

# Risk & Regulation

Magazine of the ESRC Centre for Analysis of Risk and Regulation

No.5 Spring 2003

## \*\*REGULATORY ERROR\*!!

### \*\*\*WHEN GOVERNMENT NEGLECTS RISK\*\*

**also**

Where the Ivory Towers Meet  
the Whitehall Village

The Operational Risk Game

Regulatory Fever

Controlling the Campus

On the Railroad to Nowhere?

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## Risk&Regulation: CARR Review No 5 Spring 2003

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# Between Theory and Practice

The complex relationship between theory and practice lies at the heart of the social sciences, and many great minds have been exercised in exploring distinctions between the two pursuits. Nowhere is this relationship more tangled than in the world of risk regulation, where the work of academics and practitioners fails to neatly align with conventional distinctions. Many so-called practitioners operate on a daily basis with abstract ideas and theories, often unconsciously, in pursuit of their business. The very idea of risk and its related theoretical baggage is a good example. Equally, the academic disciplines are often informed and influenced by more pragmatic issues than claims to intellectual purity suggest; for example, statistics has historical roots in insurance and arithmetic for political purposes, whilst the qualitative research genre of anthropology came into being, in part, as empire management. This complex interplay between theory and practice underlies much of CARR's work, both in intellectually organising risk and regulation studies into a coherent theoretical field, and in extending dialogue with practitioners. Over time, we hope that these activities will become fully-fledged and mutually enlightening partners.

As far as theoretical development is concerned, our fifteen-month review, in December 2002, reported visible progress on a number of fronts. First, several projects are addressing generic issues relating to organisations and risk management, building partly on neo-institutional theories of organisations and taking variations in the organisation of risk management practice as the central problematic. Second, a number of other studies are developing analytical frameworks for the comparative analysis of the regulation of government and the theory of risk regulation regimes. A third strand of theoretical work relates to the legitimising and blame allocating dimensions of risk regulation. A final fourth generic theme focuses on Ayres' and Braithwaite's concept of enforced self-regulation, in which the state mandates self-regulation and steps in where this is not adequately achieved.

Coupled to these theoretical advances in intellectually framing risk and regulation studies, we have also been working hard to cultivate our relationship with practitioners and to build related forms of capacity within CARR. Perhaps the most significant step in recent months has been to establish a series of practice consultative seminars within CARR, in which policy-makers are invited to discuss aspects of a particular regulatory or risk management initiative. So far, we have hosted colleagues from the Department of Trade and Industry to discuss the regulation of the accountancy profession, and from the Cabinet Office's Strategy Unit to discuss their 2002 publication, *Risk: Improving Government's Capability to Handle Risk and Uncertainty*. In both cases, we hope to influence equally the quality of discussion around these initiatives and the final substantive form of any proposals.

At the same time as we are reaching out to the varied worlds of practice, our UK academic outreach programme has become an expanding portfolio of mutually supporting elements, including UK visitors and regional- and London-based events. Of particular importance in this regard has been the launch of the CARR Risk&Regulation Research Directory (see page 8) as a clearing-house for academic expertise in the area. In time, we hope to extend this data resource to include policy-makers and practitioners.

In addition to UK Outreach and our efforts to serve as a national centre for the evolving field of risk regulation studies, we are committed to investing in the next generation of scholars who will take the field forward. We have recently made a number of appointments at the postdoctoral and research officer level, funded by the ESRC, BP p.l.c. and the Leverhulme Trust. Deutsche Bank AG resources continue to support graduate and postdoctoral teaching within CARR, including the annual graduate conference, which was so successful last summer (see page 13).

We do not expect that these investments in theory- and practice-orientated work will solve the issue that has perplexed many minds over the centuries. We do believe, however, that the conjunction and proximity between abstract ideas and applied concerns can make them partners in a very productive relationship. The delicate trick is to avoid the pitfalls of propagating mere consulting and faddish rationalisations of practice on the one hand, and of defending a deluded and impossible purity on the other.

**Bridget Hutter** and **Michael Power**  
CARR Co-Directors



# Where the Ivory Towers meet the Whitehall Village

The Civil Service has undoubtedly improved in recent years with the introduction of key reforms such as better strategic planning, greater diversity and more sophisticated human resource management. Given the 'revolutionary' cultural changes that such 'modernisation' entails, however, it is not at all surprising that some difficult tensions remain. On the one hand, there is a greater emphasis on innovation, risk taking, and individual responsibility for 'delivering' specific 'projects'. On the other hand, traditional Civil Service values of strict accountability, orderly administration and protecting Ministers are still very much in play. Consequently, single-minded dynamism, more characteristic of the private sector's pursuit of the bottom line, can come up against the conflicting demands of multiple stakeholders.

Management consultants can offer some help, but they are generally more comfortable providing limited and standardised techniques rather than confronting the central issue as a whole. A fuller answer might come in two parts. First, there is the intellectual task of extracting a coherent concept out of this cultural mixture in order to pave the way for a sustainable vision of the Civil Service. Second, there is the practical task of constructing a balanced framework of risk management, which, in operational terms, could encourage innovative behaviour whilst meeting high standards of public accountability. These systemic puzzles are classic territory for academics, not least within CARR.

In getting to grips with such complex tensions, academics are hampered by one fairly obvious disadvantage. Very few of them have seen central government from the inside at any great length or depth. Moreover, the memoirs of senior Civil Servants upon which they might like to draw for authentic insights, often do not get beyond what Clive Ponting has called 'respectful admiration'. The massive knowledge asymmetries between those inside and outside the Whitehall village are revealed with



**Professor Ron Amann**

has recently retired as Director General of the Cabinet Office's Centre for Management and Policy Studies and prior to that was Chief Executive of the Economic and Social Research Council. Professor Amann is also a member of the CARR Policy Advisory Committee.

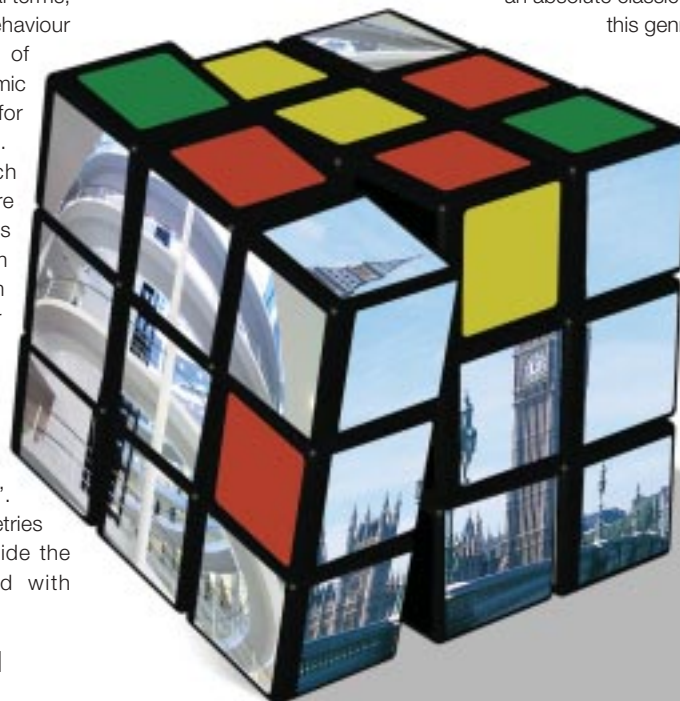
particular force in discussions of the distribution of power, the role of personalities, and attempts to reveal the 'true' character of relatively closed policy processes. Here, the layering of one theory upon another is often only tenuously linked to any empirical foundation.

