

Access to Justice: Climate Emergency Declaration



**Policy Clinic, Open Justice Centre
Open University Law School**

***Report for the Environmental Law Foundation in relation to the local authority
Climate Emergency Declarations for the East of England
Abbreviated report 24-05-22***



CONTENTS

	<i>Page</i>
Executive summary	3
1. Introduction	4
1.1 Background	
1.2 Research methodology	
2. Findings of desktop research including information gaps	9
2.1 Climate emergency declarations	
2.2 Climate action plans	
2.3 Land use planning provisions	
2.4 Community involvement	
3. Environmental information requests	12
3.1 quantitative review	
3.2 qualitative review	
4. Key findings	14
4.1 Quantitative analysis of the climate information available	
4.2 Qualitative review of the climate information	
4.3 Climate action/update	
4.4 Approach to land use planning	
4.4.1 - Summarising note from EI request	
4.5 Approach to community involvement	
4.5.1 – Summarising note from EI request	
5. Conclusions	21
6. Recommendations and next steps	22
ANNEXES	24
1. Project team	
2. List of authorities reviewed & responding to EI requests	
3. Sample EI request letter	
4. ELF research terms/briefing	

EXECUTIVE SUMMARY

This report follows on from an eight month research project which reviewed and analysed the public information available in the East of England region relating to climate change and, more specifically, climate emergency declarations (CEDs) made by public authorities since 2019. The research formed part of a national project devised and developed by the Environmental Law Foundation (ELF).

The research was carried out in two parts: a desktop analysis of online information available relating to climate change action across the region followed by some qualitative research progress through environmental information requests of all councils seeking to clarify the work and efforts made in relation to the climate emergency including the need to rapidly reduce the level of greenhouse gas emissions being produced by society, with a particular focus on land use planning and community involvement.

Key findings of the research are that:

- 76% of councils within the East of England have made a climate emergency declaration compared to the UK average of around 82%.
- many of the councils were carrying out some progressive and effective work in securing carbon reduction, but that often meaningful action was lacking and further,
- really effective and express carbon reduction action in the areas of planning was sparse e.g. Stevenage Borough Council and Thurrock Borough Council being examples of progressive, informed climate action.

Importantly, there is still considerable work to be done in ensuring all local councils are effectively securing carbon reduction. The efforts by public bodies to reduce their own emissions is just the start and there is a need to work along local communities, businesses and others in civil society if real change is to be secured.

The next steps from this report will need to be taken quickly, and be decisive and effective if the significant carbon reduction necessary is to be secured.

1. INTRODUCTION

1.1. Background

1. The recent discussion of a climate emergency has been evident from around 2016 <https://climateemergencydeclaration.org/>. However, climate change has been an international concern since at least 1972, when the UN Conference on the Human Environment referred to evidence of 'major and undesirable disturbances to the ecological balance of the biosphere' and 'that Governments be mindful of activities in which there is an appreciable risk of effects on climate'. 20 years later, the UN Framework on Climate Change 1992 was published at the time of the Rio Earth Summit. Over 20 years later again, the Paris Agreement 2015 was drawn together largely to address the lack of action under the Framework on Climate Change. By 2018, local authorities and other public bodies throughout the world, including the UK, began declaring a climate emergency. In May 2019, the UK Parliament declared a climate emergency and around this time many local authorities (aka Councils) followed suit.
2. Climate emergency declarations (CEDs) appear to reflect two main things: a commitment by local government to act against climate change and an acknowledgement that climate change is a genuine and serious problem requiring urgent attention or else it will be too late to meaningfully solve the problem. This appears to be evident from most local authorities who made their declarations with unanimous assent, demonstrating a shared mindset among local government that they have an important role to play in preventing catastrophic climate change.
3. If it is going to be possible for the UK as a nation to achieve net zero carbon emissions by 2050, it is essential that public bodies, including local authorities, take effective action. A good first step is to declare a climate emergency. From there, it is important to determine which authorities have, in fact, made declarations and what progress may have been achieved as a consequence. This information will assist the Environmental Law Foundation¹ (ELF) in identifying areas of focus that require positive action. Subsequent to the

¹ www.elflaw.org

desktop research, students sought to identify areas in which further information could be requested from the local authorities by requesting environmental information (EI) under the Environmental Information Regulations 2004/3391 (EI Regs 2004).

