT	2
SKELETON ARGUMENT	2
YOUR DOSSIER	4
FURTHER SECTIONS YOU MAY WISH TO ADD	6
CLOSING SUBMISSIONS	9
ON THE DAY OF YOUR COURT TRIAL	10

EARTH PROTECTORS HARM & SUBMISSIONS DOSSIER

NOTES TO ASSIST YOU IN COURT

If you are representing yourself in a UK criminal court, here are some tips to assist you:

- hold the attention of your judge - do this by being concise and polite;
- give credible explanatory context to why you acted to protect your community;
- set out why your conscience has led you to protect the community under threat;
- Present your Dossier to the court to establish why the risk of harm is very real and credible - this underpins your defence (this is your opportunity to raise evidence of the seriousness of the harm, substantiated by experts in various documents);
- establish that numerous alternative routes have failed to stop the company's activities;
- all of this sets the premise as to why you assert your right to freedom of conscience as a Conscientious Protector and why you took the actions you did and why they were necessary and/or reasonable in the circumstances.

It is important that you give context by presenting the risks of the serious harm that your community faces

SKELETON ARGUMENT [to be amended by you]

If the court sets down an order for a skeleton argument in advance of your trial, you can amend and present the following (remember to serve a copy of your skeleton argument on the Court and the CPS. Make 3 copies, one for you, one for the Court and one for the CPS):

1. The Defendant has a conscientious belief that the failure of authorities to respond to the clear risks and dangers of *[enter here the nature of the dangerous industrial activity]* locally and nationally presents a serious threat to human health, public safety, the well-being of our ecology, environment and climate, both local and global. The non-violent action taken was informed by conscience and the belief that the risk of serious and cumulative harm to the immediate community and to the wider community was such that action had to be taken. The right to manifest conscience is expressly protected by Article 9 European Convention of Human Rights.
2. Article 9(2): "Freedom to manifest one's religion or belief shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others." It is submitted these limitations do not apply within the factual context of this case. The "protection of the rights and freedoms of others" is counterbalanced by the clear risk of harm that can be caused by the actions of *[enter here the nature of the dangerous industrial activity]* upon the interests of public safety, for the protection of public health. In light of the defendant's beliefs, such action was reasonable and proportionate, without causing harm or damage or giving rise to abuse.
3. The Defendant's approach is driven by conscientious protection, as protected by the right to freedom of conscience, Article 9 ECHR. The Defendant was using reasonable force to prevent a crime of harm to the environment and the community and was trying to stop any harm that could amount to a criminal activity.
4. Whilst *[enter here the nature of the dangerous industrial activity]* per se is lawful, the consequences of the activity can give rise to a significant number of crimes and, if allowed to proceed in the UK, shall exacerbate climate change. Therefore the Defendant believed that such actions were necessary and/or reasonable in the circumstances.

EARTH PROTECTORS HARM & SUBMISSIONS DOSSIER

5. The Defendant has a genuine concern that as soon as *[enter here the nature of the dangerous industrial activity]* operations commence the risk of harm commences. The Defendant therefore believed it imperative that efforts be taken to pre-empt and prevent any harm from occurring.
6. The clear risk of such crimes that may arise as a consequence of *[enter here the nature of the dangerous industrial activity]* operations include *[delete as appropriate]*:
 - (1) water contamination and any consequential breaches of assorted water legislation, for example polluting controlled waters pursuant to section 85 Water Resources Act 1991. The definition of controlled waters includes relevant territorial waters, coastal, inland freshwaters (including lakes and ponds) and groundwaters.
 - (2) Seepage of contaminants that are used in the drilling and production process into water and land resulting in pollution offences.
 - (3) Noise, nuisance, air pollution and contamination (Common law: public nuisance crimes eg. sewage leaking into rivers, Statutory nuisance: s.80 Environmental Protection Act 1990, Noise and Statutory Nuisance Act 1993 (as amended by the Clean Neighbourhoods and Environment Act 2005), Noise Act 1996, Air Pollution Regulations).
7. All are crimes that could arise from *[enter here the nature of the dangerous industrial activity]* in the UK.
8. Evidence of the consequences that arise from the risk of such serious harm has been well documented: *[enter here expert reports to substantiate the risk of harm that may arise]*
9. Regarding the safety and consequential risks of *[enter here the nature of the dangerous industrial activity]* the Defendant relies upon the actions elsewhere *[enter here examples of where the dangerous industrial activity has been prevented elsewhere]*
10. The Defendant acted from a conscientious belief and strong sense of duty of care; to act in order to prevent further possible crimes of harm against the environment and the climate, and to protect public health. The form of action used was informed, in order to draw attention to the risk of harm that can accrue from *[enter here the nature of the dangerous industrial activity]* and the dangers arising from the industrial activity itself.
11. On the basis of the above, it is submitted that the Defendant acted in accordance with the right of freedom of conscience, pursuant to Article 9, ECHR.