Despite all this, however, I believe that there are ways in which academics can, and do, make an important contribution to our understanding of the issues. First, Civil Servants tend to have short memories because of the sheer pressure of work, the need to focus on the latest policy initiatives and periodic job rotation. Yet, a broader historical perspective is invaluable for anticipating problems that are likely to arise in implementing institutional reform. There is much to be learned today, for example, from Peter Hennessy's account of how the 1968 Fulton Report was diluted in its implementation, or the factors that lay behind the rise and fall of the Central Policy Review Staff between 1970-83. Provided access can be obtained, high quality empirical research can provide systematic accounts of aggregated behaviour that Civil Servants cannot easily formulate for themselves. Hugh Heclo and Aaron Wildavsky's account of the institutional 'politics' of public expenditure rounds in *The Private Government of Public Money* remains an absolute classic of this genre.

Second, academics are often in a good position to offer meta-views of the stylised solutions offered by the management consultants periodically engaged by Government; for example, in sensitive areas such as performance pay, where academics could highlight the values implicit in management strategies and the extent to which prevailing management ideologies close down possible alternative approaches. This is a missed opportunity, however. Much of the 'critical' management literature, such as that inspired by the Frankfurt School, is disappointingly poor empirically. Michael Power's work on *The Audit Society*, which is written from a critical stance yet richly linked to specific context, is an important but rare exception.

Finally, academics can contribute what one might call 'high theory', often informed by a comparative perspective. When this is done well, it is extraordinarily illuminating. For example, Patrick Dunleavy's 'bureaus-shaping model', sheds a great deal of light on the structure of institutional incentives that lie behind departmental 'silo' mentalities, and Christopher Hood's *The Art of the State* artfully uses 'grid-group cultural theory' to bring out a typology of public management styles.

Christopher Hood's book brings me back to the central puzzle raised earlier, since he has successfully highlighted why different public management paradigms do not easily converge or blend. One can appreciate the theoretical force of his central argument that the indiscriminate cloning of fashionable models into areas where they are deeply inappropriate is a cardinal recipe for the production of reverse effects. Yet, reformers will doubtless persist in trying to combine different approaches in order to gain the benefits of each. That raises the practical question of whether cultural hybrids could, if skilfully introduced, be embedded in a sustainable way. Hopefully, we can search for some answers with the help of CARR's researchers and others.



## Online Research Directory Launched

CARR launched a pioneering resource tool for risk and regulation research last December. Containing up-to-date information on academic research, the international Risk&Regulation Online Research Directory promises to become a gateway for academics, students and practitioners. Our aim is for the resource to aid the development of intellectual synergies, pulling together research and building successful partnerships across the world. To use this innovative tool go to: [www.lse.ac.uk/Depts/carr](http://www.lse.ac.uk/Depts/carr)

## Shaping the local agenda



**Christopher Hood**

Following the success of the first series of lectures on the economics of population change, the Westminster Economics Forum has begun a second series of seminars on the subject of 'risk' for local policy-makers and businesses. **Bridget Hutter** and **Mike Power** have provided intellectual guidance, and **Christopher Hood** hosted a seminar in March on Blame Avoidance, Risk and Negativity Bias.

## Government Handling of Risks to the Public

The Cabinet Office's recent report, *Risk: Improving Government's Capability to Handle Risk and Uncertainty*, presents a platform for government handling of risk. As part of CARR's high-level seminar initiative, a special meeting was held with representatives from the Cabinet Office's Strategy Unit to provide CARR input on organisational dimensions of risk management.

## Click on CARR

The CARR website has been improved and re-launched with a new look. The site has new content, new functions and is even more user-friendly. Amongst many things, the website keeps you informed of the latest research, risk regulation expertise in CARR, and provides access to an array of online publications. As always, all issues of *Risk&Regulation* are accessible online:

[www.lse.ac.uk/Depts/carr/](http://www.lse.ac.uk/Depts/carr/)



## CARR in the News

A number of CARR members have been invited to offer their opinions on topical debates. **Robert Kaye** was interviewed by Channel 4 News to discuss the regulation of party political funding, whilst **Martin Lodge** appeared on BBC1 to discuss the regulation of German energy markets.

## Research Student Conference

CARR is organising the second Risk and Regulation Research Student Conference, following the success of last year's inaugural event (see page 13). The conference will be held on 18 – 19 September. For details see the CARR website.

## Staff News

CARR says goodbye to **David Black** who leaves us as Administrative Secretary for a position in the Civil Service. Congratulations to **Louise Newton-Clare**, our Centre Manager, on the birth of her new baby. We welcome **Anna Pili** as her temporary replacement. Also our congratulations to **Bridget Hutter**, who has recently become the Editor of the *British Journal of Sociology*.



## Global Round-Up

CARR members have been much in demand in recent months and have presented their work to academic and practitioner audiences across the globe.



**Tim Besley** was invited to deliver three lectures as part of the Lindahl Lectures Series in Uppsala, Sweden.

**Bridget Hutter** was invited by the Policy Research Initiative to present research on risk-based regulation at McGill University, Montreal.

**Christopher Hood** addressed the Annual Meeting of the American Political Science Association in Boston.

**Terry Gourvish** addressed the International Business History Colloquium at Bocconi University, Milan.

**Martin Lodge** was invited to present his work on administrative and regulatory reform to the Croatian Ministry for European Integration, and he presented work on regulatory accountability at Trinity College, Dublin.



**Mike Power** was invited by the Regulatory Institutions Network to speak about the wider contexts of auditing to the Australian National University and presented his work on operational risk to the University of New South Wales.



**Henry Rothstein** presented his work on institutional attenuation to the US National Institute of Occupational Safety and Health, and discussed UK reform of food safety regulation at conferences in New York and Paris.

**Colin Scott** presented his research on Regulating Research Ethics to Australia's National Health and Medical Research Council, and discussed Regulatory Accountability at a conference at Columbia University, New York.

# The Operational Risk Game

Proposals to regulate operational risk prompt **Michael Power** to reflect on how ill-defined concepts can have a profound impact on practical affairs.

**R**egulatory projects are always in some sense visionary. Possibilities and aspirations for control and order get projected via discussion documents, codes, guidance manuals and the law, often in an ideal form abstracted from the messy realities of implementation. Concepts and categories are important vehicles for this creative process, providing both powerful rhetorics for change agents and tentative maps for reshaping practice.

Nowhere is this visionary process more evident than in the Basel 2 reforms of banking regulation and, in particular, the specific proposals for the management and regulation of operational risk. The process of developing, implementing and supervising operational risk management in banks is still incomplete, but in many respects the most difficult and decisive step has already been taken: the rise and institutionalisation of 'operational risk' as a category of regulatory and managerial attention.

To suggest that operational risk has been invented is not merely figurative or fanciful. Of course, businesses in general and banks in particular have been aware for many years of risks arising from IT infrastructure, fraud, business disruption and many similar issues. However, the renewed visibility of these risks under the label of 'operational risk' re-constructs their location and status for management decision-making purposes. Furthermore, the connections made by the Basel Committee and others between the management of operational risk and good

governance, positions these 'old' risks in a new space of expectation – regulatory, political and social.

The true author and inventor of operational risk is Nicholas Leeson, the 'rogue' trader attributed with the destruction of Barings Bank; Leeson did for operational risk what Maxwell did for corporate governance. So operational risk in the banking industry started life as a residual category, something left over from market and credit risk management practices, a fear category with a problematic reality and status. For this reason, it has proved problematic to define, although such difficulties in fixing meaning have enhanced, rather than detracted from, its importance. Arguments about whether it properly includes or excludes such things as 'strategic' or 'reputational' risk only serve to emphasise the potentially broad appeal of the concept as a meeting point for many different, often competing, intra-organisational interests and practices. Operational risk, therefore, often becomes a site of conflict and cooperation between accountants, IT specialists, credit risk managers, insurance specialists, health and safety experts and many others.