1.2 Research Methodology

4. This research was undertaken by the Policy Clinic, which is part of the Open Justice Centre, at the Open University (OU) Law School. Open Justice provides free legal advice and education to members of the public in a variety of legal areas. In 2019, the Open Justice Centre established the Online Policy Clinic to undertake research on behalf of organisations and charities. The purpose of the Policy Clinic is to provide research and evidence, aiming to influence policy and law reform. It's work is overseen by experienced OU tutors who have a background in policy and advocacy. The students taking part in the Policy Clinic are in their final year of their law degree.
5. The work was undertaken in collaboration with ELF; an organisation which provides access to legal advice and action on behalf of individuals and communities and those who may be disadvantaged. ELF is concerned with the changing climate, green spaces and environmental concerns or threats. It is a charity and relies on donations and pro bono work from a vast range of educated individuals.
6. As part of the involvement of the Open University in this project, students were tasked with assisting ELF in conducting research into the current climate change emergency. Students sought to identify the status of local authorities within the East of England.
7. The instigation of policies and law surrounding climate change is in response to levels of carbon dioxide (CO₂) emissions reaching record highs and resulting in significant changes to the Earth's climate. The UK Government sought to address worldwide concerns by setting a target of net zero emissions for the UK by 2050. Consistent with the need to address the concerns of climate change from late 2018, local and national government began to make CEDs. As of 24 February 2021, around three quarters of the councils around the UK had made

CEDs² with many committing to a reduction in carbon emissions, to devising a strategy of implementation and adaptation and engaging with stakeholders in the process.

8. Desktop research was carried out to assess local authority action in relation to climate change. The work group comprising Open Justice students reviewed the East of England authorities listed in annex 2. These included county councils, unitary authorities and district councils. The basis of the review and research was to better understand the approach being taken by authorities in relation to climate change, including the action flowing from the CEDs made since 2020. After carrying out desktop research, environmental information (EI) requests were made to each council asking a series of questions to further understand what councils were doing to tackle climate change. An example of this is set out in Annex 3.
9. It is acknowledged that a number of parish and community councils across the UK have also made CEDs. Although it was impracticable to research this level of local government to the depth undertaken for this study, the EI requests that followed on from the research asked councils about their interaction with community organisations including e.g. parish councils. It looked for the answers to the questions and the information required to fill in the gaps in research.
10. The initial information as to which local authorities had made a declaration was researched directly on council websites or on the Climate Emergency Declaration website⁵ which aims to support local authorities in pursuing their CEDs by providing accessible information about best practice and providing a network where local authorities, activists, NGOs, business and local communities can work together.
11. The desktop research review informed the EI requests that the research group would later send to the local authorities. The research group looked for the information on the council websites to search for information as to what councils had published on their climate change initiatives and to chart the progress

² Environmental Law Foundation, 'Local Urgency on the Climate Emergency? A review of local authority Climate Emergency Declarations and supporting action across the UK (Oct 2021) <https://elflaw.org/community-resources/> (accessed online 5.5.22)

readily available to the public. The presence or absence of this information could then be a useful indication of whether the councils lived up to their commitment to tackling climate change and the declaration that it was a climate emergency.

[....]

