

UKELA's Annual Conference at Cambridge University celebrating its 25th Anniversary. From left: Richard Macrory QC (UCL), Vicki Elcoate (Former UKELA Director), Jeffrey B Gracer (Sive, Paget & Riesle) and Prof Colin Reid (University of Dundee).

## In this issue

- [Editorial .....1](#)
- [Words from the Chair ....2](#)
- [News .....3](#)
- [Student news .....5](#)
- [60 Second interview.....6](#)
- [Contributed articles.....7](#)
- [Student article .....11](#)
- [Conference speech .....15](#)
- [UKELA Events .....21](#)
- [Fundraising Events.....24](#)
- [Non-UKELA Events .....25](#)
- [Adverts & tender opportunities .....27](#)
- [About us .....42](#)



Catherine Davey is extremely hard to follow... Not only did she produce the first edition in 2001, she has been committed to editing the journal for more than 12 years and has implemented some significant enhancements during this time to make it one of the most valued UKELA membership benefits.

This is the first edition that I am editing. Thankfully, I have the support of Linda, Alison and the new e-law editorial board to help me with this task. The team comprises Kirsty Schneeberger, Haydn Davies, James Taylor, and Nicola Peart. No doubt, we will be in contact with Catherine over the coming months to seek her advice on the journal's direction.

You may have seen the survey we recently sent to members seeking feedback on e-law. The purpose of the survey is to find out how you currently use e-law and to gather your thoughts on any changes we might be able to implement. Many thanks to those who completed the survey. We have received more than 100 responses and are extremely grateful for your input. We will be analysing the results over the next few weeks and hope to implement any improvements by early next year.

This month's edition is full of news, events, articles and Lord Rees' inspiring conference speech. We also have a new student article feature. Students now have the opportunity to be published in e-law and make contact with an experienced practitioner for their expert comment. The first article is written by Becki James and co-authored by Angus Evers. Many thanks to Nicola Peart for developing this fantastic student initiative. Details about the next deadline for student submissions will be posted shortly on facebook and twitter.

We would like to encourage article contributions from across our membership (from private practice solicitors to in-house lawyers, the public sector, academia, the bar and students). To help us plan ahead, please let me know as soon as possible if you are interested in writing an article for the next edition. The deadline for submissions is 6 November 2013.

I look forward to working with you on e-law and to receiving your continued feedback on e-law's development.

Best wishes,  
*Hayley Tam*

Hayley Tam  
[hayley.tam@lexisnexis.co.uk](mailto:hayley.tam@lexisnexis.co.uk)  
0207 400 2793

## Words from the Chair



The summer has seen no shortage of activity and change in environmental law and practice. This includes real changes in what happens, day to day. The rapid adoption of the 'tick box' approach to obtaining a protective costs order under CPR Part 45 (VII) is a good example. That which was often a lengthy process is now codified and the tick in the 'Aarhus' box on the claim form is all that is done in very many cases now. I have not seen a quantified assessment of the change, but I would be surprised if it were not significant. However, those at UKELA's 25th anniversary conference in Cambridge will be keenly aware that there are more chapters to occupy us in that story.

The conference was certainly a summer highlight - both for its content and the wonderful weather - and I am very grateful to the dedicated team and main sponsors at Landmark Chambers, 39 Essex Street and Exponent, who made it so memorable.

Aarhus and its impacts seem never to be far away and even made it into the mainstream media this month. Article 7 of the Aarhus Convention formed the basis of the Avich and Kilchrenan Community Council's complaint that the renewables policy which underpinned a wind farm proposal was not subject to adequate public consultation. The Community Council succeeded in its complaint. UKELA's conference will be in Edinburgh next year and will be focused on energy and the environment. There is much for UKELA to contribute in the dialogue that seeks to resolve the tensions between protection of many types of environmental asset and the sustainable supply of our energy needs. We will see more in that regard.

Elsewhere in this edition you will see the Evers/James article on environmental legislation and business needs. It includes the well-known inverted pyramid which illustrates the waste hierarchy. The relationship between 'recovery' and 'disposal' within the meaning of the Waste Framework Directive will shortly be the subject of some more learning when it is analysed during October by the Court of Appeal in *Skrytek v Secretary of State for Communities and Local Government*.

Summer activity has included the completion of our response to the coalition Government's consultation on the balance of competences between the UK and the European Union. That less than catchy title does not prompt its addition to a holiday reading list, but the potential effects of the review are fascinating. Several UKELA working parties drafted our response, ably summarised by Rosie Oliver in this edition. I commend that to your reading list and thank the working parties for such thought and hard work.

There is change for UKELA too, with new Council members elected in July and our new Executive Director, Linda Farrow, taking up the reins. A warm welcome is extended to them. Several of our Council members have also been working on a new approach to e-law and what it delivers - of which more next time.

Recently qualified and student members will find opportunities here to enhance their experience by direct involvement in UKELA's management and future strategy. If you or your colleagues are interested in our intern role supporting our work in Wales, would enjoy being a Student Advisor to UKELA's Council, or would get satisfaction and an enhanced profile as an Editor for our *Law and Your Environment* website, Linda Farrow would be pleased to hear from you.

Richard Kimblin, UKELA Chair  
[rk@no5.com](mailto:rk@no5.com)  
0870 203 5555

# News

## "Light Touch" Strategic Review

As part of planning for 2014 and future years, Council will be conducting a "light touch" review of UKELA's current strategy over the coming months. Watch this space for more news.

## 25th Anniversary Fundraising Update

We are making great progress towards our £25,000 target for our '25 4 25' campaign. With your support, we have raised over £11,000 for UKELA's 25<sup>th</sup> anniversary. This is equivalent to some £8 per UKELA member.

Our next fundraising event is an exciting evening of art, drinks and canapés at *Free Spirit* – an exhibition exploring how art is influenced by the environment. Hosted by Simmons and Simmons on 26 September, the night will feature a new breakthrough British contemporary artist together with privileged access to work by renowned artists. You can register for this unique event on the Free Spirit events page.

Thanks to everyone who has taken part in '25 4 25' so far. Please keep your support coming so we can hit our target! If other commitments mean you can't be directly involved, why not offer a valued client a ticket to the art exhibition? Further information on our fundraising programme is available in the UKELA events section of e-law. You can also visit the [25 4 25 appeal](#) on our website.



## Subscriptions Increase Held at Inflation

Council has agreed that a small, across the board increase of 3% in annual subscriptions will be implemented from January 2014. The increase will not apply to those in the lowest membership tier (students, unwaged, trainee solicitors, graduate consultants and pupil barristers). This increase is in line with inflation and reflects increasing costs across the organisation.

UKELA continues to operate a strict budget, along with others in the voluntary sector, necessitating these modest increases. The Trustees believe, however, that our subscription rates continue to offer excellent value for money, with a continuing wide range of benefits for members. These benefits include reduced rates for events, a leading annual conference in the sector, professional development opportunities and a variety of information and networking services, as well as e-law itself. The increase will be reflected in your January renewal. Details are in the table below.

Membership Tier	2013 rate	2014 rate
Individual	£65	£67
Public Body individual/retired	£50	£52
Student/grad/unwaged	£15	£15
Corporate private company	£385	£397
Corporate statutory body	£145	£150
Corporate local authority	£85	£88
Corporate NGO	£65	£67

Trustees want to make sure that the programme of activities reflects members' needs and interests. If you have any suggestions on topics you would like covered or events you think would add value, please let your regional convenor know or contact Alison Boyd.



## Working Party News

Are you interested in joining one of our specialist working parties?

Or perhaps you used to be involved in a working party but slipped off the mailing list when you changed jobs or email address? Our working party convenors are currently updating their membership lists. They want to hear from anyone who would like to be involved but is not currently receiving communications. If that's you, please contact the relevant convenor. You'll find a list of all the working parties on our [website](#).

## Regional Group News

Simon Tilling of Burges Salmon in Bristol is the new Regional Group Co-ordinator on Council. Simon is featured in this month's regular e-law column, the 60 Second Interview of UKELA members.

Simon will be writing to regional group convenors shortly to introduce himself and offer support where it is needed, particularly in planning for the 2014 events programme.

Meanwhile, UKELA groups across the UK have an exciting programme of events this Autumn, with annual conferences for Scotland and Northern Ireland, and the first meeting of the re-constituted Wales Working Party all taking place in October.