One of the most challenging and potentially paradoxical features of operational risk is its implication for data collection. Operational risk marks a space of concern for so-called low probability, high impact events, which are typically those where data is not only hard to collect because of its low frequency, but also subject to wider forms of ambiguity (eg, what is a relevant loss event? Do near misses count?). Understandably enough, in such situations the tail of feasible data collection often wags the dog of operational risk management.

Closely related to the data collection issue is an apparent tension between two broad management camps. On the one hand, there are those who would fit

operational risk to the quantitative metrics and economic capital calculation regimes that already work for market risk. On the other, there are those more sensitive to the qualitative and governance dimensions of operational risk, where systems integrity, communication and directionality of risk assessment play a more significant role than measurement and technological fix. Inevitably, these tensions create a micro-politics of control in banking organisations as experts compete for precedence.

Charles Goodhart, among others, has argued that the operational risk game exists largely as a discretionary top-up for regulators concerned about declining economic capital in the banking system. As such, the elaborate fantasies of micro-control evident in Basel 2, and its seemingly endless iterations around operational risk, are an unnecessary smokescreen for something simple. Certainly, banking industry practitioners are vexed by a regulatory proposal that projects an ideal of detailed and complex systems of calculation, but which leaves critical judgements in the hands of supervisors.

As these messy regulatory and managerial realities unfold, the category of 'operational risk' provides an instructive case study of how ill-defined concepts and ideas can nevertheless have a profound and transformative impact on practical affairs. And at a time when a great deal of intellectual investment in detailed infrastructure and metrics is evident, there is, I hope, some utility in a sociologically informed reminder of the visionary origins and dreams of control which inform the management of operational risk.

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Michael Power is CARR Co-Director and P.D. Leake Professor of Accounting. *The Invention of Operational Risk* will be published as a CARR Discussion Paper in summer 2003.

# Regulatory Fever

As regulatory fever grips the NHS, **Lindsay Stirton** considers the causes of the outbreak and asks whether it is good for our health.

The 'health regulatory state' has flourished under the Blair Government. Since 1997, the National Health Service (NHS) has established a raft of new regulatory institutions and procedures: from the National Institute for Clinical Excellence (NICE), which appraises new health technologies and disseminates clinical 'best practice' guidelines, to the Commission for Health Improvement (CHI) which monitors compliance with standards. Such is the pace of change, that some of these institutions have barely opened for business before they have become outdated. Plans are already afoot, for example, to replace CHI with a new, more powerful Commission for Health Audit and Inspection.

These reforms, however, represent the culmination of a process that extends back over twenty years. Perhaps the most notable illustration is the National Service Framework Initiative, a programme of national service standards and models, which was essentially the re-branding and extension of the approach taken by the previous Conservative administration to paediatric intensive care and cancer treatment.

Since the creation of the NHS, the implicit quid pro quo for the NHS accepting overall spending limits, has been that the state would not interfere in how money was spent. The creation of the NHS ombudsman in 1974 started to undermine that understanding by providing some degree of quasi-regulatory oversight. The direct and explicit erosion of the status quo, however, can be traced to the establishment of the Advisory Committee on NHS Drugs (ACD) that same year. In particular, the ACD's 'Limited List' of drugs was an attempt to control the spiralling costs of marginally effective treatments by restricting the pharmaceuticals that GPs could prescribe within certain therapeutic categories. Since then, the list of health regulatory institutions has grown apace.

There are a number of explanations for this outbreak of regulatory fever. The first is money. Straightforward money saving can explain some reforms such as the ACD's Limited List, but simple 'rationing' would be too crude a charge to lay at the foot of the NHS's door. Concern to reduce the liability costs of clinical negligence, however, may have played a significant role. The introduction of ex-ante controls, ostensibly to improve clinical practice, has had important cost implications, especially where controls have been cynically used as 'litigation shields'.

More recent regulations, however, are not so obviously directed at money saving. Indeed, NICE was correctly anticipated to have a positive net effect on expenditure by hastening the uptake of new therapies. Recent efforts towards complete implementation and compliance with existing clinical guidance, such as on cholesterol-lowering statins, have proved even more costly.

Other commentators have suggested that the move towards a more market-orientated NHS is a better explanation of the extension of the regulatory mode of governance. Undoubtedly, the Internal Market, together with an increasing use of the private sector to deliver health care, has diminished traditional managerial approaches to governance. Yet, many of the major health policy decisions in the last ten years have been traditional managerial planning decisions, such as the rationalisation of hospital services in London. In other words, traditional hierarchical control has diminished only at the margins.

Still others suggest that changes in professional power relations have been the root cause of regulatory developments. Regulatory changes have undeniably occurred at a time when the medical profession has been increasingly under challenge from a better-informed and more demanding public, and has been put on the defensive by a series of

high-profile health service disasters. Yet, whilst the dynamics of the medical professions can provide insights into the motives and opportunities for increased regulation, an account of the means of regulation is still missing.

Here, the changing nature of medicine itself has an explanatory role to play. 'Evidence-based medicine', has provided a model for care provision, based on supposedly 'objective' evaluations of therapeutic approaches, the related establishment of 'clinical guidelines', and monitoring implementation by 'clinical audit'. The rise of evidence-based medicine has been a crucial 'missing link' in understanding why the governance of the NHS increasingly imitates the 'regulatory state' familiar in other public services, such as utilities. In other words, there is at least a sense in which the government has chosen to regulate the NHS 'because it could'.

Will increased regulation of health services improve health service provision? Experience so far suggests, at most, cautious optimism. Counter-productive regulatory outcomes suggest that we may be solving pressing problems at the cost of creating others. Phenomena such as 'NICE-blight', whereby clinicians avoid useful treatments under review, or adopt marginally effective – but sanctioned – treatments at the expense of more effective – but non-standardised – treatments, are becoming all too common. How the health regulatory state will manage these new challenges remains to be seen.

Lindsay Stirton is a CARR Research Associate and Lecturer in Law at the University of East Anglia.



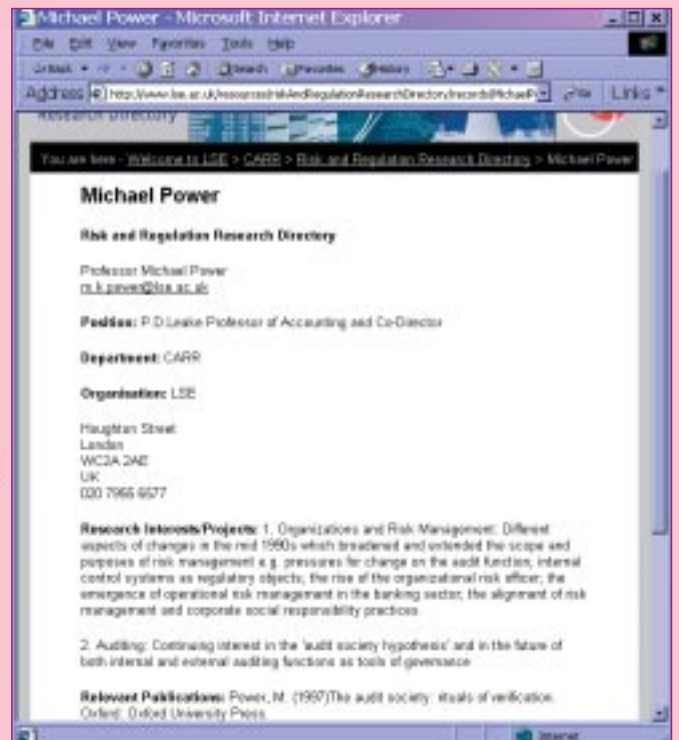
# Risk&Regulation Research Directory

A powerful, free, online searchable database containing up-to-date information on academic risk and regulation expertise across the world.