5. CONCLUSIONS ON EAST OF ENGLAND

12. The following conclusions are drawn from the research:

- 1) That the region was below average in terms of councils making a CED (around 76% for the East of England compared to a UK average of around 82%).
- 2) EI requests were sent out to all 50 councils and 26 councils responded by the 8 April 2022 the last date afforded by the 20 working days under the EI Regs 2004. Essex County Council responded late on the 25 April 2022.
- 3) Information on climate change efforts (both mitigation and adaptation) needs to be more accessible to the individuals and communities. Finding, reviewing and understanding the data considered in this report was extremely time consuming and at times complex, even though it was carried out by informed researchers who were guided by experienced tutors and supervisors.
- 4) Despite lengthy and extensive research and a follow up with environmental information requests seeking to clarify areas of uncertainty, a number of councils still have key gaps in their information provision. This appears inconsistent with the increasing and progressive obligation on councils, as public bodies, to provide such information.
- 5) Many local authorities appear to be handling the climate emergency in their own way, although there is some evidence of cooperation and collaboration see e.g. the partnership approach taken by Essex County Council and a number of district/borough councils. If there is going to be effective and significant action on carbon reduction to address the climate emergency; collective and collaborative action linking all sectors of civil society will be critical: linking public and private sectors; individuals, public bodies and businesses; and at a local, regional, national and international level. The absence of significant collaborative working is of concern.
- 6) The research c found that 17 of the councils (34%) showed evidence of community involvement. The remaining councils showed no evidence of

community involvement however several councils are making attempts to implement measures to involve the local community in the near future. There appears to be lack of the necessary urgency required to address the climate emergency in this regard.

- 7) The research conducted found evidence of encouraging a reduction in carbon emissions for land use planning within 20 councils, however of the councils that responded to the EI requests none of them had refused planning applications primarily on the basis of climate change concerns. From the research, there was no other indication that councils had been prepared to refuse planning permission on climate change grounds.
- 8) While it is noted that well over $\frac{3}{4}$ of all councils in the East of England have declared a climate emergency; there is little if no hard evidence that 'emergency' action is being taken such that it is likely to have a material difference reducing GHG emissions in the region. This is disappointing.
- 9) Further while the commitment to being carbon neutral by 2030; this aim, at best, relates only to scope 1 – 3 emissions alone and there is no evidence that significant GHG emissions reduction in scenarios where councils have indirect but nevertheless significant influence such as planning decisions.
- 10) It is now 6 months on from COP26 and while it seems that climate action in has not stalled in 2022, there is little evidence that there has been a necessary significant increase in direct action to reduce emissions and elevated community action.
- 11) There is little evidence that councils are now already close to being one third into their journey towards carbon neutrality by 2030 and that time is running out.

6. RECOMMENDATIONS AND NEXT STEPS

13. Drawing together the research, key findings and conclusions on the East of England region, the Open Justice Centre makes the following recommendations:
 - 1) That public bodies including national governments provide greater transparency and accessibility in relation to climate action. In short, this is

likely to mean that climate change concerns are given greater weight and considered more seriously than at present. The value in pursuing most actions on climate action is that there are associated benefits such as e.g. reducing local air pollution levels (by e.g. deep green travel plans); improving health of the community by e.g. encouraging a healthier diet including reducing meat and dairy consumption; improving housing conditions by improving insulation; reducing operational costs by e.g. reducing energy use.

- 2) That climate action is taken in a more organised and structured way; with clear targets, objectives and plans in place. This in turn will assist greater stakeholder involvement including working alongside other public bodies, individuals, community groups and businesses.
- 3) That there is increased collaborative working across civil society.
- 4) That there is increased funding (necessary at least in the short term to facilitate the above work).
- 5) The work carried on by the OU Open Justice Centre has resulted in developing a significant data set and baseline that may be used as a springboard. There could be further research and development in helping to progress the recommended steps as above. However, while much of the work to date has been done within internal project practices with considerable pro bono support a proper funding structure should be put in place to help develop further work in this area.
- 6) Time is of the essence. Any next steps need to be taken quickly if public bodies and stakeholders are taking climate concerns seriously. If even a modest 3 year project of support work is started, this will conclude in 2025 and where public bodies will be halfway towards the intended net-zero ambitions by 2030. There is much work to be done.

6 May 2022

Chloe Levi Redgrave

David Nixon

Rushil Khatri

Ryan Henry-Blake

Naomi Holford
Courtney Hack
Percival Morson

on behalf of the Open Justice Centre
The Open University, Milton Keynes MK7 6AA

General enquiries to: open-justice@open.ac.uk

Web: <https://www.open.ac.uk/open-justice/>

Twitter: @OU_OpenJustice

ANNEX 1 Project Team

The students were in a group who worked in the main separately. They came together for joint meetings to discuss their progress and findings.