## Review of the Balance of Competences between the United Kingdom and the European Union: environment and climate change

Following David Cameron's commitment to a future referendum on Europe, the UK government is conducting a review of the balance of competences between the UK and the EU for all the main areas of EU competence. As part of this exercise, Defra and DECC issued a call for evidence in May concerning the environment and climate change.

A team of five working parties (climate change and energy, nature conservation, waste, water and Wales) worked hard over the summer preparing the UKELA response. Some of the consultation questions appeared to suggest that the government is open to pressing for reduced EU competence on certain matters and for the repeal of Directives - and the implementing legislation - judged not to be beneficial.

In this context, our response emphasised the critical role that European law has played in driving environmental improvements in the UK and across Europe, and strongly supported continued EU competence in these areas. We stressed the advantages of dealing with cross-border issues with common rules, thereby also providing a level playing field. But we also highlighted areas - identified in our report on the State of UK Environmental Law in 2011/12 - where EU legislation needs to be reformed to make it more effective.

The consultation paper and UKELA's response are available on the [Nature Conservation Working Party website](#).

# Student news

## Student Summit, 4pm to 6pm 25 September 2013, Kings College London

Would you like to join our second annual student summit to be held on Wednesday 25<sup>th</sup> September at Kings College London? This is your chance to help shape student activities and competitions for the forthcoming year. We will:

- review this year's student package;
- talk about what has worked and what has not; and
- plan what UKELA will offer its student members going forward.

If you would like to be part of the planning for next year, alongside senior Trustees, staff from the organisation and our student advisers, then please email Alison Boyd with your details: [alisonboyd.ukela@ntlbusiness.com](mailto:alisonboyd.ukela@ntlbusiness.com)

## Student Careers and Social Evening, 6pm, 13 November 2013, London

Come along to this annual event to find out more about careers across the field of environmental law. Open to both members and non-members, this is your opportunity to pick the brains of professional people in the sector. Full details in the UKELA Events section.

## Student Adviser to UKELA Council Needed

Council is seeking a new Student Adviser to take over from Ben Du Feu, who has completed his studies and entered the world of work. If you are interested in influencing the way in which UKELA meets the needs of its student members and gaining useful experience to enhance your professional profile. Further details are available in the [Adverts](#) section of e-law..

## Intern Opportunity – Wales Working Party

Our Working Party in Wales is recruiting an intern 6 hours per week for an initial six-month role. This is a fantastic opportunity to contribute to the marketing of the emerging strategy in Wales, and shadow the development of ground-breaking legislation such as the Future Generations Bill. Further details are available in the [Adverts](#) section of e-law.



# 60 Second interview

## Simon Tilling

Simon practices environmental law at Burges Salmon and became a UKELA Council member this July. When not grappling with knotty environmental regulations, Simon can be found deep in the Somerset countryside running around after his two year old son, James.



### What is your current role?

I am a senior associate in Burges Salmon's environmental law team, specialising in environment disputes such as civil claims, criminal prosecutions, regulatory appeals and judicial review proceedings, alongside the usual regulatory and transactional advice.

### How did you get into environmental law?

As a chemistry graduate, I wanted to find a way to use my science within the legal sector, and I thought environmental law might be the answer. I was interested in environmental issues and thought it would be an interesting, and expanding, area of work. In truth, at the time I did not really know what environmental law was, but looking back it was a good choice – I think a good understanding of scientific principles certainly helps with my role. I was aware that Burges Salmon had a strong environment team so I applied to train with them and, nearly a decade later, I am still here!

### What are the main challenges in your work?

The main challenge is also the reason environmental law is such an exciting area: the fast pace of change in environmental science, law and policy keeps us on our toes. Variety is the spice of life and my workload is certainly varied. The work we do is never out of the headlines and everyone has an opinion!

### What environmental issue keeps you awake at night?

I am an eternal optimist and a firm believer in the collective intelligence of humankind, so I think we will (eventually) find scientific, technical and (dragging its feet) legal and policy solutions to the environmental issues we are facing. What does keep me awake at night is the night-time wanderings of my toddler.

### What's the biggest single thing that would make a difference to environmental protection and well-being?

Sensible, pragmatic, long-term policy and law based on sound science (does that count as one single thing?).

### What's your UKELA working party of choice and why?

It is a bit unfair to single anyone out because they all do an excellent job and my work crosses so many areas but, as a litigator, I find the work of the environmental litigation working party particularly valuable.

### What's the biggest benefit to you of UKELA membership?

The people. UKELA is a great network of interesting and enthusiastic practitioners and academics who enjoy what they do. The opportunity to meet up at UKELA events and conferences to exchange ideas is the reason I keep actively involved.

# Contributed articles

## Key changes to the CRC Energy Efficiency Scheme

Rachel Blackburn, Burges Salmon



### At a glance

- CRC Energy Efficiency Scheme Order 2013 in force 20 May 2013.
- Revokes and replaces the existing CRC legislation, subject to certain provisions which continue to have effect (with amendments) for the rest of Phase 1.
- Most of the changes will be introduced from 1 April 2014 in the next phase of CRC.

### An effort in simplification

The Carbon Reduction Commitment Energy Efficiency Scheme (CRC) has rarely been out of the spotlight since its inception. Prior to the recent simplification efforts by Government, research has shown that nearly half of stakeholders in the private and public sector said they did not fully understand what was involved in buying allowances for CO<sub>2</sub> emissions and 44% were also unclear about forecasting their CO<sub>2</sub> emissions.

In December 2012, following consultation, the Government confirmed the changes that would be made to simplify the CRC scheme.<sup>1</sup> The CRC Energy Efficiency Scheme Order 2013 (CRC Order 2013), which implements these changes, was laid before Parliament on 4 March 2013 and came into force on 20 May 2013. The CRC Order 2013 revokes and replaces the existing CRC legislation, save for certain provisions that will continue to have effect (as amended) for the remainder of Phase 1.

With this most recent round of amendments, the Government aimed to reduce the complexity of the CRC scheme and address the key criticisms levelled by stakeholders since the scheme's introduction. The Government estimates that the amendments will result in a 55% reduction in administrative costs for scheme participants, equating to £272m up to 2030.

### When will the changes come into force?

The large majority of the proposals will be introduced for the next phase of the CRC (referred to as the 'initial phase' in the CRC Order 2013 but as Phase 2 in this article), which will commence on 1 April 2014. However, the CRC Order 2013 does provide for certain changes to apply from the moment the Order enters into force and therefore will apply in the remainder of the current CRC phase as well as the next phase and going forwards.

In May 2013 the Environment Agency published updated guidance for Phase 1 participants to take account of the new simplified measures that have been introduced for the remainder of the current phase as well as guidance on qualification for the next phase of the CRC.<sup>2</sup>

# Contributed articles

## Key changes

The following is an overview of the key changes made pursuant to the CRC Order 2013. The Government consulted on 46 proposals to amend the existing CRC scheme. This article only focuses on some of the key areas of change.

### Registration deadline

The deadline for registration moves to two months before the beginning of a phase. In Phase 2 the deadline is therefore 31 January 2014. Mandatory registration for Phase 2 is open from 4 November 2013 and has a deadline of 31 January 2014.

This change applies to registration for Phase 2 onwards.

### Qualification requirements

The current 6,000 MWh threshold will be retained; however, only supplies received through Settled Half-Hourly Meters will count towards the qualification threshold. Previously other types of Half-Hourly Meters and Dynamic Supply had counted towards qualification but from Phase 2 this will no longer be the case.

This change applies to qualification for Phase 2 onwards.

### Supply rules

The supply rules will be changed to give CRC responsibility to the organisation with direct control for fuel it receives, or supplies made at its direction. Further, the payment criterion will be removed from the supply criteria so that responsibility rests with the contract holder rather than the party which makes the payment.

This change takes effect for Phase 2 onward.

### Fuels covered by the CRC

Going forward, the scheme will only cover two fuels: electricity and gas, with gas included only where used for heating purposes. The scheme had previously covered 29 fuels and so this represents a significant change.

This change applies immediately for the remainder of Phase 1 and to subsequent phases.

### De minimis threshold for gas reporting

There will be a de minimis threshold for reporting on gas where gas consumption is less than 2% of the overall electricity consumption in the first reporting year of the relevant phase.

This change applies immediately for the remainder of Phase 1 and to subsequent phases.

### Removal of the 90% rule

This rule required participants to demonstrate that at least 90% of their emissions were regulated under the EU Emissions Trading System (EU ETS), climate change agreements (CCAs) or the CRC. Participants will now need to report on 100% of their supplies of electricity and gas used for heating, subject to the de minimis threshold for reporting on gas.