Enter your search term



Find your result



The Research Directory provides a focused and dedicated resource for research and policy thinking in risk and regulation studies. Inclusion is at the discretion of the Directors of CARR. As a broad guide to relevance, potential registrants should consult the CARR website and the aim and objectives of CARR. All or part of the research interests of potential registrants may be included; the relevance test is applied at the level of projects rather than persons. Registrants may be de-registered where their interests cease to be relevant.



# Controlling the **Campus**



Is excessive hierarchical control in Higher Education the inevitable price of regulation, or can meta-regulatory strategies offer a more effective regulatory model? **Colin Scott** considers experiences in the UK and Australia.

**H**igher Education (HE) in the UK and Australia is widely perceived to suffer from over-regulation, with the core activities of teaching and research subject to ever tightening controls. Many claim that over-regulation has eroded the autonomy and creativity necessary to maintain a flourishing HE sector. Yet a return to a romantic golden age of unfettered control is neither realistic nor even desirable. The question, therefore, is how to reap the rewards of regulation, whilst avoiding the harms?

One way out of this difficult dilemma is to understand that excessive hierarchical control is not the inevitable price of regulation. Alternative regulatory models can instead be deployed that minimise the problems witnessed in the HE sector. The promising seeds of one such alternative approach can be found within organisations that deploy meta-regulatory strategies – a concept developed by Christine Parker in *The Open Corporation*.

Meta-regulation refers to the use by the state of indirect, rather than direct, controls to achieve regulatory goals. Indirect controls can be more effective than traditional hierarchical methods if they can capitalise on the internal management capacities and incentive structures of regulatory targets. We are already witnessing some tentative meta-regulatory approaches within the HE sector, and comparative examination of their use within the UK and Australia suggests they have considerable potential.

The traditional autonomy of universities has been under pressure in many OECD countries since the 1960s, as a consequence of increased government funding, greater salience of HE policy and recurring fiscal crises. A recent consultants' report for the UK funding

agency, for example, revealed an extraordinary web of monitoring and control. The picture in Australia is much the same. A more disaggregated and nuanced analysis of the UK and Australian HE sectors, however, reveals considerable divergence in their choice of regulatory tools. The UK has adopted an excessively prescriptive model of regulation for teaching quality, but a more meta-regulatory style of control has been linked to competitive pressures for research. Conversely, the Australian teaching quality regime has been predominantly indirectly controlled and linked to community values, whilst the research regime has been more prescriptive. Analysis of the differing outcomes highlights some of the advantages that meta-regulatory strategies can offer.

The Australian and UK approaches to funding research are similar in so far as they have both introduced more competition for block grant and research council funds. In the UK, however, decisions on block grant research funding are informed by a periodic peer review of a limited number of research outputs for every department within the Research Assessment Exercise. The use of such highly generalised research quality indicators has given institutions considerable discretion to set research priorities. In contrast, the Australian regime entails an annual audit of all research outputs with funds linked to quantity and certain forms of research output. In comparison with the UK regime, therefore, the Australian regime appears to favour quantity over quality and control over independence.

When it comes to controlling teaching quality, the UK and Australian regimes again appear superficially similar, in so far as they both entail dedicated agencies and auditors drawn from senior

academic staff. There are fundamental differences however. The UK's Quality Assurance Agency for Higher Education (QAA) sets external standards for many matters such as assessment of students, degree content, external examining and programme approval, monitoring and review. The Australian Universities Quality Agency (AUQA), in contrast, avoids setting external standards and instead audits compliance with institutions' own objectives. The UK regime, therefore, is much more prescriptive than the Australian regime and, consequently, fails to capitalise on the benefits of universities developing their own standards and processes.

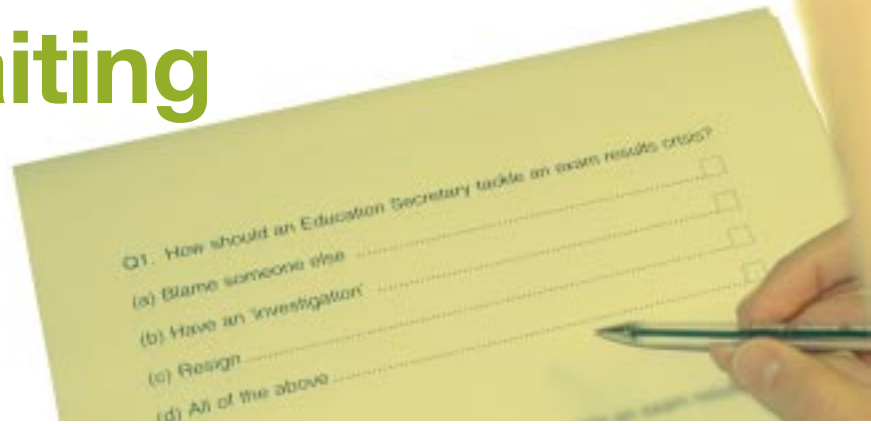
The UK and Australian higher education experiences suggest that where institutions show a strong capacity for self-regulating, meta-regulatory processes can provide a way of keying into those internal capacities to steer regulatees towards externally set objectives. The deployment of meta-regulatory approaches in appropriate conditions is less costly than traditional direct control methods, and can be more effective in aligning behaviour with wider public objectives. Such indirect steering is an inexact science but is one about which we need to learn more. Meta-regulation has wide application beyond controls over the public sector and can provide a bridge between traditional business regulation and interests in organisational control.

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Colin Scott is a CARR member and Reader in Law at LSE. He is currently on secondment to the Law Program and Regulatory Institutions Network of the Research School of Social Sciences, Australian National University.



# Exam Howlers or Accidents Waiting to Happen?



Recent exam result crises provide a perfect model of 'How to Organise a Debacle' argues **Brian Hogwood**, but they also show we need to learn how to manage change in the public sector.

In giving evidence to the Commons Select Committee on Education and Skills on 15 May 2002, Sir William Stubbs, then Chairman of the Qualifications and Curriculum Authority (QCA) in England, alluded to the exam results problems that had occurred in Scotland in 2000. He suggested that, in part, problems had arisen because there was only a single exam awarding body in Scotland, in contrast to England where there were three, overseen by the QCA. Comment in Scotland in 2000 following the debacle had suggested that one of the concerns was the lack of an independent regulator; in Scotland the Scottish Qualifications Authority (SQA) was also the single examining body.

Yet by September 2002, the English QCA and the government were facing their own political crisis over exam results in England. On 27 September, Sir William Stubbs was forced to resign, and a month later the Secretary of State for Education, Estelle Morris, resigned, claiming she could not cope with the pressures of the job. Clearly then, whilst the number of awarding bodies and independent supervision of the exam system are important and interesting issues, they are insufficient to explain why exam result crises blew up in both countries.

An 'exam howlers' approach to interpreting the crises would concentrate on individual mistakes, perhaps so elementary as to be laughable, like a poorly prepared pupil who mixes up wrongly remembered pieces of information. An 'accidents waiting to happen' approach, to adapt a phrase used by Mike Tomlinson in introducing his First Report on the problems in England, would imply that the process was so structured that problems of some kind had a high probability of occurring.

Certainly, it is possible to identify 'howlers'. An example is the failure to inform the SQA's own helpdesk of a change in making results available to schools, so that anxious pupils were given wrong information about who could help them. Overall, though, a preliminary comparison of these crises suggests that there were broader structural factors at work.