Chloe Levi Redgrave

David Nixon

Rushil Khatri

Ryan Henry-Blake

Naomi Holford

Courtney Hack

Percival Morson

Supervising tutors

Dr Paul Stookes, Associate Lecturer (Open Justice Project) , Open University

Paul Dale, Associate Lecturer, Open University

ANNEX 2: Local authorities being reviewed

Councils marked with * responded to the EI requests

Babergh District Council	https://www.babergh.gov.uk
* Basildon Council	https://www.basildon.gov.uk/
* Bedford Borough Council	https://www.bedford.gov.uk/
* Borough Council of King's Lynn & West Norfolk	https://www.west-norfolk.gov.uk/
Braintree District Council	https://www.braintree.gov.uk/
Breckland Council	https://www.breckland.gov.uk/
* Brentwood Borough Council	http://www.brentwood.gov.uk/
* Broadland District Council	https://www.broadland.gov.uk/
Broxbourne Borough Council	https://www.broxbourne.gov.uk
Cambridge City Council	https://www.cambridge.gov.uk/
* Cambridgeshire County Council	https://www.cambridgeshire.gov.uk/
Castle Point Borough Council	https://www.castlepoint.gov.uk/
* Central Bedfordshire Council	https://www.centralbedfordshire.gov.uk/
* Chelmsford City Council	https://www.chelmsford.gov.uk/
Colchester Borough Council	https://www.colchester.gov.uk/
* Dacorum Borough Council	https://www.dacorum.gov.uk/
* East Cambridgeshire District Council	https://www.eastcambs.gov.uk/
* East Hertfordshire District Council	https://www.eastherts.gov.uk/
East Suffolk Council	https://www.eastsuffolk.gov.uk/
Epping Forest District Council	https://www.eppingforestdc.gov.uk/
* Essex County Council	https://www.essex.gov.uk/
Fenland District Council	https://www.fenland.gov.uk/
Great Yarmouth Borough Council	https://www.great-yarmouth.gov.uk/
Harlow District Council	https://www.harlow.gov.uk/
* Hertfordshire County Council	https://www.hertfordshire.gov.uk/home.aspx
* Hertsmere Borough Council	https://www.hertsmere.gov.uk/Home.aspx
Huntingdonshire District Council	https://www.huntingdonshire.gov.uk/
* Ipswich Borough Council	https://www.ipswich.gov.uk/
* Luton Council	https://m.luton.gov.uk/
* Maldon District Council	https://www.maldon.gov.uk/site/
Mid Suffolk District Council	https://www.midsuffolk.gov.uk/
* Norfolk County Council	https://www.norfolk.gov.uk/
* North Hertfordshire District Council	https://www.north-herts.gov.uk/
North Norfolk District Council	https://www.north-norfolk.gov.uk/
* Norwich City Council	https://www.norwich.gov.uk
Peterborough City Council	https://www.peterborough.gov.uk/
Rochford District Council	https://www.rochford.gov.uk/
South Cambridgeshire District Council	https://www.scambs.gov.uk/
Southend-on-Sea Borough Council	https://www.southend.gov.uk/
* South Norfolk Council	https://www.south-norfolk.gov.uk/
St Albans District Council	https://www.stalbans.gov.uk/
* Stevenage Borough Council	http://www.stevenage.gov.uk/
* Suffolk County Council	https://www.suffolk.gov.uk/
* Tendring District Council	https://www.tendringdc.gov.uk/
Three Rivers District Council	https://www.threerivers.gov.uk/
* Thurrock Council	https://www.thurrock.gov.uk/
Uttlesford District Council	https://www.uttlesford.gov.uk/
* Watford Borough Council	https://www.watford.gov.uk/
* Welwyn Hatfield Council	https://www.welhat.gov.uk/
West Suffolk Council	https://www.westsuffolk.gov.uk/