



**UKELA BTF meeting, 2.00 pm, 4 October 2018 Shoosmiths, London
MINUTES OF MEETING**

Attending:

Angus Evers (Co-chair) (AE)
Begonia Filgueira (Co-chair) (BF)
Richard Macrory (Past co-chair) (RM)
Bridget Marshall (SEPA) (BM)
Bob Lee, (University of Birmingham) (BL)
Alison Boyd (Operations Director) (AB)
Paul Stookes (WP & Brexit Advisor) (PS)
Adam Smith (BTF support) (AS)

On the Phone:

Peter Harvey (Chair of BTF sub-group) (PH)
Nina Pindham (Trustee) (NP)
Karen Blair (Cleaver Fulton Rankin Solicitors) (KB)
Victoria Jenkins (VJ)
Eloise Scotford (ES)

1. Apologies

Anne Johnstone, Peter Dixon, Patrick Duffy, Andrew Bryce, Frank McManus, Stephen Tromans QC, Sir Francis Jacobs, Jill Crawford, Colin Reid, Caroline Fielder, Richard Wald, Penny Latorre, Phil Hunter, Christian Jowett, Paul Davies, Richard Barlow, Stephen Hockman QC, Andrew Wiseman, Stephen Sykes

2. Action points arising from meeting *[with actions taken where relevant in italics]*

1. Respond to consultation on Environment Bill – **PS to lead** with sub-group support
[AB, PH and PS email to progress sub-group in advance of Bill due 17.12.18]
2. Henry VIII powers – **AE/BF** to send letter to Gove and delegated legislatures about collating them to help public understanding; **PS to draft**
[RM drafted, letter sent to Michael Gove MP 6.11.18]
3. Schedule a Standards Setting event for April or May 2019 – **AB/PS** to coordinate;
[Action still to do, although 14.1.19 half day conference taken precedence]

4. Devolved Administrations – set up mechanism to ensure central UKELA is aware of any submissions to devolved administrations – **AB/PS** to lead with input from Northern Ireland, Scotland and Wales groups;
5. Alert taskforce members to Broadway Initiative paper – **PS** to circulate;
PS to circulate Blueprint for an Environment Act with minutes together with recent assurances note on Act from Broadway Initiative.
6. **BF** and **AE** to meet Edward Lockhart-Mummery;
7. post-March 2019 the question of Courts role on enforcement / environmental regulations be progressed – e.g. widen role of Env. Tribunal and/or High Court
[brought forward with half-day conference on 14.1.19]
8. **AB (with PS, AE, BF)** to draft note for Executive Committee re prioritising;
AB discussed with PS (6.12.18) and can formulate with Env Bill timetable starting
9. **AE / BF** to review Nature Conservation Working Party submission on marine environment by 8 October 2018;
10. **AB (with PS input)** to Update Website to include Brexit technical notices;
[AB and PS review this if actually worthwhile are Brexit no deal notices a damp squib – cf post Brexit Commons debate]
11. **BL** to brief BTF on Welsh Roundtable meetings

3. Introduction

BF welcomed everyone and said it was timely that we get together and talk about where we are now and what we need to do in the next six months to be ready

4. Minutes of last meeting and matters arising

Minutes

The minutes of the last meeting on 11 July 2018 (and matters arising) were discussed.

DEFRA Meeting

BF asked if the meeting with DEFRA had gone ahead and what came out of it.

PH confirmed that he and RM met with David Minotti which was very useful, however he has been difficult to get in touch with since. NP and RM went to the stakeholders consultation discussion on behalf of UKELA.

AE asked if anything had come out of the stakeholder meeting itself.

RM said that it was interesting. There are six different civil servants dealing with it. They've organised the stakeholders in different discussion groups and we were round the table with Greener UK and other groups.

RM reported that Greener UK are confident they will be able to get more amendments to the Environment Bill when it comes to Parliament.

Somebody asked David what happens if there is no deal? He said the Government have contingency plans for all eventualities. That could include anything like setting up the enforcement body before the legislation comes into effect. David said you can do all of these things with will power.

Scottish Further Report

AE asked about the Scottish further report which it was agreed at the last meeting we would review this time.