EARTH PROTECTORS HARM & SUBMISSIONS DOSSIER

YOUR DOSSIER

Divide your Dossier of Harm into 5 sections and put an index at the front:

- 1. Your Earth Protectors Trust Fund Document and TimeStamping Certificate**
- 2. Your Statement of Conscience**
- 3. Prevention Elsewhere**
- 4. Expert Documents**
- 5. Continuity of Exhibits Witness Statement**

Make a master copy and then photocopy it twice so you have 3 copies in total: one folder for you, one folder for the Court and one folder for the CPS (make sure to number the pages of your master copy before you photocopy it so they all have the same numbering)

Prior to your case being heard, we advise you to serve a copy of your Dossier on the court and the CPS at least 2 weeks before your trial date, so that the Court and the CPS have had sufficient time to read it.

Section 1: Your Earth Protectors Trust Fund Document(EPTF) and TimeStamping Certificate

You will already have these as email attachments which was sent to you when you became an Earth Trustee. **This is important because your EPTF document is corroborative evidence of your conscience** and belief that the Earth must be protected and that there is missing law. You have acted in the knowledge that the serious harm, although lawful, breaches a community's fundamental belief in justice. Your EPTF document forms part of your Dossier of Harm and Submissions which you can present to the court as part of your defence of your actions.

Section 2: Your Statement of Conscience

Download and complete from <https://www.missionlifeforce.org/activist-toolkit/> This is your opportunity to set out your reasonableness of action based on your conscience. In court state why you believe your action was reasonable in the circumstances, for the purposes of protecting another (that is, the community at risk) or preventing a crime (eg water or air pollution). Draw attention to the fact that the dangerous industrial activity itself is not a crime in law today, but it is the consequences that flow from it that can cause crimes - such as pollution to water and air.

Section 3: Prevention Elsewhere

Show there are communities elsewhere that have prevented your dangerous industrial activity from proceeding.

This is important because:

- it corroborates the documented harms as set out in the documents you have in your Dossier;
- it provides substance to assertions of serious harm that your and other communities face;
- it underpins your personal beliefs that drive your actions;
- your beliefs are not imagined.

EARTH PROTECTORS HARM & SUBMISSIONS DOSSIER

Section 4: Expert Documents

Show immediate + future risks and refer to documents that corroborate your beliefs.

Include here expert documents that document immediate and future risk of harm - including documents that address the same dangerous industrial activity elsewhere.

Take the time to bring to your judge's attention specific pages/sections that deal with identified risks of harm. Add to these documents if relevant - make sure they are peer reviewed documents written by experts.

Section 5: Continuity of Exhibits Witness Statement

Download from <https://www.missionlifeforce.org/activist-toolkit/>.

This is important to establish continuity and explain the authenticity of your EPTF document and Blockchain Certificate and to provide the list of countries that have apostilled the EPTF document.

EARTH PROTECTORS HARM & SUBMISSIONS DOSSIER

FURTHER SECTIONS YOU MAY WISH TO ADD

Steps taken by others

This shall assist you in substantiating why you believed you had to stand up and protect. Bring to the judges attention how many legitimate approaches and objections have been taken - for example protests, letters to MPs, environmental campaigns etc have failed. List what you know has been done, and add documentation to your dossier of examples of such harm if you have it, and take your judge to the documents that demonstrate this.

