



Charles Morgan

Call: 1978



Contacts

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Area of expertise

Arbitration, Civil & Commercial, Inquests & Inquiries, Planning & Environmental, Public Law, Regulatory & Competition.

Education

MA (Clare College, Cambridge) JJ Powell Prizewinner (Middle Temple) Fellow of the Chartered Institute of Arbitrators

Practice

Charles Morgan's principal areas of practice are environmental law and commercial property law. He has a particular interest in all areas of water and water industry law which has led to appearances in a huge variety of courts and tribunals all over England & Wales including the Magistrates Court, Government Inspectors, the County Court, the Crown Court, the Queen's Bench Division, the Chancery Division, the Technology and Construction Court, the Administrative Court, the Court of Appeal, the House of Lords and the Supreme Court. He also has extensive experience of areas of waste law, in particular the WEEE régime (he has appeared in both of the only two reported cases). He is equally confident in addressing public law and private law issues, which often arise together in environmental disputes. Whilst a member of the Attorney-General's Regional Panel Charles represented the Environment Agency in numerous important regulatory appeals before government inspectors as well as advising upon all aspects of the Environment Agency's functions in relation to the aqueous environment. He also represented a large number of other manifestations of central government, in particular Her Majesty's Revenue & Customs in the VAT And Duties Tribunal. He has always acted for local authorities and continues to do so, mainly in relation to compulsory purchase and compensation cases and other areas of environmental and property law. Charles' earlier career provided a thorough grounding in many aspects of Chancery commercial work including building and engineering contracts, insolvency, banking, insurance and sale of goods which render him an unusually versatile practitioner capable of recognising, understanding and advising fully upon all aspects of the real-life multi-faceted situations which affect businesses, individuals and public bodies. Charles has been since 1992 a Fellow of the



Chartered Institute of Arbitrators and has extensive experience of commercial arbitration and mediation, particularly in the fields of construction/engineering and property law.

Areas of Experience

Environmental Law Water and water industry law (see separate section below) Waste regulation including WEEE Contaminated land Air pollution Noise pollution Statutory nuisances Statutory charging, licensing and permitting régimes Statutory appeals to the Secretary of State Public inquiries Prosecution and defence of environmental crime **Water and Water Industry Law** Statutory charging, licensing and permitting régimes Statutory appeals to the Secretary of State Water resources, abstraction and supply Sewage and trade effluent disposal Water pollution Sewer flooding Water escapes and leaks Land drainage Flooding and flood defence Bridges, weirs, sluices, fish passes and similar structures in, over or under water Rights in pipes and to supply or flow of water Mooring and navigation rights **Commercial Property Law** Easements Restrictive covenants Adverse possession Boundary and neighbour disputes Land registration Compulsory purchase and compensation Development agreements Business tenancy renewal Rent review Dilapidations claims Construction of lease terms Rights in pipes and cables Commercial arbitrations and mediations

Reported/Significant Cases

Environment Agency v Dugbo and Jordan (2016) unreported (Crown Court at Leeds) – successful defence of the former director of a waste recycling company following a 7 week trial for alleged conspiracy to defraud producer compliance schemes by the large-scale production of false WEEE evidence notes and supporting documentation; co-accused received on conviction [the longest sentence for environmental crime ever secured by the Environment Agency \(7½ years\)](#). Specialist junior counsel on the regulatory and corporate aspects. Per His Honour Judge Neil Clark in his sentencing remarks: “*What I found really amazing was the amount and complexity of the false paperwork. The scale of the investigation here was enormous.*” ***The Manchester Ship Canal Company Ltd. v United Utilities Water plc (Middle Level Commissioners and others intervening)*** [\[2014\] UKSC 40](#); [\[2014\] 1 WLR 2576](#) (Supreme Court) – existence and extent of implied rights of discharge into private watercourses for sewerage undertakers following privatisation of the water industry in 1989. Leading counsel for the Middle Level Commissioners (a statutory water level management organisation and internal drainage board) as interveners. ***Electrical Waste Recycling Group Ltd. and City Electrical Factors Ltd. v Philips Electronics UK Ltd. and others*** [\[2010\] EWHC 2064 \(Ch\)](#); [\[2011\] PTSR D5](#) - WEEE Directive and Regulations - compliance schemes - nature of producers’ obligation to finance the cost of collection and recovery of their waste products - scope of Directive entitlement to “conclude agreements stipulating other financing methods” - whether UK Regulations properly implemented the Directive in this respect. Other interlocutory proceedings are also reported at [\[2011\] EWHC 3747 \(Ch\)](#) and [\[2012\] EWHC 38 \(Ch\)](#). ***R (oao REPIC Ltd.) v Secretary of State for Business, Innovation and Skills and Environment Agency*** [\[2009\] EWHC 2015 \(Admin\)](#); [\[2010\] Env LR 24](#); [\[2010\] PTSR 550 \(Administrative Court\)](#) WEEE Directive and WEEE Regulations 2006 – whether Regulations properly implemented Directive – whether Environment Agency obliged to enforce Regulations – construction of Regulations. Acted for a compliance scheme as an interested party. ***Graham v Council of the City of Newcastle upon Tyne*** [\[2009\] UKUT 281 \(LC\)](#) (Upper Tribunal, Lands