BF said Colin Reid had sent through an update which said we were still waiting for more detail

BM said they were expecting an update in the autumn. It was likely to follow the theme of the roundtable that it is still an open discussion and she did not expect them to close down in to one option at the moment

BF asked if we were expecting a separate consultation with a separate proposal.

BM said it wasn't clear if it will be open consultation or if there will be one option seeking views. She thought it was unlikely to be one option at this stage because the politics is difficult in Scotland.

RM said that it was important that UKELA in Scotland was ready to respond to that.

BM said RM was coming to Scotland in November in a private capacity and she thought it was a useful time for him to go in and see some civil servants running the consultation.

RM said he was happy to meet with them partly in a private capacity and partly in his UKELA role, making clear where there was no formal UKELA position decided.

It was agreed that RM should do this.

BM mentioned that we were also waiting for the Supreme Court ruling on the powers of the Scottish Government to legislate after Brexit.

International Annex

AE asked about the international annex report on international treaties and which ones have been ratified.

PS said there had not been any progress since the last meeting.

Secondary waste legislation report

PS confirmed this had not progressed still. He was planning on contacting Simone at LexisNexis but not had the opportunity to do so.

Standards setting event

PS said he had spoken to Martin Baxter at IEMA in the context of Blueprint for the Environment and needs to revert back on this and will aim to speak to Martin Re event.

PS added that he had forwarded on suggestion of Standards Setting as a matter of committee review.

BF asked what upcoming events were planned.

AB went through the events:

- Wales working party event on 16 October on governance post Brexit in Cardiff.
- Join event with Castle Debates on Environmental Principles and Governance Bill on 29 October. This is a breakfast event with Peter Kellet speaking (AB is unable to attend but AE is planning to go).
- On 7 November there is a joint event with CIWM in Northern Ireland on the impact of Brexit on the waste and resources sector in Ireland. BF and AE are speaking at that and KB is chairing a roundup Q&A at the end.
- The Waste Working Party is doing a follow up to the event in March 2018 in March 2019.

PH said before the March event the Waste WP were doing something with some CIWM members on the circular economy at the end of January 2019 [now in the diary for 2 April].

RM said we should do something on standards setting because UKELA did a distinctive paper on it and they were encouraged by the EA to do that. RM suggested that the timing for that can be left until after the end of March during transition because that is the time to be discussing the next steps. That is a discussion that needs to be had.

BF said she agreed and IEMA is a good organisation to partner up with. She agreed that an event could wait until April or May but we should put it in the calendar now.

ES noted that she was on her way to DEFRA with her Broadway Initiative hat on. They are hearing about metrics they are thinking up in relation to 25 year plan. She said she would be interested to hear about plans for BTF and was happy to look into hosting next meeting at UCL

ES said that on the Broadway Initiative, it had grown organically from interested academics, lawyers, etc. They are keen to engage and consult with others and so there may be scope for joint events and discussions.

RM said he agreed and he had attended the first meeting of the Initiative with his UKELA hat on but had remained slightly distant at first. He said he thought the Broadway Initiative report was an impressive document. He doesn't agree with it all but it is trying to look to the future and Edward Lockhart-Mummery (Broadway convenor) does have excellent contacts in Government.

RM and ES agreed to catch up on the Broadway Initiative after her meeting.

5. *Wales and Brexit:* Lori Frater, Head of Legislative Policy, Welsh Government

Lori Frater sent her apologies to the meeting, VJ discussed briefly matters in Wales and continuing divergence from England. VJ explained that it was often uncertain how to submit papers on Welsh matters from e.g. the Wales WP.

This was a fair point to raise (and one that applied to the WPs generally. The WP guidance provides some clarification although important that many submissions are time sensitive (and tight)

RM said it was always worth putting the introductory caveat (found e.g. on all briefing papers) that "*UKELA has broad membership base - views not necessarily of all UKELA members*" See e.g. text of EPG submissions for precise text.

6. *Environment Bill and policy*

PS presented a general update (used from NCWP notes) (see PowerPoint slides) on recent legislative matters. The secondary legislation was starting to emerge. PS referred to recent EFRA regulations 2018 which are not necessarily Brexit-specific but what they appeared to be doing is pulling the UK up to EU standards prior to Brexit.

On Environment Bill and Policy. PS said his sense was that the Bill is going to be published in November with the policy statement as well. There has been nothing official from DEFRA on that.