CHECKLIST

Set out below is a checklist to help you decide what further evidence and or documents you may wish to add to your dossier in addition to the above. You do not need to address all of the below - highlight and use what is pertinent to your case. Make sure you only add expert documents such as the ones listed above. Non-expert documents, press cuttings etc do not count.

- 1. NATURE OF HARM/RISK OF HARM**
- 2. URGENCY OF ACTION**
- 3. COMPANY X/STATE AUTHORITY Y/OTHER ENTITY Z [X/Y/Z] BACKGROUND**
- 4. LEVEL OF CULPABILITY OF SENIOR PERSON(S) OF X/Y/Z**
- 5. PREVALENCE OF HARM AND COMMUNITY IMPACT STATEMENT**
- 6. LEVEL OF SERIOUSNESS OF NATURE OF HARM**
- 7. OTHER AVENUES EXPLORED**
- 8. CLIMATE ECOCIDE: EVIDENCE OF CARBON MAJOR HARM**
- 9. ALTERNATIVES THAT EXIST**

[X/Y/Z]: enter here the name of Company X, State Authority Y or Other Entity

1. NATURE OF HARM/RISK OF HARM

- A. specific immediate harm that is faced (summary - see Section 5 below for full details)
- B. wider harm of which this forms/will form a part
- C. comparators: example(s) of other communities adversely affected by similar harm
- D. context: other countries (list all countries that have banned or suspended similar activities)

2. URGENCY OF ACTION

- A. reasons why critical to stop now
- B. immediacy of operations - current/imminent
- C. cumulative impact: widespread, long-term or severe (identify which applies)

3 .COMPANY X/STATE AUTHORITY Y/OTHER ENTITY Z [X/Y/Z] BACKGROUND

Include (and if unknown, request disclosure from the court):

- record of breach(es) of any orders/ regulations (current or previous) for similar activities/use of hazardous materials, pollution or waste
- record of obstruction of justice (eg letters sent threatening legal action against protectors)
- permits, agreements or contracts obtained contrary to community social licence
- concealment of harmful nature of activity
- ignoring risks identified by community

4. LEVEL OF CULPABILITY OF SENIOR PERSON(S) OF X/Y/Z

Name the individuals concerned. If the following is unknown, request disclosure from the court:

- previous convictions/cautions of senior person(s)
- any issuance of notice of harm sent to senior person(s) (this helps to establish knowledge)

EARTH PROTECTORS HARM & SUBMISSIONS DOSSIER

Identify whether the senior person(s) acts or omissions were subjectively or objectively reckless: either where the perpetrator has knowledge (subjective), or ought to have knowledge (objective) of the likelihood of ecological, climate and/or cultural harm.

- A. *Subjective Recklessness* (perpetrator knew of a risk but chose to ignore risk): actual foresight of, or wilful blindness or consent or connivance of, or to be attributable to any neglect of, on the part of a director, manager, secretary, senior official or other similarly senior person within the body corporate, state body or other entity, a risk of offending but the risk nevertheless taken.
- B. *Objective Recklessness* (perpetrator ought to have known risk): offence committed through act or omission which a person exercising reasonable care would not commit.

5. PREVALENCE OF HARM AND COMMUNITY IMPACT STATEMENT

A community impact statement is a document providing information to the court about the impact of harm on the community, current and future. Identify how the activities of ...[X/Y/Z]... will (or may be expected to) cause or contribute to serious ecological, climate or cultural loss or damage to, or destruction of ecosystems in your area and contribute to harm elsewhere; provide evidence of other communities and territories harmed from similar activities elsewhere. Identify what adverse community impact, solastalgia and pre-traumatic stress has occurred or is likely to occur.