Both academic explanation and practical lesson-drawing are likely to be assisted if we can identify common structural features of the problems and potential commonalities with other public policies:

- Both crises involved planned or 'purposive' change rather than simply a response to a problem, such as foot-and-mouth disease. Crises in both countries related to major changes in the nature of examinations.
- In both cases a large number of bodies were involved, although activities were divided amongst them differently. The involvement of large numbers of organisations in public policy delivery is so common, however, that it may hardly be regarded as distinctive.
- All the organisations involved had undergone major reorganisations, including the qualifications authorities, the examining boards and the government departments (with devolution marking a major change in Scotland). Those organisational changes coincided with the management of major change in the examination systems.
- There were significant changes in documentation to be processed, both in scale and in the way the information had to be collated for a final result.

- Very large (and growing) numbers of 'customers' were involved.
- The process was highly time-constrained, both in terms of the year of introduction and the very narrow band of dates within which full and correct processing had to take place.
- The consequences of error or delay would be highly distressing to those affected (for example, loss of desired place at university).

The last three points help explain why problems inevitably became highly politicised and involved considerable blame-shifting, even though the actual error rate was lower than, say, is routinely the case with social security benefits. Concern was increased because of the uncertainty that lasted for weeks about the scale of the problem and which individuals had been affected.

Although there are some obvious common features between the two crises, there are some key differences. The Scottish problems largely centred on failure to collect, input and collate marks. The problem in England was more about the ambiguous meaning of maintaining a standard when there had been a major qualitative change in the structure of the qualification. The first is arguably easier to rectify than the second.

It is easy enough to list some of the events and factors that led to the crises and use them to construct a list of instructions on 'How to Organise a Debacle'. It is more difficult, but still insufficient, to identify how those particular events and factors could have been avoided. The broader need is to identify the risks involved in managing particular types of change in the highly politicised atmosphere of the public sector.

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Brian Hogwood is a CARR Visiting Fellow and Professor of Politics at the University of Strathclyde.

# When Government Neglects Risk

The management of occupational health and safety in the UK is said to be highly risk-based, yet government appears to be ignoring a significant risk that could be doubling workplace fatality rates. Henry Rothstein investigates and draws some worrying implications for risk governance.

**W**orkplace fatalities occupy considerable government attention and resources and, at just under 300 deaths each year in UK workplaces, it would seem rightly so. Yet, recent research suggests that several hundred additional workplace deaths are caused annually by exposure to a risk of which government is aware, but largely neglects. Indeed, government has a statutory duty to reduce this specific risk, remedial measures come cheap at just over a thousand pounds per workplace, and employers, when alerted to the risk, are generally responsive. So what is this risk, why is it being neglected and why does it have worrying implications for risk governance?

The risk is from radon – the natural radioactive gas that afflicts many regions of the country – not just the well-known south-west. Estimates of radon risks are controversial – some believe the nuclear industry have hyped the risks and others believe that small doses may even be good for you. But the National Radiological Protection Board (NRPB) – the government's nuclear advisory body – suggests that exposure to radon in homes and workplaces could be annually responsible for over 2,000 lung cancers in the UK.

Public disinterest in radon is well-documented and appears to explain remarkably low rates for protecting homes against this hazard, even though this is where most exposure occurs. Some say that government should do more to protect the public, but the state has adopted 'an Englishman's home is his castle' approach, confining itself to a countrywide survey and supporting limited radon awareness campaigns.

When it comes to workplaces, however, government has had a specific statutory duty to protect workers against radon since 1985. Radon was originally thought to just afflict the marginal non-coal mining industries, but it was then found in many workplaces and public buildings across the UK. The NRPB now estimates that exposure to radon in workplaces alone may cause as many as 250 lung cancers annually. The regime is monitored and enforced by a highly risk-based

agency, the UK's Health and Safety Executive (HSE) (working in tandem with local authority inspectors), which has made control of radiological hazards a high priority. Yet, figures for implementing radon controls are disappointing. Only about 12,000 out of 150,000 potentially afflicted workplaces in England and Wales have so far been tested and at that rate it will be at least 20 years before workplaces are better protected.

Why has there been such regulatory neglect? There appear to be four main institutional reasons. First, there are expertise deficits amongst health and safety inspectors who are mostly generalists. Radon is not readily associated with particular business activities and is only detectable with special apparatus. One HSE official explained the problem, 'Some inspectors don't feel comfortable with the subject and some inspectors just don't know about radon. ...When you explain the risks to field inspectors and say that radon causes 250 deaths a year, their eyes light up.'

Second, the radon regime is institutionally fragmented, spanning EU and national policy-making, a national nuclear watchdog, and regional monitoring and enforcement. Those split institutional responsibilities work against remedying expertise deficits by hindering communication of radon risks throughout the regime.

Third, radon control suffers from misaligned institutional incentives by failing to figure as an important national objective within the HSE. Instead, radon often loses out to the local contingencies of competing demands on resources, political priorities and issues that attract greater professional rewards. As the HSE official explained, 'There is not a lot of kudos in pushing radon. You get kudos as a regional director for your contribution to the regional and national workplan.'

Finally, radon falls prey to the traditional health and safety culture, which holds employers more culpable for safety risks directly resulting from workplace activities than unfamiliar health risks of 'natural' origin. 'Other issues such as gas cylinders are more likely to be on their [inspectors] minds,' is how another HSE official put it.

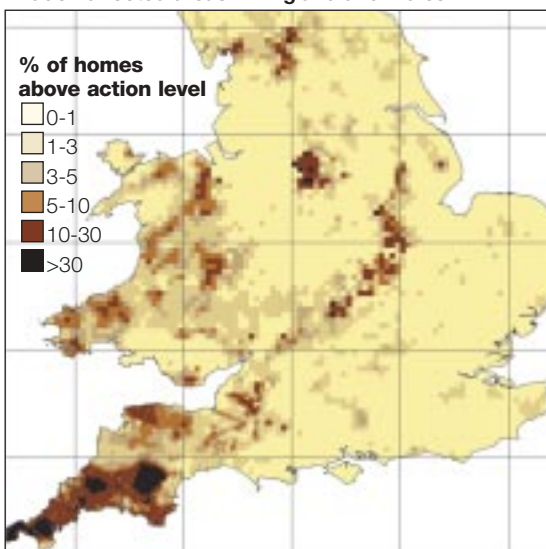
State institutional failure to manage risk is not limited to occupational radon. Another example is the BSE story during the early 1990s, when local authority inspectors failed to enforce regulations to prevent contamination of human and animal food chains with spinal cord and other cattle offal. Analysis of the institutional failures that contributed to the BSE crisis reveals remarkable structural similarities to the radon story and is suggestive of a more general risk governance problem.

Much has been written about the supposed dichotomy between official and lay perceptions of risk. But such arguments often miss the significant ways in which bureaucratic perceptions of risk are shaped by social and institutional processes even within the most archetypal 'risk bureaucracies'. In particular, research on radon, BSE and other risks, is suggestive of a phenomenon of institutional attenuation, whereby the institutional dynamics of risk bureaucracies can serve to attenuate bureaucrats' perceptions of risk and diminish their attention to associated regulatory requirements. As a consequence, some risks can be simply neglected.

The institutional attenuation phenomenon appears to be driven by a number of institutional factors, which collectively appear to be fatal for effective risk management. Those factors include expertise deficits, institutional fragmentation, misaligned institutional incentives and dysfunctional regulatory cultures. If government is to better manage public health risks, then even the most risk-based bureaucracies need to pay greater attention to the institutional factors that can undermine effective risk governance.

Henry Rothstein is a CARR ESRC Research Fellow. This article draws on CARR Discussion Paper No.7 and *Health, Risk and Society* 5 (1) 2003: pp85-103.