This change applies immediately for the remainder of Phase 1 and the subsequent phases.

### CCAs and EU ETS installations

In the first phase, electricity supplies to an EU ETS installation or a CCA facility were taken into account when assessing qualification, with affected organisations needing to consider whether they qualified for an exemption. This will change so that such electricity will no longer amount to supply under the CRC for qualification or compliance purposes.

Organisations will only need to register as participants if their other eligible energy supplies amount to more than 6,000 MWh. As a result, the three CCA exemptions will also be removed from the scheme. This should simplify CRC administration for



# Contributed articles

organisations with EU ETS installations or CCA facilities.

This change takes effect for Phase 2 onwards.

## Electricity Generating Credits (EGCs)

Under the CRC, EGCs have been awarded for the generation of energy from renewables that do not receive either renewable obligation certificates (ROCs) or feed-in tariffs (FITs). This offsets the obligation to report any eligible input fuels.

Given that the fuels covered by the CRC are to be reduced to two, there is less of a need for this measure and EGC will be removed for subsequent phases, with limits placed on the circumstances in which they can be used for the remainder of Phase 1. The Government has acknowledged that this may have an effect on renewables generators but justify this on the grounds that the CRC is primarily an energy efficiency scheme and that renewable and non-renewable generation should be on a level field.

This change takes effect from Phase 2 and EGCs are retained for the remainder of Phase 1, but with restrictions to prevent abuse.

## Disaggregation

Participants will be free to disaggregate in line with their organisational structures, rather than being limited by minimum thresholds on the disaggregating entity and remaining group as was previously the case. Changes have also been made to the timeframes for applying for disaggregation. At present any request for disaggregation must be made by the last working day of April following the deadline for registration for a particular phase. However, it is intended that disaggregation will eventually be allowed during a phase.

This change takes effect from registration for Phase 2 onwards. Requests for disaggregation for Phase 2 must be made by Wednesday 30 April 2014.

## Allowance sales

Allowances will be sold by way of two fixed price allowance sales. One forecast sale at the beginning of the year and one buy-to-comply sale after the end of the reporting year in which allowances will be sold for an increased price. From 2013 onwards, the deadline for surrendering CRC allowances will be pushed back from the end of July in the relevant year to the end of October. The safety valve concept (by which CRC participants could buy extra allowances from the Environment Agency through the EU ETS market) will be scrapped.

The two-sale system will take effect from Phase 2 (at which point the safety valve will be scrapped). The deadline for surrender of CRC allowances will be moved to October for the remainder of Phase 1 and subsequent phases.

## Reporting

Footprint Reports will not be required for CRC phases, with the aim of reducing administrative burden. These had been required of participants in order to confirm compliance with the 90% rule and are no longer required following removal of this rule.

Additionally, records will need to be kept for much shorter time frames, 6 years from the end of the relevant compliance year rather than 7 years from the end of the relevant phase. Wording in the CRC Order 2010 suggests that two annual reports will be required in July 2014 (owing to overlap of the first two phases). Changes to the commencement dates in the CRC Order 2013 appear to have resolved this duplication, but DECC is yet to confirm this. Records for Phase 1 are to be kept for 7 years after the end of that phase, but records for Phase 2 onwards are to be kept for 6 years after the end of the year to which they relate.

The requirement for footprint reports has been removed for the remainder of Phase 1.

## Performance league table

The performance league table will be scrapped. The Environment Agency will instead publish details of participants' aggregated energy use and emissions data.

The league table has been removed for 2013 and subsequent years in the scheme.



# Contributed articles

## Banking Allowances

Banking of allowances is permitted in a very limited sense: an allowance is valid in the year it is issued and for any subsequent year of the phase in which it is issued. However, an allowance is not valid in respect of any CRC emissions in a subsequent phase. This means that allowances can be banked between years within a phase but not between phases. The CRC Order 2013 clarifies ambiguity surrounding this issue.

This change came into force on 20 May 2013.

## Conclusion

Opponents to the CRC have repeatedly argued that the CRC scheme should be replaced with a more conventional tax. For the time being, the Government has rejected this and opted to persevere with the CRC, albeit in a simplified form. Whether these simplifications deliver a sufficient reduction to the administrative burden of the CRC will only become clear as the scheme moves into its second phase over the course of the next two years. The Government has announced that it will review the effectiveness of the CRC in 2016 and has commented that the tax element of the scheme introduced in the 2010 Spending Review (prior to this the scheme provided for revenue received from the sale of allowances to be recycled to participants) is a high priority for removal when public finances allow.

In spite of key simplifications, a challenge that remains for many stakeholders is identifying and tracking the various changes in deadlines and requirements resulting from the amendments in the CRC Order 2013, and ensuring they adjust their internal compliance policies to avoid potential fines and losses.

*Rachel Blackburn is an Associate and Head of Climate Change and Emissions Markets at Burges Salmon LLP. This practice works under the Energy and Banking team, and supports a range of clients from industry to government in addressing the full spectrum of climate change issues.*

## Endnotes

- 1 DECC, Simplifying the CRC Energy Efficiency scheme: government response (10 December 2012) [www.gov.uk/government/consultations/simplifying-our-energy-efficiency-scheme-crc](http://www.gov.uk/government/consultations/simplifying-our-energy-efficiency-scheme-crc)
- 2 Environment Agency, CRC Energy Efficiency Scheme: Guidance for participants in Phase 1 (June 2013, Version 2.2) [www.environment-agency.gov.uk/business/topics/pollution/127831.aspx](http://www.environment-agency.gov.uk/business/topics/pollution/127831.aspx)

# Student article

## What does environmental legislation need to do for business?

Becki James, Sustainable Direction Ltd with Angus Evers, SJ Berwin



### At a glance

- Environmental legislation needs to be flexible enough to move with business – otherwise the law may not work as intended.
- Businesses do not necessarily need less legislation, but they do need it to be transparent. The goal of any piece of legislation needs to be clearly set out and outcome focussed.
- Cost savings from repealing legislation do not take externalities into account.

### Regulation as a carrot and a stick

In my work as an environmental scientist, environmental legislation is at the core of my business. Businesses know they can save money through better resource efficiency, but it's the legal stick, which can keep them moving forward. Something I've noticed is that the legal process seems to hinder progress towards waste minimisation and clean(er) technology, particularly in the construction sector. Regulation itself has been found to be good for business; the Porter Hypothesis states that strict environmental regulations may enhance competitiveness against rivals<sup>1</sup> and improve environmental compliance, with a direct benefit to financial performance<sup>2</sup>, despite other academics arguing that regulation adds extra pressure on the already scarce resources of the business, hence inducing additional cost.<sup>3</sup>

The reasoning behind the Porter Hypothesis is that regulation drives internal improvement within businesses. It could be said that regulation is therefore working as intended, driving “better behaviour” from a societal point of view. However, this may not be the only benefit. Legislation can also act as an incentive—particularly economic instruments such as landfill taxes (waste less and save money) and the feed-in tariffs (FITs) / renewable heat incentive (RHI) (generate or use different forms of energy and make money). But traditional “command and control” and indeed “economic instruments” can also hinder progress greatly.

### Where regulation hinders progress

The legal definition of waste includes a substance or object which has been discarded, and discard in this context includes disposal, recovery or recycling.<sup>4</sup> In 2010 the UK produced 259 million tonnes of waste<sup>5</sup>. Once a substance becomes waste there are strict controls imposed on it. The legal definition increases what is legally classified as ‘waste’, which leads to situations where the law perversely increases waste, particularly in the construction and demolition sector. Waste is generated at every turn, and must be handled only by those with a licence to do so, ie by a person authorised to broker or deal in waste, and sent to regulated facilities. It is a strict and restrictive process. A demolished house is mostly landfilled, even though the hardcore is potentially suitable for use in landscaping for a new development on the same site. Earth must be removed and new quarried stone brought in, with huge environmental cost.