PH said he did try to seek clarification from David Minotti on that but there is nothing concrete. PH's sense is it could be sometime around the budget on 29 October.

PH added that it looked like a big piece of legislation. The Conservative conference revealed it would include waste as well as environmental regulations.

PS said that what appears to be coming out from comments from Mr Gove is that Brexit is a good opportunity to be making a difference in Environmental laws.

PS moved onto the Blueprint for the environment act as outlined by the Broadway Initiative. The slide summarises the key objectives that Broadway identified for the Act. Broadway are consulting on these until the end of October.

RM explained the background to the Broadway Initiative. It was started by Edward Lockhart-Mummery who was an economist with DEFRA. He asked some environmental organisations to join on a voluntary basis – the representatives from these organisations are mostly there in a personal capacity rather than representing the organisations. RM went along but wasn't sure UKELA should be involved officially.

At the moment it is one of the serious pieces of work looking at what should be in an Act and the DEFRA people find that very useful. The most interesting idea is introducing a general duty to care for the environment. There is Dutch legislation that does this. Oliver Letwin, the minister, is worried that will lead to lots of litigation but it depends how you define it.

BF asked if we should be meeting with Broadway as UKELA.

RM said he thought the first step was for all the members of the BTF to read the Broadway report and then take a view from there.

AB said that if UKELA was going to become involved in an official capacity then this would need a recommendation to council.

RM said he didn't think this was necessary because it's short term and is really trying to influence the Environment Bill. He said that if BF and AE had time they should meet with Edward (Lockhart-Mummery) and if they think the ideas are good then individual members of BTF could support him which would avoid UKELA getting locked in to supporting everything.

BF and the rest of BTG agreed this was a good idea.

BL said BTF could get a response to the Broadway consultation to Edward by the end of October but there might not be much point when the Environment Bill could already be published by then.

RM said that UKELA are not really in a position to influence the bill because of the timing but we could be in position to critique the bill.

BF and PS said there should be a consultation on the bill that UKELA can input into.

PS said he would reply to Martin Baxter from IEMA to say thank you for getting in touch about the Broadway initiative.

7. Agriculture Bill and policy: 12.9.18 (Bill next reading - HC, 10.10.18) + EFRA Committee on Agriculture Bill (consultation responses)

PS then moved onto the next slide on the Agriculture Bill and policy. The second reading of the Bill is coming up on 10 October. PS read the purposes of the Bill from the slide.

Going alongside the Bill is the Future UK Agriculture Policy which is being consulted on at the same time as the Bill goes through Parliament.

In response to a question from BM, PS confirmed the Agriculture Bill is England only.

8. 'No deal' technical notices

PS then spoke about the no deal technical notices published by the Government. He ran through the various technical notices from the slide and added context to a few.

He said the developing GMOs was interesting because it reveals that the UK isn't currently developing GMOs and don't plan to.

PS also highlighted the running oil and gas technical notice which says we will revert to the international standards, which are weaker than current EU standards.

PH pointed out there was one on timber regulations as well.

PS explained that the notices are only guidance. There is no real change or nothing radical.

All it says on upholding environmental standards, for example, is that they will publish an environment bill.

AB suggested it might be good to update the UKELA website to let people know that these notices had been published. The BTF agreed.

9. Northern Ireland

PS said the most prominent, public point was DAERA Brexit update form October 2017.

KB said that in the absence of a NI Government there is no point in looking much further. A lot of work is being done by trade bodies such as the food and drink industry who are very concerned; and local CBI. Inter Trade Ireland is a body that can speak for the public sector.

10. Scotland

Already in updates above.

11. Wales

Before BL had to leave the meeting, he gave input on what the focus should be over the next 6 months. He said the question to ask is how much planning ought UKELA to be doing so it could mobilise very quickly in different scenarios. UKELA have to plan for three of those:

1. Somewhere down the middle along Chequers lines;
2. No deal;
3. Norway-style solution.

BL said he was going to speak to Welsh Government on 15 October to talk about the environmental framework for Brexit. BF asked BL if he could brief BTF after that meeting and he said he would.