- A. location of the offence, for example, near housing, schools
- B. livestock, environmentally sensitive sites
- C. record of incidents of harm arising from activities of ...[X/Y/Z]...in community or elsewhere
- D. adverse community impact, solastalgia, pre-traumatic stress that has occurred or is likely to occur
- E. established evidence of wider/community impact
- F. ancillary harm - eg from infrastructure - increase of traffic/fumes/noise pollution
- G. financial gain/economic claims by ...[X/Y/Z]...
- H. specific comparator activities elsewhere and consequences for their communities
- I. evidence of steps requested of/refused by ...[X/Y/Z]...to remedy problem
- J. Community impact of obstructions to justice (eg where any injunctions/letters/correspondence from company Y have had a chilling effect)

6. LEVEL OF SERIOUSNESS OF NATURE OF HARM

- A. previous unlawful or harmful conduct
- B. attempts to avoid detection
- C. attempts to conceal or dispose of evidence of harm
- D. exposure of others to more than usual danger
- E. history of non-compliance
- F. warnings by regulator
- G. non-isolated incident
- H. polluting material of a dangerous nature, eg. hazardous chemicals
- I. major or significant or minor (localised) adverse effect or damage to: air or water quality, amenity/property value, or property
- J. polluting material was noxious, widespread or pervasive with long-lasting or significant or minor adverse effect on: human health or quality of life, animal health, flora or other living ecosystems
- K. major or significant or low costs incurred/will be incurred through: clean-up, site restoration or animal/ecosystem rehabilitation
- L. major or significant or limited interference with, prevention or undermining of other lawful activities or regulatory regime due to activity of ...[X/Y/Z]...
- M. risk of other major or significant or minor harm not listed above
- N. evidence of similar harm by ...[X/Y/Z]... elsewhere

EARTH PROTECTORS HARM & SUBMISSIONS DOSSIER

7. OTHER AVENUES EXPLORED

Establish that other routes to prevent the harm have been explored (by you or the concerned community). Provide documentation. Have all other routes been exhausted? The court must be satisfied that there has been consistent attempts through democratic process to address the issue: for example, petitions by your community or by others, documents that have put elected representatives, officials, corporate or other senior persons on notice of the harm, details of local meetings. Present evidence that your questions and concerns were not satisfactorily answered and/or that the information you provided was disregarded.

Local/national

- A. letters to elected representatives (provide proof of recorded delivery if sent), corporate or other senior persons, with responses if any
- B. local meetings (documentation of questions asked and answers received)
- C. requests to local authorities or other state/public bodies to address ecological/health adverse impacts, with responses if any
- D. requests to government or other state authority to intervene where harm is present/threatened, with responses if any
- E. national petitions
- F. decisions or recommendations made by elected, other government/public, professional or expert body which have been overridden or ignored by government or other state authority (identify which local and national elected representatives have done this/voted to do this)

International

- G. 22 years of climate negotiations, Paris Agreement has no legal enforcement but is evidence of prior knowledge by governments and business.
- H. significant civil litigation increase: (The Status of Climate Litigation, a Global Review, UNEP 2017)

8. CLIMATE ECOCIDE: EVIDENCE OF CARBON MAJOR HARM

Establish that ...[X/Y/Z]... is contributing to a far more serious harm of climate ecocide which is inconsistent with global and national emission reduction commitments. See: Climate Accountability Institute report: CDP (2017) The Carbon Majors Database [www.cdp.net/en/reports/archive] for evidence of industry harm.

- A. ascertain ...[X/Y/Z]'s national/international market share of the industrial activity
- B. ascertain government targets for the industry as a whole
- C. establish how ...[X/Y/Z]'s activity at its peak shall escalate your nations greenhouse gas emissions
- D. where ...[X/Y/Z]'s activity proceeds, serious harm shall occur and establishing a normative for other industries to follow.

9. ALTERNATIVES THAT EXIST

- A. establish that there are safe alternative solutions already in existence
- B. provide evidence and statements by experts

EARTH PROTECTORS HARM & SUBMISSIONS DOSSIER

CLOSING SUBMISSIONS

The following submissions are offered as guidance of what you can say to your judge when making your closing submissions after you have presented your dossier. You can use this as your memory aid to help you speak in court to the Judge at the end of the case.

MISSING LAW SUBMISSION

Where there is missing law, there is missing justice. There is a disproportionate burden upon communities to seek justice from all other routes in the face of missing law and unjust laws that have been passed by a government that seeks to enable companies and/or other entities to proceed with dangerous industrial activity. The activities of the company/entity in question have accrued rights without the community's social licence and whilst this may be legal, it is not just. The absence of a forum to determine justice on the basis of harm that shall be endured by the community is in itself a missing justice. It cannot in all conscience be just to cause ecocide. In the overall interest of justice, where there is an absence of protection from harm, there is missing law.