Projects such as the Environment Agency's Quality Protocols<sup>6</sup> work to address issues around when waste can legally become “non-waste” again, the so-called end-of-waste criteria, which absolve a substance of waste management controls under Directive 2008/98/EC on waste (Waste Framework Directive).<sup>7</sup> But even this is fraught, requiring companies to jump through multiple hoops in order to satisfy the requirements. The Quality Protocols



# Student article

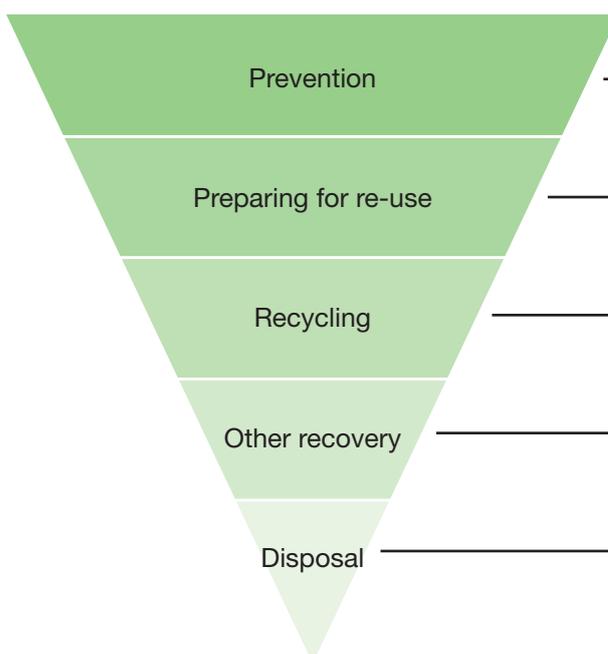
themselves are also not responsive to industry need; they take their lead from EU level technical standards. While the goal to address the largest waste streams to make the biggest environmental wins has been met, they have become bogged down in bureaucracy; take for example fly ash (a waste from power stations that is a considerable burden as a waste throughout the EU). The issuing of technical standards for processes such as using fly ash in concrete can take considerable time at the EU level in technical CEN committees. These meet only once a year, discuss standards and revise the text until an agreement is reached, working in the 20 official languages of the EU. This takes considerable time; the standard for using fly ash in concrete took 5 years to complete.<sup>8</sup> This doesn't help businesses to move quickly in response to waste minimisation challenges in the least.

Command and control legislation can also perversely incentivise companies to do the 'bare minimum required' and not reach for the real savings, both in terms of environment and cost. Dunphy et al (2007) encourages companies to move from being compliant to efficient, then being proactive in order to move towards being a truly sustainable business. However, it can be hard for businesses dealing with a recession to see this and pollution control limits are seen as the 'minimum standard'. Businesses can be unwilling to spend to move beyond that required by the regulator, because in essence many businesses feel they have 'paid for' the 'right' to pollute at that level. Economic free riders such as fly tippers and unlicensed operators upset this balance, polluting without paying. However, the main argument that companies will do the minimum to comply with legislation remains, and this is despite multiple examples showing that companies benefit from proactive environmental management.<sup>9</sup>

## The view from the trenches

In general, the business world distrusts legislation. The legislative process can seem impenetrable, and react unpredictably. Sometimes it can be sluggish, such as the Quality Protocols mentioned earlier, or contradictory—the constant message to heed the waste hierarchy as in the Waste (England and Wales) Regulations 2011, SI 2011/988 grinding against the Controlled Waste (England and Wales) Regulations 2012, SI 2012/811, where waste is waste and must be disposed of, or the financial incentives for energy from waste, which sits towards the bottom of the waste hierarchy as other recovery.

### Stages



### Include

- Using less material in design and manufacture.
  - Keeping products for longer; re use. Using less hazardous materials
- Checking, cleaning, repairing, refurbishing, whole items or spare parts
- Turning waste into a new substance or product. Includes composting if it meets quality protocols
- Includes anaerobic digestion, incineration with energy recovery, gasification and pyrolysis which produce energy (fuels, heat and power) and materials from waste; some backfilling
- Landfill and incineration without energy recovery

Source: Defra, Guidance on applying the waste hierarchy, June 2011 (Contains public sector information licensed under the [Open Government Licence v2.0](#).)

# Student article

Sometimes legislation can backfire, such as the FITs debacle in 2011, which resulted in a judicial review.<sup>10</sup> This baffles industry. It leads to marvellous opportunities for our advisory industries – my company is about to launch a legal register ‘translation’ service for the construction sector – as our clients are not sure how to respond to their legal obligations.

This leads to a large impact for UK Plc as a whole. The Cabinet’s Red Tape Challenge was launched to address this very issue. Secretary of State for Environment, Food and Rural Affairs, Owen Paterson claims that businesses could save more than £1 billion over 10 years if environmental guidance alone were easier to follow, saying “Right now businesses are wading through too much complex information... Taking up too much of business’ time can be an unseen barrier to growth”. The plans are to reduce the time spent by businesses on environmental legislation by 80%. But that’s just the guidance. The Red Tape Challenge is considering how alternatives to regulation can help the UK achieve the same or better environmental outcomes.<sup>11</sup> The Challenge asks the public to comment on whether regulations should be left as they are, scrapped or whether their purpose could be achieved in a non-regulatory or non-bureaucratic way. Forty regulations are included under Waste Challenge, including the Site Waste Management Plans Regulations 2008, SI 2008/314, which Defra plans to revoke, saying that it will deliver £4.1m per year in savings to business. But is reducing regulation the way to go?

## False economy – Less is less

On 30 August 2013 it was determined that revoking the Site Waste Management Plans Regulations 2008 would provide a cost saving to business, and Defra announced the revocation of these regulations.<sup>12</sup> However, the £4.1m revoking the regulations will apparently save is an administrative cost saving only, and does not take into account the money saved by businesses or the positive environmental externalities being generated, including sending less waste to landfill and recovering more value from waste. Eunomia calculates that the overall economic benefit of SWMPs is £39.5m over ten years, with industry as the main beneficiary. Defra’s calculations differ substantially to those of the Welsh Assembly Government, which calculated an overall net benefit to business and the environment of £39.5m. CIWM state that the difference is likely due to Defra not taking into account the “cost savings arising through waste prevention and better waste management” – efficiency again.

*“What business wants isn’t more regulation or less regulation – it wants to see what it has to do, and then see the opportunity of going further. Environmental legislation should clearly set out the outcomes society wants to facilitate this.”*

Encouraging business to move into efficiency will take more of a stick and carrot approach. But both are equally important. The businesses that realise the opportunity to go further, who want to make efficiency savings and become a sustainable organisation, should be encouraged, not penalised through regulation. Being able to make quick, clear business decisions based on the facts and having a regulatory framework for support would be business’ preference.

In response to the joint DECC-Defra consultation on the balance of competences review, businesses showed a desire for EU rules to be more flexible and include “get outs” if they are going to impose disproportionate costs.<sup>13</sup> They do not, however, want to withdraw environmental regulation, or bring back control over setting environmental legislation to the UK (repatriation of policymaking). They just want rules to be better designed, with policy in the form of frameworks rather than top-down regulations so that goals can be met in a variety of ways.

One interesting anecdote from the US is the requirement to have a discharge point upstream of your abstraction point, cleverly and neatly ensuring that the organisation will do as much as possible to clean its effluent.<sup>14</sup> As a member state of the EU, from which approximately 90% of environmental regulation is derived, the UK can shape environmental law.<sup>15</sup> The UK can use its position to push for laws that meet specific national priorities and



# Student article

improve legislation in areas where current EU environmental legislation needs it most. UKELA<sup>16</sup> recognises the value of more detailed guidance on the definition of waste and the end-of-waste criteria (the Quality Protocols mentioned are one of these). UKELA recommended that the government should “seek to influence the drafting of EU legislation with a view to minimising its ambiguity of terms and maximizing the integration of substantive and administrative obligations”; exactly what business is asking for.

With thanks to Angus Evers at SJ Berwin for your guidance and comments.