## Radon affected areas in England and Wales



SOURCE: NRPB

# On the Railroad to Nowhere?

Railway regulation is often considered a peculiarly British failure, but **Martin Lodge** argues in a new book on British and German railway reforms that there will always be 'trouble on the lines'.

That organisations are born in hope and enthusiasm and end in disillusion and disappointment is a well-known adage in public administration. British railways at the beginning of the 21st century seem a particularly good example of this depressing cycle towards policy 'hell'. Whether it is 'leaves on the line' or further delays to projects that are key to the once widely-hailed ten-year transport plan, British railway policy reform seems to confirm the worst predictions of privatisation's opponents. But plagued as British railways are, can we look elsewhere to find a better solution? *On Different Tracks* charts regulatory reform of the railways in Britain and Germany across the twentieth century and finds a pattern of recurring reform themes.

'Difficulties' on the railways are not just familiar to British railway travellers. The last few years have seen the recently 'privatised' German railway system facing a similar identity crisis to that afflicting its British counterpart. The problems in the UK have been well advertised: Railtrack's financial collapse, widespread financial difficulties of the various franchises, accusations of worsening safety records, and turf fights between different regulatory and supposedly 'strategic' and franchising bodies. But Germany has suffered from similar problems, including market dominance abuses in preventing network access, substantially misspent public money, weak regulatory oversight, and concerns over safety and service quality.

Legislation to privatise the German and British railway systems was passed in 1993, but each adopted different methods of vertically separating services and infrastructure. Britain adopted a system of franchising numerous passenger services and created a separate private infrastructure operator, three rolling-stock companies, a private freight operator and a myriad of maintenance companies. Germany also

franchised local, subsidised passenger services and privatised the operator. Unlike the British case, however, the federal-state retained ownership of the operator and kept it vertically integrated for an indefinite period.

The fragmentation of the industry created by the 1993 Railways Act was widely regarded as the root cause of recent British difficulties. But in the German case, the key problem was seen to be the strong position of the vertically integrated Deutsche Bahn, which could rely on the anxieties of its shareholder, the federal government, to protect its interests. Thus, in Britain, more integration was advocated; in Germany, enhanced fragmentation.

It was not the first time that the UK and Germany had adopted similar policy themes for their respective regulatory reforms. Just as both countries had simultaneously privatised their railways in the 1990s, both countries had simultaneously sought to 'nationalise' their railways during the much earlier inter-war and the post-1945 war periods. During the inter-war period, Britain's railways were changed from a private, oligopolistic industry to four regional monopolies under the eye of a new national transport ministry. Similarly, in Germany there was a shift from a variety of regional-state and privately-owned enterprises to a national enterprise under federal-state ownership.

The British case represented the outcome of a process that had initially put the railways at the forefront of a 'reforming' post-war economic policy. Sir Eric Geddes, the first British Minister of Transport, advocated a 'regulatory arrangement' that would combat what he saw as the dangers of public ownership, where 'politics corrupts the railway management and the railway management

corrupts politics'. In the German case, the initial 'nationalisation' of the German railways was soon overshadowed by the demands of the Allies for reparation payments. Influenced by two international railway experts (one being former LSE Professor William Acworth), a 'national' railway operator was created that enjoyed considerable commercial autonomy in its rate-setting policy.

After 1945, the new German government created a new single operator with less formal autonomy than the inter-war company. Britain's railways were also transformed into a single public corporation as a response to the financial decline of the four regional monopolies and Labour's post-election programme. Foreshadowing debates of the late 1980s/early 1990s, the four British railway companies had proposed a vertical separation between their railway services and the provision of infrastructure. Although that proposal was rejected, even Herbert Morrison, the initiator of the post-1945 nationalisation policies of the then Labour government, envisaged state-industry relations where ministerial functions would become mainly 'regulatory' and 'supervisory'.

*On Different Tracks* charts railways reform through three major periods of the twentieth century and shows how railway regulation can provide an historical lens for understanding contemporary regulatory reform programmes. The book provides numerous examples of recurring themes and proposals – often with policy ideas switching back and forth between key players. The book also points to the inherent tensions and trade-offs between the competing demands of efficiency, equity, reliability and safety when regulating such a complex industry as the railways. Indeed, a comparative and historical perspective cautions against any reform rhetoric that promises to deliver the definitive solution to all problems on the railways, whether in Britain or anywhere else. Indeed, there is no doubt that the problems of regulating the railways are certain to accompany our travels for a good deal longer.

Martin Lodge is a CARR member and Lecturer in Political Science and Public Policy. *On Different Tracks*. By Martin Lodge, Westport, Conn.: Greenwood, 2002; £42. To order a copy: [www.greenwood.com](http://www.greenwood.com)



# The World According to the Next Generation

The CARR Research Student Conference last September proved a resounding success. **Michael Huber** and **George Gaskell** now reflect on what the interests of research students can tell us about intellectual shifts in our understanding of the contemporary world.

CARR research shows that there is much to be gained by bringing together the two fields of risk and regulation. A glance through the pages of *Risk&Regulation* shows how contemporary risk and regulation problems have demanded that researchers step outside of their intellectual silos to develop new approaches and conceptual framings that cross the academic disciplines. Long gone are the days when risk was something for technicians and regulation was an esoteric branch of policy-making. These two concepts are now central to the organisation and management of both the private and public sector and occupy the minds of the lay public as well as the professional.

Nowhere are contemporary intellectual shifts more apparent than in the interests of research students, and the emerging field of risk and regulation is no exception. Indeed, the CARR Research Student Conference held last September, and funded by Deutsche Bank, shows just how popular work in this new intellectual domain has become. Doctoral students from around the world came to CARR to present research on a bewildering array of subjects that ranged from public and private sector organisational risk management to public attitudes to new technology. All the presentations, however, were linked by common themes that have become central to understanding the contemporary world.

According to Bridget Hutter, much can be learned about these new ideas and approaches by studying the intellectual history of risk and regulation studies. In her opening conference address, Professor Hutter highlighted the breakdown of the historical hegemonic dominance of disciplinary approaches to risk (eg, statistics, engineering, psychology and anthropology) and regulation (eg, political science and socio-legal studies). Instead, recent years have witnessed greater interdisciplinarity as the focus of attention has moved towards organisational risk-taking, governmental responses to risk management, and financial and accountancy risk. As studies of risk and regulation have gained ground, so the social sciences have started to make substantial contributions to understanding decision-making under uncertainty.

These shifts have been accompanied by a significant change in the language of risk and regulation. As recently as the 1980s, the word 'risk' was considered a technical term of interest to few beyond the technocrats. But risk has emerged as something fundamental to the understanding of modern and post-modern society and has colonised many areas where decisions are made under conditions of uncertainty. As uncertainty is becoming recognised as almost constitutive for modern societies, it is little wonder that risk discourses have both expanded and become less technical in both the scientific and public domains.

Regulation has undergone a similar trajectory. In just twenty years, the concept of regulation has metamorphosed from a technical corner of policy-making, to become the conceptual underpinning of complex and fragmented areas of policy analysis. When recently allied to control systems theory, such as the work on risk regulation regimes undertaken here at CARR, regulation has proved a powerful tool for more general organisational analysis.

These developments in risk and regulation have opened up a host of opportunities, challenges and debates for academics, practitioners and policy-makers. For example, rational choice models as seen in 'evidence-based policy-making' appear, in principle, to bring the different interest groups together with a common communication medium and a normative imperative. The costs of ignoring values and culture in the risk and regulation equation, however, have become increasingly clear and have a particular contemporary salience for the coming generation of researchers.