Chamber) – compulsory purchase – acquisition to assist supermarket site assembly within an inner urban ‘Action Area’ – character of ‘no scheme world’ – Pointe Gourde principle **United Utilities Water plc and others v Environment Agency (2008)** (Government Inspector) - statutory appeals under the Water Resources Act 1991 by six sewerage undertakers in 2008 following the final determination of c.4000 “deemed consents” granted on privatisation of the water industry in 1989 **United Utilities Water plc and others v Environment Agency (2007)** (Government Inspector) -test appeals under the Water Resources Act 1991 against conditions imposed by the Environment Agency upon discharge consents relating to wastewater treatment works in implementation of the Dangerous Substances Directive **United Utilities Water plc and others v Environment Agency (2007)** (Government Inspector) -test appeals under the Water Resources Act 1991 against conditions imposed by the Environment Agency upon discharge consents relating to combined sewer overflows in implementation of the Urban Waste Water Treatment Directive. **United Utilities Water plc and others v Environment Agency (2007)** (Government Inspector) - test appeals under the Water Resources Act 1991 against conditions imposed by the Environment Agency upon discharge consents relating to combined sewer overflows in implementation of the Bathing Water Directive **Yorkshire Water Services Ltd. v Environment Agency (2006)** (Government Inspector) - test appeals under the Water Resources Act 1991 against conditions imposed by the Environment Agency upon discharge consents relating to combined sewer overflows with pumped offline storage **Poon v Bon Appetito Ltd. (2005) Lawtel LTL 27/1/2005 L. & T. Review 2005, 9(3), 75-78** (Newcastle County Court, Judge Behrens) – ‘management agreement’ between tenant of a restaurant and occupier – whether in substance an unlawful sub-tenancy – whether remediable breach – whether relief from forfeiture should be granted. Despite its humble origins and obscurity, described by Mark Pawlowski in L. & T. Review 2006, 10(1), 19-22 as “an important county court ruling”. **Yorkshire Water Services Ltd. v Environment Agency (2002)** (Government Inspector) - appeal under the Water Resources Act 1991 in respect of the first UK licensing by the Environment Agency of an aquifer storage and recovery scheme for public water supply **Roberts v Howlett [2002] 1 P&CR 19 (p.234)** (Ch.D.) – construction of restrictive covenant to use premises only as a single private dwellinghouse – letting to students for profit – whether breach of covenant **Environment Agency v R Newcomb & Sons Ltd. [2002] EWHC 2095 (Admin); [2003] Env LR 12 (p.288)** (Administrative Court) – Environmental Protection Act 1990 section 33 – offence of deposit of controlled waste – construction and scope of exemption contained in paragraph 19 of Schedule 3 to the Waste Management Licensing Regulations 1994 – incidence of burden of proof of availability of exemption **Public inquiry into applications by Northumbrian Water Ltd. for consent to make discharges into the North Sea at Sunderland (2001)** (Government Inspector) - representation of the Environment Agency at an ad hoc inquiry ordered by the Secretary of State into the adequacy of the proposed new sewerage system for Sunderland following public concern over the likely frequency and quantity of storm discharges from combined sewer overflows **Colvin v Watson [2001] PLSCS 130** (Ch.D.) – construction of restrictive covenants binding a residential estate – covenant against building on less than quarter of an acre – criteria for determining area of plot – extent of power of estate committee to withhold consent to development **Duffy v Newcastle United Football Co. Ltd. (2000) “The Independent” 7 July** (Court of Appeal) – the “Save Our Seats” litigation – construction of “bond” entitling holder to seat in stadium – redevelopment of stadium - circumstances in which seat could be changed – Unfair Contract Terms Act 1977 **Royal Insurance Property Services Ltd. v Cliffway Ltd. [1996] EGCS 189** (Ch.D.) – construction of



rent review clause – whether clause permitted downward review – whether tenant entitled to initiate a review ***National Rivers Authority v The Newcastle and Gateshead Water Company [1991] RVR 48*** (House of Lords) – legality of charging scheme for water abstraction licences

PUBLICATIONS

Property Insolvency Butterworths, March 2015 Author of chapter on “Environmental Liabilities” **"The fallout from the falling-out over the outfalls. The Manchester Ship Canal decision in the Supreme Court"** (2014) 24 Water Law 15 (republished in UKELA e-law November/December 2014 issue #85) **"The Right to Connect to A Public Sewer - A Moot Point. The Barratt Homes Decision in the Supreme Court"** (2009) 20 Water Law 28 **"The Year's Hottest Cases Reviewed - Part 3 - Water - Sewerage - Pollution"** (distilled content of lecture delivered to UKELA 2009 Annual Conference at Durham) (2009) 21 ELM 230

Recommendations

“He is very, very sharp and accessible, and has a crystalline mind.”

Chambers UK Bar Guide [2018]

“The reference brain for water regulatory work, while practical and superb to work with.”

Legal 500 [2017]

“He brings natural enthusiasm to projects and cases. He is a very solid professional who communicates well, is an excellent technician and has an excellent brain.”

“He is an expert in water and drainage law. A great man for attention to detail and he really gets to the bottom of arguments.”

Chambers UK Bar Guide [2017]

“An expert in water issues; he has great enthusiasm for the subject and is one of the leading juniors in this area.”

Legal 500 [2016]

“Charles Morgan is known for his “intricate knowledge” of water industry law. He also advises clients on cases regarding contaminated land, noise pollution and statutory nuisances.”

Who's Who Legal UK Bar [2016]

“He is very thorough and has excellent technical knowledge. A determined advocate.”

“Very experienced and very knowledgeable.”



Chambers UK Bar Guide [2016]

“...Charles Morgan, whose work relating to water resources, land restoration and aftercare, flood defence and contaminated land offers him a ‘formidable reputation’.”

Who’s Who Legal UK Bar [2015]

“...capable of producing a phenomenal standard of work and advice.”

Chambers UK Bar Guide [2011]