*Becki James is an environmental scientist at Sustainable Direction Ltd, a sustainability consultancy in Gloucestershire. She is studying a part time Masters in Integrated Environmental Management at the University of Bath with a keen interest in environmental legislation and policy. She can be reached on 01452 382218 or b.james@sustainabledirection.com*

## Endnotes

- 1 Porter 1991 in Ambec, S., Cohen, M.A., Elgie, S., Lanoie, P., 2013, the Porter Hypothesis at 20: Can Environmental Regulation Enhance Innovation and Competitiveness? Review of Environmental Economics and Access, Policy Advance available from <http://idei.fr/fdir/wp-content/uploads/2013/01/hypothesis.pdf> accessed 6th February 2013.
- 2 Khanna, M. (2001), Non-Mandatory Approaches to Environmental Protection. *Journal of Economic Surveys*, 15: 291–324; Hart, S. L. and Ahuja, G. (1996), Does it pay to be green? An empirical examination of the relationship between emission reduction and firm performance. *Bus. Strat. Env.*, 5: 30–37; Russo, M.V., and Fouts, P.A., 1997, A Resource-Based Perspective on Corporate Environmental Performance and Profitability, *The Academy of Management Journal*, Vol. 40, No. 3 (Jun., 1997), pp. 534-559
- 3 Williams, H. E., Medhurst, J., & Drew, K. (1993). Corporate strategies for a sustainable future. *Environmental strategies for industry*, 117-146; Walley, N., & Whitehead, B. (1994). It's not easy being green. *The Earthscan reader in business and the environment*, 36-44.
- 4 Defra, 2012, Guidance on the legal definition of waste and its application, available from <http://www.defra.gov.uk/publications/files/pb13813-waste-legal-def-guide.pdf>, p 15 G2.4.
- 5 UKELA, 2013, Call for evidence on the government's review of the balance of competences between the UK and the EU: Environment and Climate Change, available from [www.ukela.org/content/doclib/260.pdf](http://www.ukela.org/content/doclib/260.pdf), accessed 15th August 2013.
- 6 Environment Agency, 2013, Quality Protocols, available <http://www.environment-agency.gov.uk/business/sectors/142481.aspx>
- 7 Sear, L.K.A., 2005, European Legislation in the UK – A Threat or an Opportunity?, *World of Coal Ash*, April 11-15 2005, Lexington Kentucky, available from <http://www.flyash.info/2005/16sea.pdf>
- 8 Ibid.
- 9 Dunphy, D., Benn, S., Griffiths, A., 2007, *Organizational Change for Corporate Sustainability: A Guide for Leaders and Change Agents of the Future (Understanding Organizational Change)*, Second Edition, Routledge, ISBN13:978-0-415-39330-0; Berry, M.A. and Rondinelli, D.A., 1998 Proactive corporate environmental management: A new industrial revolution. *The academy of management executive* 12(2), pp 38-50.
- 10 Porritt, J., 2011, Feed in Tariff Fiasco, published 4/11/11, available at [www.jonathonporritt.com/blog/feed-tariff-fiasco](http://www.jonathonporritt.com/blog/feed-tariff-fiasco).
- 11 Red Tape Challenge, 2013, Environment, available from <http://www.redtapechallenge.cabinetoffice.gov.uk/themehome/environment-2/>
- 12 Defra, Consultation outcome – Site Waste Management Plans, 30 August 2013, available from [www.gov.uk/government/consultations/site-waste-management-plans](http://www.gov.uk/government/consultations/site-waste-management-plans), accessed 30th August 2013.
- 13 Marshall, A., 2013, Little business interest in rolling back EU's environment powers, ENDS Report 15th August 2013, available from [www.endsreport.com/40380/little-business-interest-in-rolling-back-eus-environment-powers](http://www.endsreport.com/40380/little-business-interest-in-rolling-back-eus-environment-powers)
- 14 Swayne, M. D., Boone, G. H., Bauer, D. J. S. L., & Lee, J. S. (1980). Wastewater in receiving waters at water supply abstraction points.
- 15 UKELA 2013, id at 5.
- 16 Ibid.

# Conference speech

## Address to the 25th Anniversary UKELA Conference 2013

Lord Rees Astronomer Royal\*

I would like to pay my respects to Lord Carnwath as it is a tribute to his persuasive powers that I am standing here this evening—feeling far outside my comfort zone. But it is of course also an honour, especially in your anniversary year—and a welcome chance to highlight the growing importance and scope of environmental law.



I'm an astronomer—not an astrologer. This is a common confusion. I recall meeting a well-known Indian tycoon. He'd been told that I was the Astronomer Royal. He asked: 'Do you give the Queen her horoscopes?'. I said 'If she wanted one, I am the man she would ask'. The tycoon brightened up and asked me some questions. I played up. I offered him some insights: markets will fluctuate, there will be trouble in the Middle East, and so forth. He listened with rapt attention. But I then came clean and said 'I'm only a scientist, I have no crystal ball', and he then lost all interest in my prognostications.

Astronomy is an environmental science. Indeed the starry sky is the one feature of our environment that has been shared by all humans. Throughout history, they have looked up at the 'vault of Heaven', interpreting it in diverse ways.

My focus this evening will be on the Earth; but I will start with a cosmic vignette.

We are all familiar with the pictures of our planet from space – its delicate biosphere contrasting with the sterile moonscape where the astronauts left their footprints. We have had these images for 45 years; they are iconic for environmentalists.

Suppose hypothetical aliens had been watching the Earth for its entire history, what would they have seen? Over nearly all that immense time, 45 million centuries, things would have changed very gradually. The continents drifted, the ice cover waxed and waned, successive species emerged, evolved and became extinct.

But in just a tiny sliver of the Earth's history—the last few thousand years—the patterns of vegetation altered at an accelerating rate—due to the impact of a growing and more empowered human population. Then came even faster changes. The planet became an intense emitter of radio waves (the total output from all TV, cellphone, and radar transmissions). The carbon dioxide in the atmosphere began to rise anomalously fast.

Could the aliens have predicted this unprecedented runaway fever? And what might they see if they watched for another century? Will this spasm be followed by silence? Will sustainable stability ensue?

Even in a time-perspective stretching back 45 million centuries, this century is unique. It is the first when one species—ours—has Earth's future in its hands. We've entered a geological era called the anthropocene.

Over most of history, threats have come from nature—disease, earthquakes, floods and so forth—but the worst threats now come from us. The anthropocene started, perhaps, with the invention of thermonuclear weapons. But other human-induced hazards are insidious rather than sudden. They stem from pressure on energy supplies, food, water and other natural resources. And they will be aggravated as the population rises to a projected 9 billion by mid-century—especially if Africa and India, where most of the population increase will be, narrow their gap with the developed world in its per capita consumption, as we surely hope they will.



# Conference speech

There is some good news. Modern agriculture—low-till, water-conserving, and perhaps involving GM crops—together with better engineering to reduce waste, improve irrigation and so forth, could sustainably feed 9 billion. And other advances, especially in healthcare and information technology, offer grounds for hope.

But although we can be technological optimists, it is surely hard not to be a political pessimist. There has been meagre progress in improving the lot of the world's 'bottom billion', despite the moral imperative. There is a depressing gap between what nations could do and what actually happens.

Population trends beyond 2050 will depend on what people now in their teens and 20s decide about the number and spacing of their children. Hundreds of millions of women are denied such a choice. Enhancing the life-chances of the world's poorest people—by providing clean water, primary education and other basics—should be a humanitarian imperative and a readily achievable one. But it seems also a precondition for achieving, especially in Africa, the demographic transition that has already occurred elsewhere and allowed the population to level off.

There is a valuable organisation called the 'Optimum Population Trust' which highlights the problems of over-population. But one should realise that there is no single 'headline figure' for the world's carrying capacity. Our planet could not support more than 2 billion if all lived like present-day Americans. On the other hand, 20 billion could be supported (albeit in unenviable conditions) if they had a vegetarian diet and lived in 'virtual reality', travelling and consuming little.

We are running up against so-called 'planetary boundaries'. The collective 'footprint' of humankind is growing fast; we already appropriate around 40 per cent of the world's biomass. This 'ecological shock' could irreversibly degrade our environment ^ leading to high extinction rates. We would be destroying the book of life before we have read it.

And biodiversity is a crucial component of human well-being. We are clearly harmed if fish stocks dwindle to extinction; there are plants in the rain forest whose gene pool might be useful to us. But for many environmentalists these 'instrumental'—and anthropocentric—arguments are not the only compelling ones. For them, preserving the richness of our biosphere has value in its own right, over and above what it means to us humans.

All these pressures will be aggravated by climate change—and I can't bypass this topic—it exemplifies the tension between the science, the public and the politicians.

There is one thing that is not controversial: the atmospheric CO<sub>2</sub> concentration is rising and this is mainly due to the burning of fossil fuels. Straightforward physics tells us that this build-up will in itself induce a long-term warming trend, superimposed on all the other complicated effects that make climate fluctuate. So far so good.