It is, therefore, not surprising that the CARR Research Student Conference revealed just how far the emerging interdisciplinary fields of risk and regulation are provoking contemporary academic scholarship. Yet, despite the sweeping breadth of topics addressed by this international group of students, which included financial markets, IT regulation and genetically modified food, three common themes could be seen to emerge.

The first theme concerned organisational dynamics, which locate the 'actor' in a central

position as source of both risk and self-regulation. Second, knowledge management emerged as a key issue underpinning risk and its control. And third, comparative perspectives were seen to play a key role in understanding organisational mechanics and dynamics. All three themes have featured in past research on risk and regulation, but their combination in successive presentations and debates was powerful. Particularly notable was the impressive ease by which the themes transcended traditional disciplinary boundaries.

By combining a twin focus on real world 'problems' and emerging theory, it is clear that the intellectual horizons of contemporary students have assumed a broad perspective. The presentations from this new generation of risk and regulation researchers show that the area offers many exciting opportunities for work at the intersection between social sciences and issues of contemporary relevance in the public domain. CARR will hold a Research Student Conference annually and the quality of the work presented at the conference suggests that the field will not only expand, but will do so in safe hands.

## Risk&Regulation 2003 Research Student Conference

A conference for doctoral students in the social sciences to present and discuss work in progress.

**18 – 19 September 2003, CARR**

Thursday 18 September

17.00: Keynote address and reception

Friday 19 September

9.30 – 17.00: Conference

**Deadline for abstracts June 15 2003**  
**For details see the CARR website:**  
**[www.lse.ac.uk/Depts/carr](http://www.lse.ac.uk/Depts/carr)**

## CARR sponsors regular risk and regulation conferences

### CONFERENCE NEWS

#### **Public Management Policy Change**

**CARR, LSE**

**November 2002**

In November 2002, CARR held a major workshop on the theme of Public Management Policy Change. The purpose was to examine the process by which decisions are made to change government-wide institutional rules and routines that comprise public management policies. Such policies reflect political authorities' and central agencies' approaches and instruments to regulate the core public sector as a whole. The focus of the seminar was on the change process. Public management policy change is poorly understood as a process, most prominently outside the English-speaking countries. For that reason, participants were brought together to present papers on Germany, Spain, Brazil, Mexico, Peru, and Thailand. The revised papers are scheduled for publication in a symposium issue of the *International Public Management Journal* at the end of 2003.

#### **New Governance of Markets: regulation by non-majoritarian institutions**

**CARR, LSE**

**December 2002**

The 1980s and 1990s saw the spread of non-majoritarian regulatory organisations at the national, European and international levels. Powers were delegated to independent national regulatory agencies, courts, self-regulatory bodies and supra-national organisations such as the EC Commission and WTO. The workshop examined how these non-majoritarian organisations have behaved and affected regulatory politics. The workshop looked at how they have altered the distribution of power and relationships within and between the state and private actors, and between government, independent regulatory agencies and courts. It raised issues of how non-majoritarian regulators gain accountability and legitimacy through new decision-making processes and transparency.

#### **Watchful Eyes, Oversight Explosions and Fire Alarms? Cross-national perspectives on control over government**

**CARR, LSE**

**December 2002**

Is there a general 'audit explosion' over public services taking place worldwide? Fifteen scholars from eight countries (Australia, France, Germany, Japan, the Netherlands, Norway, UK, USA) met to explore how controls over government had developed over a generation in three policy sectors – prisons, universities and the higher civil service. Prisons and universities show markedly different patterns, with the higher civil service somewhere in the middle. The workshop is the third in a series (see *Risk&Regulation*, No.1, Spring 2001: p.5) and it will result in a book edited by Christopher Hood, Oliver James, Guy Peters and Colin Scott, to be published by Edward Elgar next year.

#### **Organisational Management of Complex Risk**

**London**

**February 2003**

A grant from the BP Complex Risk programme allowed CARR researchers to spend part of the last two years working with organisations facing challenging risk management problems (see *Risk&Regulation*, No.1, Spring 2001: p.6). The distinctive feature of this work has been the combined deployment of ethnographic and problem structuring methods. With the project now complete, the workshop provided an opportunity to discuss a number of developing themes with risk management practitioners and academics from social and management science backgrounds. As the first stage of the post-project dissemination programme, the focus of the workshop was on the identification of risk handling practices within organisational settings, and the design and deployment of group-based soft modelling support for associated planning and decision-making processes. The team's provisional findings provoked lively discussion amongst the participants.

**More information on CARR events can be found on CARR's website, [www.lse.ac.uk/Depts/carr/](http://www.lse.ac.uk/Depts/carr/)**

CARR is building contacts across the UK and worldwide

### Visitors

**CARR has a dynamic Visitors Programme that is actively contributing to CARR's intellectual life. CARR has recently been privileged to welcome five leading scholars and practitioners.**

**Brian Hogwood** is Professor of Politics at the University of Strathclyde and has a research interest in analysing trends in public policy using a wide variety of indicators, including the use of different types of body for policy delivery and regulation. At CARR, he is examining the implications of using appointed public bodies in regulation, using a comparison of the regulatory implications of the exam debacles in Scotland in 2000 and England in 2002 (see page 11).

**Rolf Lidskog** is Professor in Sociology at Örebro University (Sweden) and is involved in the socio-political aspects of environmental management and policy-making. He is also researching multiculturalism and social order with a particular focus on institutional responses to urban violence and public fear of urban crime.

**Alexandru Preda** is Assistant Professor of Sociology at the University of Konstanz, Germany. His research focus is on the historical development of financial markets technologies and associated risks. He has published several articles on the cognitive instruments at work in financial markets, their ties to technology, and the development of financial expertise.

**William Shenkir** is William Stamps Farish Professor at the McIntire School of Commerce, University of Virginia. Professor Shenkir specialises in financial reporting policies, management control systems, and business risk. As the former dean of the McIntire School, he maintains an active interest in business and accounting education policy issues. His current research focuses on open-book management and enterprise-wide business risk management.

**Paul Walker** is Associate Professor of Commerce at McIntire School of Commerce, University of Virginia. Dr Walker has developed expertise in accounting information systems, auditing, business risk consulting, and financial accounting. He has published in numerous journals on topics related to information systems, business risk, auditing, auditing expertise, audit failures, audit fees, competition in public accounting, and regulation of the accounting profession.

### Outreach Events

#### Business History and Risk

Nottingham, March 2003

CARR, in association with the University of Nottingham Business History Institute, held a successful workshop on 'Corporate Governance' in March. The second of a series of interdisciplinary discussions, it brought together business historians, economists, accountants, management theorists and risk analysts to develop a broader and deeper understanding of a concept which has engaged the attention of policy-makers, regulators and academics since the Cadbury report in the early 1990s. Michael Mayer (University of Glasgow) addressed the issue of corporate ownership, highlighting new developments in the pattern of ownership in European businesses. Mike Wright (University of Nottingham) examined new research on MBOs, focussing on the relationship between regulatory and entrepreneurial responses. Nick Tiratsoo (LSE) turned to British manufacturing since the Second World War, revealing a significant gap between the theoretical and the real in the management of such companies. Finally, Stefan Szymanski (Imperial College) spoke on the corporate governance issue in the professional football industry. Plumbing the murkier depths of the Premiership à la Tom Bower, he concluded that governance needs to be enhanced if it is to be effective in an industry where normal business rules are often suspended. The workshop concluded that meanings of 'corporate governance' can vary widely according to context. 'Corporate governance', therefore, requires precise definition if it is to be effective as an analytical tool.

