

UPDATED VERSION 20/09/2016, reflects comments and clarification from Eloise Scotford and Richard Macrory.

1 Strategic Area – <i>Priorities to be agreed</i> ^{1 2}	2 Key EU environmental legislation (including any proposals in the pipeline)	3 EU aims and targets ('outcome focused regulation') ³	4 Key UK Legislation, including any divergence across DAs	5 UK Legislation forms and mechanism ⁴	6 Strengths/weaknesses of current law ⁵	7 Opportunities for reform, including potential mechanisms/constraints for legislative change and differing policy priorities across DAs ⁶	8 Applicable public international law	9 Other models of regulation (eg Norway)	10 UKELA contacts in govt
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¹ Be wary of duplicating work that otherwise may be doing (such as IEEP).

² Areas at most risk/likelihood of imminent legislative change. To include areas that might not currently be covered by UKELA's working parties. [Eloise Scotford]

³ I would include in this outcomes contained in international obligations (ie picking up the outcome obligations coming from work in column 8).

⁴ Purpose: the need to preserve the *acquis* for the time being in the interests of regulatory stability. In the substantive areas chosen this would require seeing how EU transposition has been achieved –European Communities Act, regulations made under national legislation [*s2(2) ECA or other powers – would need to specify*], transposition by reference (and other instruments such as Directions, licences and policies). We also need to identify those areas of national law which make specific reference to Community law (eg s 80 Environment Act or air quality strategies). Devolved legislation must be included. This will help inform DEFRA as Government prepares a bill which preserves Community law for the time being post exit, and also allow us to critique whatever emerges and whether it meets its goals. [Richard Macrory]

⁵ UKELA's Aim 5 research report on the state of UK environmental legislation may contain relevant material here: <https://www.ukela.org/Aim5>

⁶ The opportunities for reform might be quite different across UK DAs, in light of their different competences to legislate in this field, their distinctive legislative framework for environmental law (see Wales on this in particular), and their different government policy priorities (the point about Scotland in this respect was made repeatedly yesterday). Hence opportunities for reform can come from past experience about what would work better, but will also be constrained by legislative competence/frameworks and policy priorities. [Eloise Scotford]

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Nature Conservation ⁷									
Air quality ⁸									
Water legislation									
Waste legislation									
Climate Change									
Enforceability and access to justice ⁹									

⁷ Priority as, even if a Norway model, we know this will be out. So we need to understand what EU law has added to our existing protection laws (Wildlife and Countryside Act etc), what gaps should be filled etc if no EU law. and this also links with the international obligations and how they have been transposed. [Richard Macrory]

⁸ Probably requires a close examination of Part IV Environment Act 1995. If I recall there was a critical element missing in that Act concerning the legal enforceability of action plans. Under the Act the S of S only has a power to direct local authorities to take steps for implementing Community and international obligations. If air quality standards appear in the national strategy, then that power to issue directions should apply there also. [Richard Macrory]

⁹ Enforceability and access to justice will also be a key area. There will no longer be the Commission taking enforcement actions, and international law is generally weak on enforcement issues. So this is likely to make the role of national courts (even the Environment Tribunal!) all the more important. Without the overriding nature of EU law, how will the courts take on this role? The Litigation working party might take this on. [Richard Macrory]