But what is less well understood is how big the effect is. Doubling of CO<sub>2</sub> in itself only causes 1.2 degrees warming. But the effect can be amplified by associated changes in water vapour and clouds. There is a factor two or three uncertainty in the overall sensitivity of climate to CO<sub>2</sub> because we don't know how important these feedback processes are. The IPCC reports present a spread of projections. And I think it is the smallish probability of catastrophic warming, rather than the expectation of the IPCC's median trajectory, which presents the most compelling argument for keeping climate change high on the agenda.

And remember that a modest-seeming mean temperature rise of a few degrees is just an index for a predicted warming that is greater over the land than over the sea, and which induces complex changes in global weather patterns.

The science of climate is intricate, but it's a doddle compared to the economics and politics. Climate change poses a unique political challenge for three reasons. First, unlike most pollutants, the effect of CO<sub>2</sub> is non-localised: emissions from this country have no more effect here than they do in Australia, and vice versa. That means that any regulatory regime for mitigation has to be broadly international. Second, there are long time-lags—it takes decades for the oceans to adjust to a new equilibrium, and centuries for ice-sheets to melt completely. And third—it is still uncertain just how bad the problem will be—how rapidly the climate will change and what 'insurance premium' we should be willing to pay to avoid the worst-case scenarios.



# Conference speech

Policy-makers need to decide on the balance between mitigating climate change globally and adapting to it locally, and on how much subsidy should be transferred from the rich world, whose fossil fuel emissions have mostly caused the problem, to the developing nations.

And there is the key issue of the discount rate. Commercial decisions apply a discount that assigns minimal importance to what happens at the end of the century.

But surely we shouldn't value our grandchildren's welfare less than our own. It's ironic that there is only one area of policy where we do implicitly apply a zero discount rate: radioactive waste disposal, where people talk with a straight face about whether the repository would be safe for ten thousand years.

On all these dilemmas there is little consensus—and still less action.

It is crucial to keep 'clear water' between the science on the one hand and the policy response on the other. Risk assessment should be separate from risk management. It is unfortunate that in the climate debate this boundary has become blurred. It is appropriate to debate whether the UK should stick to the target of 80 per cent cuts by 2050 even if no other nation does, and to point out that we could more cheaply meet our intermediate 2030 targets by a dash for gas (even without CCS) than by building wind farms. But debate would be more constructive if those who oppose current policies, instead of rubbishing all that scientists have already achieved, recognised the imperative to refine the science and to firm up the predictions, not just globally but even more importantly, for individual regions.

We should also deprecate the 'cherry picking' of evidence. Lord Lawson's foundation (The Global Warming Policy Foundation), has been disparaging—and worse—about the Royal Society's climate change assessments, while being happy to cite the Society's reassuring report on fracking.

Scientists should engage in public debates—although on the policy issues they speak not as experts but as 'scientific citizens' with divergent perspectives. In that spirit, I would add that I myself support the Climate Change Act. It is true that UK carbon emissions constitute only one or two per cent of the problem. However, we have international leverage because of our government's leadership ever since the Gleneagles G8 Summit in 2002. And some politicians deserve credit. Long-term altruism is plainly not a vote-winner, but Blair and Brown, and several Labour ministers—the Miliband brothers, Hilary Benn and others—nonetheless worked hard to keep these issues high on the agenda. And the coalition has not backtracked—not yet, anyway.

Many still hope that our civilisation can segue towards a low-carbon future without trauma and disaster. But politicians won't gain much resonance by advocating a 'bare bones' approach that entails unwelcome lifestyle changes. Developed countries should start by implementing measures that actually save money—by using energy more efficiently, insulating buildings better – and incentivising new technologies so that (as fossil fuel prices rise) a transition to clean energy is less costly—be it wind, tides or solar or nuclear.

The world spends several trillion dollars a year on energy and its infrastructure, but currently far too little is invested in developing techniques for economising on energy, storing it and generating it by low-carbon methods. The effort is not matched to the scale of the challenge. It should be closer to the amount spent on medical R&D.

A recent report from the House of Lords select committee deplored the plummeting of the UK's nuclear R&D effort since privatisation to a level where we cannot replace the safety regulators when they retire, let alone participate in any innovation. If we indeed have replacement power stations, at Hinkley and elsewhere, they will be state-owned, but by the French or Chinese states and not by us.

I would favour the UK having a replacement generation of power stations. However, the nuclear non-proliferation regime is fragile. We cannot be relaxed about a worldwide programme of nuclear power unless internationally regulated 'fuel banks' are established to provide enriched uranium and remove and store the waste. Despite this ambivalence, it is surely worthwhile to boost R&D into 'fourth generation' reactors, which could be more flexible in size and safer. The industry has been relatively dormant for the last 20 years, and current designs date back to the 1960s. And of course, nuclear fusion still beckons as an inexhaustible source of energy.



# Conference speech

With regard to the familiar renewables, wind is the most 'mature' technology—and for that reason there is less scope for cost-cutting. In Britain we are interested in wave and tidal energy; it may be a 'niche market' but our island nation has the geography with a big tidal range and fast-flowing tidal currents.

What about biofuels? There has been ambivalence about them because they compete for land use with food-growing and forests. But in the long run GM techniques may lead to novel developments: bugs that break down cellulose, plants that grow where nothing else does, or marine algae that convert solar energy directly into fuel.

Maybe the best long-term option for Europe is solar energy provided by huge collectors in the sunniest countries, generating power that can be distributed via a continent-wide smart grid. Achieving this would require vision, commitment and public-private investment on the same scale as the building of Europe's railways in the nineteenth century.

What are the prospects for actually decarbonising energy generation? I am pessimistic in the short and medium term—my guess would be political efforts will prove ineffectual in preventing the CO<sub>2</sub> concentration from rising at an accelerating rate throughout the next 20 years.

But by then we will know with far more confidence, perhaps from advanced computer modelling, but also from how much global temperatures have actually risen in the meantime, just how strongly the feedback from water vapour and clouds amplifies the effect of CO<sub>2</sub> itself in creating a 'greenhouse effect'. If it is weak, 'business as usual' may continue. But if the effect is strong, and the world consequently seems on a rapidly-warming trajectory into dangerous territory, there may be a pressure for 'panic measures'. These would have to involve a 'plan B'—being fatalistic about continuing dependence on fossil fuels, but combating its effects by some form of geoengineering.

It is almost certainly feasible to throw enough material into the stratosphere to change the world's climate—indeed what is scary is that this capacity might be within the resources of a single nation, or even a single corporation or individual. The political downside of such geoengineering may be overwhelming. There could be unintended side-effects. Regional weather patterns may change. Moreover, the warming would return with a vengeance if the countermeasures were ever discontinued, while other consequences of rising CO<sub>2</sub> (especially the deleterious effects of ocean acidification) would be unchecked.

Geoengineering would be an utter political nightmare: not all nations would want to adjust the thermostat the same way. Very elaborate climatic modelling would be needed in order to calculate the regional impacts of such an intervention. And it would be prudent to sort out the complex governance issues that would be raised, and to do this well before urgent pressures for action might build up. (As a parenthetic comment, we may recall another issue, familiar to this audience, where public debate should have happened sooner: GM crops. It would have been better, especially in Europe, if there had been a dialogue between scientists and the public before a stand-off developed between commercial interests and environmental activists.)

But geoengineering has one upside—it would be a bonanza for lawyers. If human agents can be blamed or sued for bad weather, this is surely a recipe for endless acrimony and litigation. And water shortages, which of course already trigger many international disputes over rivers and dams, will become even fiercer.

A few words about advancing technology in general. We should of course acclaim the advances—medicines, mobile phones, etc—that have enhanced the lives of billions, especially in the developing world. But we should also be anxious about the 'dark side' of powerful new technologies.

For instance, our interconnected world depends on elaborate networks: electric power grids, air traffic control, international finance, just-in-time delivery and so forth. Unless these are highly resilient, their manifest benefits could be outweighed by catastrophic (albeit rare) breakdowns cascading through the system. Pandemics could spread at the speed of jet aircraft, causing maximal havoc in the shambolic but burgeoning megacities of the developing world. Social media could spread psychic contagion—rumours and panic—literally at the speed of light.



# Conference speech

Malign or foolhardy individuals or small groups have far more power and leverage than in the past. Concern about cyber-attack by criminals or by hostile nations, is rising sharply. Advances in synthetic biology, likewise, offer huge potential for medicine and agriculture—but they amplify the risk of bio-error or bio-terror. Only last year, some researchers who had discovered how to make an influenza virus both virulent and transmissible were pressured to redact some details of their publication.