VJ from the Wales Working Party said that one of the things they struggle with is how to connect with the wider UKELA group. There is quite a lot going on in Wales because of the legislative framework there and they are keen not to make a submission to a consultation that is contrary to what UKELA is saying nationally. PS confirmed that WP guidance on submissions recommends any submissions should be sent via the central BTF for comment.

RM suggested the following:

1. A mechanism to ensure anything submitted to devolved administrations should be sent to AB or PS;
2. One of the realities is there will be different perspectives around the country – people drafting know there are differences and they could highlight those conflicts;
3. There should be a formulation of words for submissions that says these don't represent the views of all UKELA members – we should be rigorous with that for submissions.

BF said to start with having a 'post box' so that all submissions come to the central BTF is essential.

12. Events & other updates

NCWP – Marine issues Brexit paper

Discussed in AOB.

Standards setting seminar – tbc

Discussed above

other events

Discussed above.

13. BTF 6 month work plan

RM said that the basis for UKELA and BTF work should be the six reports with recommendations that have already been produced. He highlighted the following:

1. Having a national level reporting system on how the law is being implemented. We can say on the Environment Bill that there should be post-implementation scrutiny every three years;
2. Independent commission – there has been very little discussion of where disputes happen. RM said the Government are thinking about this and Debbie Tripley at WWF was saying that she was very worried about DEFRA and what would happen with courts etc;
3. The international law – it's hard to know how to follow up on this. We wanted the Government to be clear on mixed agreements etc.;
4. Henry VIII clauses – one of the reasons we did this report was to show that with all technical amendments you could put them all together in one report. RM said we could still push for that to say to DEFRA: will you, in the interests of public understanding, we try and cohort it under subject areas.

BM said that public understanding will be a big issue post March.

RM said we know from Mr Gove roughly how many amendments there are going to be but the concern is they will just be dribbling out and now would be the right moment to write a letter to the Secretary of State to say we would really urge them to group them.

VJ said it would also be useful to write to all the devolved administrations.

RM noted that EU judges on the environment have amended their rules to allow ex-EU members to remain members.

BF said she thought it was good to stick to the issues highlighted by RM. She added that one of her biggest concerns is devolved administrations and what's going to happen there.

BM said since environmental laws are largely devolved anyway and the status quo will remain. The complexity comes because a lot of new regulations will come from DEFRA and the devolved administrations will also do their own legislation. There could, for example, be regulations to set water standards just for Scotland and also one for the whole of the UK.

BM said there are some things that it makes sense to be done on a UK-wide basis but it will get very political. That is where UKELA as a non-political voice can be influential.

RM said that where there are significant differences in regulations on a national and devolved level, BTF should compare them.

BM said she thought this will be a longer term issue.

BF said the focus should be on standards, reporting, courts and Henry VIII

In terms of the letter on Henry VIII powers, PH said he'd heard there will be a splurge of statutory instruments published in October so any letter will need to be sent quickly.

AB said it would be useful to get PS's thoughts on his capacity and resourcing for some of the action points. PS said he expected the environment bill and policy statement at end October or early November and UKELA should commit some time and resources to that. If the SI papers come out before then PS would at least like to put out press comments on that.

PS said that with work he needed to be doing with WPs, he would be tied up with environment bill and other things up until Christmas. PS said that since he'd been in post he has been 85% Brexit and 15% working parties. He would like to commit more time to working parties. That is something that needs to be taken into account.

The BTF discussed how to decide the best allocation of time and it was decided that BF and AE should consult the executive committee.

14. AOB

PS mentioned the nature conservation working party Marine conservation submission paper they want to send to DEFRA. RM suggested AE and BF look at it ahead of submission on 9 October. BF and AE agreed.

Environment Bill

PH said his instinct was the environment bill would come at the end of October.

BF said that it's such an important consultation that the wider BTF should be involved in any response.

RM said it would also need to be flagged with wider UKELA and council now because it is clear it will go wider than Brexit.

AB suggested alerting the exec committee by email which was agreed.

It was agreed that PS would take the lead in drafting and coordinating a response with the wider BTF working with sub-group on this in similar fashion to the EPG consultation.

15. Date and place of next meeting

Next date to be determined after AE and BF discuss with UKELA Executive committee and get feedback on priorities.

It was agreed that ES's offer of the new UCL Faculty building was a good option.

The meeting ended at 4.18pm.

ENDS.