How we govern our Earth when there is missing justice comes down to me and many others, as conscientious protector. For it is our conscience that governs our actions. Whatever the honest apprehension of danger is to the community, as an Earth Protector I act in peace. The circumstances in my case have wider implications, not only for the immediate community at threat but also elsewhere. Where one community is harmed by this industry, many more shall follow.

Where political will fails, what is sought is for the rule of law to prevail - from a place of justice. And although ecocide is not yet in force as a crime, I ask you as a judge to uphold justice.

CONSCIENTIOUS PROTECTOR SUBMISSION

Governments that do not stop industries such as this one from causing serious harm serve to reinforce the acceptability of this serious harm. Every time this industry is given the go-ahead, by granting of permits or otherwise, what is reinforced is a moral and legal upholding of an injustice.

This is why the Earth Protector's Trust Fund is financing a law to make it a crime to commit ecocide. Although the law is not yet in place, I invite this court to act justly and with conscience.

A court is a guarantor of fairness, not just of the laws that exist. This also applies to the consequences that can arise from its application. I ask this court, that when confronted by the risk or occurrence of serious harm, to act to ensure justice and fairness, not to criminalise those acting from their conscience who seek to protect the public from this serious harm.

As a Judge, yours is a role that reaches beyond the black letter law, therefore your decisions are premised not just upon the law but importantly how that law is applied to ensure that fairness and justice is done when the law falls short or is absent and thereby failing to prevent clear harm. I therefore invite you to stand on the side of justice and protect the protectors like me, who stand on point of conscience.

EARTH PROTECTORS HARM & SUBMISSIONS DOSSIER

ON THE DAY OF YOUR COURT TRIAL

Before your case starts

Check-in with the Prosecution lawyer

1. let him know you are representing yourself
2. check he has a copy of your Dossier

Case starts: Prosecutor (P) opens the case

P gives summary of facts

P then calls his witnesses (police usually).

After each witness has given evidence, **you then cross-examine** (XX) their evidence if you dispute any.

Your Case: you give your evidence once all P witnesses have been heard.

1. Establish your own credibility as a witness: credentials/career etc
2. "I would like to set out context of my actions and explain what I was doing and why I was doing it"
Explain to your judge that you have a checklist to refer to if need be, so that you are succinct.
3. Set out how long you have been standing on point of conscience (eg this is my first action/ this is something I have given my life to protecting against)
4. Set out evidence of the harm: take the Judge through the documents in your dossier
5. Set out what informs your conscience
6. Why you took the action you did
7. What your credentials of conscience are that underpin your actions. Take the Judge to your Earth Protectors Trust Fund Document - and explain why you support a missing law to be put in place to stop serious harm, such as the dangerous industrial activity you face. (This is important because irrespective of the view taken by the DJ the Earth Protectors Trust Fund Document has legal status and it set the context for your actions and profound sense responsibility to protect the Earth.)
8. Address the action itself - and why you decided to do this.

P then XX's you: this is your chance to say eg. no, the reason I acted the way I did was because of x.

You call your witnesses, if any

Ask her how she/he knows you, how long etc, when she came, what she saw (banners, explanation etc), Her experience of police, her understanding of why you were doing what you did, her beliefs

Show pictures if you have any (make sure you have served these on Court and P in advance)

These can be important to demonstrate what you were doing and that it was clear from the banners etc that you were taking action from a conscientious protectors stance.

Your closing speech

Highlight any factual features that are different from the evidence of the police etc.

Set out your closing submissions.

After the case

Regardless of the outcome, have some pictures of you (and hopefully some supporters who are with you) smiling outside the court building, and post them up on social media. This encourages others to be open-hearted to what you and others are setting out to achieve; more people are open to supporting Conscientious Protectors when they see them smiling! #conscientiousprotector #missionlifeforce

We wish you every success - and keep us posted!