We are fooling ourselves if we think that all those with technical expertise will be balanced and rational: expertise can be allied with fanaticism. The global village will have its village idiots—and they can have a global range.

Some years ago I wrote a short book on these themes, which I entitled *Our Final Century?* My UK publishers deleted the question-mark. The American publishers changed the title to *Our Final Hour*. The US public seeks instant (dis)gratification.

We fret too much about minor hazards of everyday life: improbable air crashes, carcinogens in food, low radiation doses and so forth. But the wide public is in denial about two kinds of threats: those that we are causing collectively to the biosphere, and those that stem from the greater vulnerability of our interconnected world to error or terror induced by individuals or small groups. These can't really be mitigated without long-term global action and regulation.

I will close with another vignette.

Here in King's, the College's superb chapel looms over us. It is 500 years old. Fifteen miles away stands Ely's magnificent Cathedral, four centuries older still. These buildings overwhelm us today. So imagine their impact when they were built—and the vast enterprise their construction entailed. Most of their builders had never travelled more than 50 miles—the Fens were their world. Even the most educated essentially knew of nothing beyond Europe. They thought the world was a few thousand years old and that it might not last another thousand.

But despite these constricted horizons in both time and space, despite the harshness of their lives, despite their primitive technology and meagre resources they built cathedrals, pushing the boundaries of what was possible. Those who conceived their construction knew they would not live to see them finished. Their legacy still elevates our spirits, centuries later.

What a contrast to so much of our discourse today! Unlike our forebears, we know a great deal about our world—and indeed about what lies beyond. Technologies that our ancestors could not have conceived enrich our lives and our understanding. Many phenomena still make us fearful, but the advance of science spares us from irrational dread. We know that we are stewards of a precious 'pale blue dot' in a vast cosmos, a planet with a potential future measured in billions of years, whose fate depends on humanity's collective actions.

But all too often, parochial and immediate issues trump long term and global concerns - especially in electoral politics. We downplay what is happening even now in impoverished far-away countries. And we discount too heavily the problems we will leave for our grandchildren. In today's runaway world, we can't aspire to leave a monument lasting a thousand years, but it would surely be shameful if we denied future generations a fair inheritance.

To survive this century, we must be guided by the insights of 21st century science, but inspired by values that science itself can't provide. We need the idealism that inspired the UN, the WHO and so forth, but on a still broader canvas. To quote a great 20th century scientist, Peter Medawar:

*"The bells that toll for mankind are like the bells on alpine cattle. They are attached to our own necks. And it must be our fault if they don't make a tuneful and harmonious sound."*

But there is one thing my crystal ball shows very clearly: there will be more and more need for the expertise that environmental lawyers can offer.

\* *Until recently Master of Trinity College, Cambridge, Martin Rees was appointed to the House of Lords in 2005 and was President of the Royal Society 2005 - 2010. He has served on many bodies connected with education, space research, arms control and*



# Conference speech

*international collaboration in science; he is the author of many research papers, mainly on astrophysics and cosmology as well as numerous articles and books.*

*This address was given after the gala dinner in King's College, Cambridge on 13 July 2013 celebrating 25 years since UKELA was founded.*

With thanks to Lawtext. This article was published in Environmental Law & Management, published by Lawtext Publishing Limited.

# UKELA Events

UKELA has a lively Autumn events programme which should offer something of interest for everybody. Check the links below for more information. Booking for some events will open shortly, for others you can book already.

## North West regional group seminar – 16 September 2013: Wildlife Law – What’s in the pipeline & biodiversity gain through off-setting

The UKELA North West regional group is pleased to invite you to this early evening seminar focusing firstly on the legal framework for wildlife management. Frances Patterson QC – Law Commissioner – will talk about the work of the Law Commission in seeking to improve the legal framework for wildlife management, following the consultation that closed in November 2012. Then Professor David Hill will discuss the work of the Environment Bank, which focuses on delivering biodiversity gain through ‘biodiversity offsetting’.

For more details, please visit [Nature Conservation and Biodiversity event page](#), kindly sponsored by Pinsent Masons.

## Planning and Sustainable Development Working Party meeting – 5pm, 26 September 2013, London

The next in the Working Party’s regular series of meetings. For more information, visit the [Planning and Sustainable Development Working Party event page](#).

## Annual Scottish Conference: A Fresh Approach to Environmental Regulation in Scotland? – 1 October 2013, Apex Waterloo Hotel, Edinburgh

The annual UKELA Scotland conference is always the event to ensure you are up-to-date with the practice of Scottish environmental law.

This year UKELA is delighted to be partnering with Environmental Protection Scotland (EPS), the new charity dedicated to excellence, good science, and objectivity in environmental regulation practice, in support of environmental protection practitioners and those advising them.

The conference is themed around the changes in regulatory culture which the Scottish Government hopes will result from the Regulatory Reform (Scotland) Bill moving through Parliament.

The conference will hear from SEPA on their objectives and strategy, and from local government on their interface with business and the community. Other eminent speakers will cover Scotland’s emerging marine licensing system, business and climate change, the proposed economic duty and its implications, the role of the Directorate for Planning and Environmental Appeals (DPEA), contaminated land management at the cutting edge, the origins and environmental potential of biodiversity offsetting and - not to be missed - our essential case law update.

Find out more about the programme, and register online on the [Annual Scottish Conference event page](#).



# UKELA Events

## Transactional Issues and Insurance Working Party meeting, 6pm, 7 October 2013, London

Join the Working Party for its next meeting. They will be holding a round table discussion about what constitutes effective environmental due diligence. This meeting is open to all, but numbers are limited, so if you would like to attend please email M'Erin Leitch, [M'Erin.Leitch@shlegal.com](mailto:M'Erin.Leitch@shlegal.com).

## Waste Working Party Meeting, 4pm to 6pm, 16 October 2013, London

The next in the Working Party's regular series of meetings. More information will be available shortly on the [Waste Working Party event page](#).

## Northern Ireland Annual Seminar: Strategic Environmental Assessment, 1.30pm to 5.30pm, 21 October 2013, Radisson Blu Hotel, Belfast

This is the fifth in the annual series of half-day seminars run by UKELA in partnership with EPLANI, The Environmental and Planning Law Association for Northern Ireland. This special event, focusing on strategic environmental assessment (SEA), which has been the subject of a number of cases in Northern Ireland recently, is for environmental lawyers, government advisers, NGOs, academics, local authorities, business and students. For more information, visit the [Northern Ireland events page](#) on our website.

## Student Careers and Social Evening, 6pm onwards, 13 November 2013, London

Hosted by Francis Taylor Buildings, London, come along from 6pm to find out more about careers across the field of environmental law. Open to both members and non-members, this is your opportunity to pick the brains of professional people in the sector. We will have representatives from barristers' chambers, law firms, NGOs and government.

To book your free place, contact [alisonboyd.ukela@ntlbusiness.com](mailto:alisonboyd.ukela@ntlbusiness.com). Feel free to pass this invitation on to fellow students, colleagues and friends with an interest in developing their careers in this fascinating and rewarding area of work.



# UKELA Events

## 25th Anniversary Garner/Journal of Environmental Law Lecture, 19 November 2013, London

UKELA and PEBA President, Lord Carnwath, will provide the lecture on this special occasion to mark the 25th anniversary of UKELA and the Journal of Environmental Law (JEL). The lecture will be on the theme of “The Common Laws of the Environment, at Home and Abroad”.

Thanks to Freshfields Bruckhaus Deringer for hosting this keynote event.

To book your place, please visit the [Garner events page](#).



# Fundraising events

## 25th Anniversary '25 4 25' Programme Art Evening – 6pm to 9pm, 26 September 2013, Simmons & Simmons, London

Please join us for art, drinks and canapés at *Free Spirit* – an exhibition exploring how art is influenced by the environment.

To celebrate 25 years of making the law work for a better environment, UKELA, kindly supported by international law firm Simmons & Simmons, has teamed up with artists to find out how art can work for a better environment.

Ideal for informal networking with colleagues and clients, the night will feature a new breakthrough British contemporary artist, Sandy Curry, together with privileged access to work by renowned artists Tracey Emin, Cornelia Parker, Michael Landy, Abigail Lane, Gillian Wearing, Tacita Dean, Luisa Roa and more.

Introduced by Begonia Filgueira (ERIC Ltd) and James Taylor (Simmons & Simmons), UKELA's Vice Chairs, featured artist Sandy Curry will be giving a short talk on why she uses tar and oil as a medium for her enigmatic paintings.

Register for this unique event on the [Free Spirit events page](#).

## 25th anniversary '25 4 25' Programme One Year Lunch Club – Shale Gas: Risks and Rewards – 17 October 2013, Simmons & Simmons, London

As part of UKELA's 25th anniversary celebrations, please join us for the second event in our 'One Year Only Lunch Club'. Those attending the talk will also enjoy a three course lunch. The event starts at 12:30pm and concludes at 2.15pm. UKELA members are very welcome to bring colleagues and clients. Numbers are limited for this prestigious event so we do encourage you to [reserve your place](#) as soon as possible.

# Non-UKELA events

## Practical Strategies for Improved Flood Risk Management, 18 September 2013, Leeds

Brownfield Briefing offer a 15% discount for UKELA members – quote code UKELA15

With the introduction of the Flood & Water Management Act in 2010 come a number of new roles and responsibilities for local authorities, regulators and water companies. The Act's implementation has also led to advances in flood protection, mapping and modeling, as well as sustainable design. Crucially, actively engaging with local communities and stakeholders has become more important than ever. *Practical Strategies for Improved Flood Risk Management* will provide up-to-date information for those working in flood risk, planning, drainage, engineering, design, legal and water management. As well as analysis, legislative updates and practical advice, the conference will also highlight a number of case studies on strategy development, sustainable urban drainage systems (SUDS) and innovative housing solutions for flood risk areas.

More information about this conference is available on our [website](#).

## Regional Intelligent Energy Europe Beyond 2020 workshop - Design and impact of a harmonised policy for renewable electricity in Europe beyond 2020, 18 September 2013, Oxford

This is the first (and free of charge) regional dissemination workshop of the IEE (Intelligent Energy Europe) project, *Beyond 2020*.

This project aims to design and evaluate pathways for a harmonised European policy framework to support renewable electricity in particular, and renewable energy sources (RES) in general. The workshop will seek feedback on the project's draft findings.

Further details on the workshop and its agenda are available from Martina Preiss (email: [beyond2020@irees.de](mailto:beyond2020@irees.de)).

## Castle Debate on Biofuels, 9am, 8 October 2013, London

Biofuels have remained controversial since their introduction as a result of their competition with food crops for available land. This has resulted in a rise in 'advanced biofuels' which are obtained from wastes and residues that do not need additional land. It is still not clear however whether shifting European policy will support or suppress the development of this next generation of biofuels.

More information is available on our [website](#).



# Non-UKELA events

## Risk Assessment and Remediation, 24 October, London

Brownfield Briefing offer a 15% discount for UKELA members – quote code UKELA15

Brownfield Briefing's annual Risk Assessment and Remediation conference is back on 24 October to give you the latest update on new advances, development and innovative technologies showcasing best practice, cost-effectiveness and sustainability in risk assessment and remediation.

For more information on this conference visit our [website](#).

## Castle Debate: Adapting to Increased Competition for Natural Resources, 14 November, London

Many predict that future access to natural resources cannot be assured as competition, depletion and environmental factors combine to put the availability of natural resources under considerable stress.

Various policies and plans are being mooted at both international and domestic level. For example, in March 2012 the UK Government produced its own resource security action plan, which supports the Circular Economy. The Treasury, however, has now aborted a review of resource scarcity.

More information on this debate is available on our [website](#).

# Adverts & tender opportunities

## Invitation to Tender

The Chartered Institute of Ecology and Environmental Management (CIEEM) is seeking providers for legal services that have (i) a good understanding of the role and function of professional bodies and of environmental law. Any provider will need to have detailed knowledge of the governance and voluntary regulatory (disciplinary) responsibilities of a professional body and (ii) in addition, or by separate contract, legal services in relation to employment and human resource management, property services and management and leasing and sub-letting. For more information, visit our [website](#).

## Student Adviser to Council

UKELA is seeking a student adviser to Council to succeed Ben Du Feu, who has held the post for 2 years but has now entered the world of work. You would undertake the role alongside Nicola Peart, an LLM and BPTC student based in London.

The role of student adviser involves:

- Advising UKELA's Council on how to retain the current student members (what information, events and activities to offer and how to pitch the renewals mailing to make sure students stay on or convert to other grades of membership as they progress through their career)
- Advising Council on how to attract new student members
- Helping keep the [student section on the website](#) and the UKELA Facebook page up to date
- Encouraging and coordinating students articles for publishing in e-law
- Initiating student mailings as and when needed

Ideally the student adviser will attend the quarterly Council meetings (agreeing a rota with the other adviser) and be available to discuss ideas with the UKELA staff and Trustees. The adviser is also expected to attend the annual student careers advice and networking evening (this year on 13 November) and the competitions day (2014 date to be advised). There is a panel that supports the student adviser, comprising UKELA trustees and competition organisers; they occasionally hold phone conferences to discuss important topics.

If you are interested in this role, please send a short covering letter, together with your CV, by email to [alisonboyd.ukela@ntlbusiness.com](mailto:alisonboyd.ukela@ntlbusiness.com) setting out how you feel you would be suitable, by close Friday 27 September. If you would like more information about what the role entails, please email the [current advisers](#) or speak to Ben on 020 7400 4617 (work) or on 07776 183 569 (mobile).

## Intern Position - UKELA Marketing Assistant, Wales Working Party

UKELA is looking for an intern to work six hours per week to support the Wales Co-ordinator, who is based in Cardiff.

The role involves developing and maintaining a database of organisations and individuals potentially interested in membership and/or involvement with UKELA in Wales and supporting the recruitment of members, the marketing of events and the identification of potential partners.

The position will initially be available for a six-month term, subject to review. A discretionary honorarium may be available for the right candidate, on attainment of agreed targets. However, out of pocket expenses will be reimbursed in line with UKELA's policy.

To apply for this interesting career development opportunity, please complete the [Wales Intern application form](#) and email to [norma.barry@btinternet.com](mailto:norma.barry@btinternet.com) by the deadline of 5pm on Friday 20 September.



# Adverts & tender opportunities

## Volunteer Sought – Law & Your Environment Website Editor, England & Wales

UKELA is seeking an additional volunteer to work alongside the existing *Law and Your Environment* team of Council Members and staff to ensure the website is kept up to date. The main responsibilities include commenting on the update programme for England and Wales content in liaison with Rosie Oliver, Working Party Support Officer, advising on priorities, receiving progress updates and casting an eye over updated pages.

The role would suit someone with three to five years' post-qualification experience, who is looking to add value to the profession and raise their own profile within UKELA's networks.

For further information, please contact Linda Farrow ([linda@ukela.org](mailto:linda@ukela.org)) or Rosie Oliver ([rosieoliver.ukela@gmail.com](mailto:rosieoliver.ukela@gmail.com)). Closing date for expressions of interest, 5pm Friday 4 October.



# UK Environmental Law Association

Registered Charity number: 299498 (Registered in England and Wales), Company limited by guarantee: 2133283 (Registered in England and Wales)

For information about working parties and events, including copies of all recent submissions contact: UKELA, PO Box 487, Dorking, Surrey RH4 9BH or visit [www.ukela.org](http://www.ukela.org)

Linda Farrow  
Executive Director  
[Linda@ukela.org](mailto:Linda@ukela.org)  
07970 956 171

## e-law

The editorial team wants articles, news and views from you for the next edition due to go out in November 2013. All contributions should be dispatched to Hayley Tam as soon as possible by email at: [hayley.tam@lexisnexis.co.uk](mailto:hayley.tam@lexisnexis.co.uk) by 6th November 2013.

Letters to the editor will be published, space permitting.

© United Kingdom Environmental Law Association and Contributors 2013

All rights reserved. No parts of this publication may be reproduced or transmitted in any form or by any means or stored in any retrieval system of any nature without prior written permission except for permitted fair dealing under the Copyright Designs and Patents Act 1988 or in accordance with the terms of a licence issued by the Copyright Licensing Agency in respect of photocopying or/and reprographic reproduction. Applications for permission for other use of copyright material including permission to reproduce extracts in other published works should be made to the Editor. Full acknowledgement of author, publisher and source must be given. E- Law aims to update readers on UKELA news and to provide information on new developments. It is not intended to be a comprehensive updating service. It should not be construed as advising on any specific factual situation. E-Law is issued free electronically to UKELA members. An additional charge is made for paper copies. The views expressed in E-Law are not necessarily those of UKELA.