#### Environmental Risk: corporate responsibility, corporate responsiveness

Aberdeen, March 2003

CARR, in collaboration with the Centre for Social and Environmental Accounting Research (CSEAR) at the Universities of Glasgow and Aberdeen, organised a two-day workshop on the new public dimensions of environmental governance in March. The workshop focused in particular on the perception, assessment, management and accounting aspects of the environmental risks associated with industrial activity. Focusing on the structures for corporate environmental governance, the workshop addressed issues of environmental risk from the outside in – by examining the evolving nature of social, market and government regulations relating to environmental risk. The workshop also addressed these issues from the inside out – by examining the ways in which different businesses have accounted for environmental risk and engaged with the range of external stakeholders who have an interest in their performance. The workshop brought together a range of senior academic experts from around the UK to discuss contemporary trends and issues in environmental risk management and finished with a practitioner roundtable.

**Further details of CARR's Visiting Fellowship Scheme and Outreach Programme can be found on the CARR website: [www.lse.ac.uk/Depts/carr](http://www.lse.ac.uk/Depts/carr)**

Full abstracts and details of forthcoming seminars can be found on the CARR website: [www.lse.ac.uk/Depts/carr/](http://www.lse.ac.uk/Depts/carr/)

## The 2001 Foot-and-Mouth Crisis

David Campbell and Bob Lee  
Cardiff University  
October 2002

It is widely accepted that the 2001 Foot-and-Mouth Disease epidemic was badly managed by the Ministry of Agriculture, Fisheries and Food (MAFF). The picture emerging is one of wasted public expenditure, cruel mass slaughter and uncompensated harm to third parties. But according to Professors Campbell and Lee, even the most swingeing criticisms of MAFF's performance fail to appreciate the extent of the regulatory failure. In particular, Professors Campbell and Lee argued that MAFF's own disease control policy was a central cause of the epidemic and needs to be rectified if a future outbreak is to be avoided.

## Technologies With(out) Programmes

Fabrizio Panozzo  
Universita' ca' Foscari di Venezia  
October 2002

According to Professor Panozzo, the distinction between programmes and technologies is central to the interpretation of the status of accounting. The international spread of public management reforms has been widely regarded as a primary example of the powerful association between the rise of accounting expertise and the transformation of technologies of government. Comparative studies of the public sector have pointed to the widespread penetration of 'new' accounting techniques. Yet despite much hype, traditional forms of compliance accountability continue to dominate and civil law countries have tended to escape much of the so-called audit explosion.

## Herding Towards a New Convention

David Levi-Faur  
Universities of Manchester and Oxford  
November 2002

Despite growing recognition of the role of emulation in policy process and policy transfer, there are only limited efforts to model it systematically. Dr Levi-Faur provided a temporal analysis of the role of contagion in the diffusion of liberalisation across countries and sectors and argued that policy choice is determined not only by individual preferences and information, but largely by signals of others. He argued that many public officials found themselves in this situation when considering liberalising their country's infrastructure. He then offered a formal model where an individual's preferences, strategies and payoffs are dependent on others, and where political and policy outcomes are the result of imitation and contagious behaviour.

## Too Much Ice Cream or Tigers in the Bushes?

David Nelken  
Universities of Macerata and Cardiff  
December 2002

Professor Nelken offered a critical discussion of Robert Kagan's latest book *Adversarial Legalism – the American Way of Law* published by Harvard University Press in 2001. The book claims that the USA suffers from an excess of adversarial legalism and needs to learn from Europe (including the UK) about how to employ sounder methods of governance and regulation. Professor Nelken considered whether Kagan's contrast between the USA and the rest is convincing, and linked this kind of endeavour to the question of how best to research 'legal culture' in a comparative context.

## Communities of Practice and the Politics of Conflict in EU Problem-Solving

Damian Chalmers  
LSE  
January 2003

According to Damian Chalmers, regulation and the European Community enjoy a mutually constitutive relationship. On the one hand, regulation is what the European Community spends most of its time doing. On the other, the scale of the Community's regulatory activities have made it the central arena for gauging the nature of regulation within the UK today. Yet, the Commission's White Paper on Governance suggests a crisis in EC regulation, indicating it is often mediocre and lacking broader support. The solution suggested is for broadening participation to enhance the quality of debate, disseminating knowledge of the issues and incorporating dissenting voices. Damian Chalmers provided a theoretical critique of such solutions and considered their practical application.

## Exam Howlers or Accidents Waiting to Happen? The exam results debacles in Scotland 2000 and England 2002

Brian Hogwood  
University of Strathclyde  
February 2003  
(see page 10)

## The Stock Exchange Men and Their Marvellous Instruments

Alex Preda, University of Konstanz  
February 2003

A key aspect of modern financial markets is the standardised, availability and real-time information of securities prices. According to Dr Preda, that informational character entirely depends on price-recording technologies. Dr Preda examined the

emergence of price-recording technologies in the late 19th century, the cognitive and cultural assumptions embodied by these technologies, the impact on financial markets, and the consequent risk and regulatory issues that emerged. Using an approach developed in the sociology of knowledge and science, he argued that price-recording technologies have consequences that go well beyond mere increases in speed and efficiency.

## Enterprise Risk Management

Paul Walker and William Shenkir  
University of Virginia  
March 2003

Even before the Enron and WorldCom debacles, businesses were aware of the importance of enterprise risk management. In 1999, the National Association of Corporate Directors stated that audit committees should "define and use timely, focused information that is responsive to important performance measures and to the key risks they oversee." Professor Walker and Dr Shenkir identified strategic risk as the major cause of value collapse, with financial risk and operation risk as lesser causes. Since senior level executives generally lose their jobs when losses of this size occur, it is unsurprising that many companies now think seriously about enterprise risk management.

### FORTHCOMING LUNCHTIME SEMINARS

#### Asymmetrical Actors and Intentional Risk

Frank Furedi  
University of Kent  
6 May 2003

#### Risk Regulation and Interest Accommodation in European Pharmaceuticals' Licensing

Jürgen Feick  
Max Planck Institute for the Study of Societies  
20 May 2003

#### Misfortune, Insurance, and the Liberal State: the perplexities of fairness

Eugene Bardach  
University of California, Berkeley  
27 May 2003

#### Regulation and Human Genomics

Oliver James  
University of Exeter  
10 June 2003

ALL WELCOME

Seminars start at 1pm, Room H615, Connaught House, LSE



## New Books by CARR Members



### On Different Tracks: designing railway regulation in Britain and Germany

Martin Lodge  
Greenwood Press 2002  
(see page 12)



### British Rail 1974-97: from integration to privatisation

Terence Gounvish  
Oxford University Press 2002

## Other CARR Books and Special Journal Editions



### The Labyrinths of Information – Challenging the Wisdom of Systems

Claudio Ciborra, Oxford  
University Press 2002

*'a series of highly literate  
jewel-like essays that are intellectually  
fascinating but could also change the  
life of any practitioner.'*

Shoshana Zuboff, Harvard Business School



### Environmental Policy in Europe: assessing the costs of compliance

Andrew Gouldson  
and Evan Williams (Eds)  
*European Environment* 12  
(5) 2002



### The Politics of Delegation: non-majoritarian institutions in Europe

Mark Thatcher  
and Alec Stone Sweet (Eds)  
*West European Politics* 25  
(1) 2002



### Biotechnology 1996-2000: the years of controversy

George Gaskell  
and Martin Bauer  
London: Science Museum  
Press and Michigan State  
University Press 2001



### From Control to Drift: the dynamics of corporate information infrastructures

Claudio Ciborra  
and associates  
Oxford University Press 2001



### Rational Analysis for a Problematic World Revisited: problem structuring methods for complexity, uncertainty and conflict (2nd ed.)

Jonathan Rosenhead and  
John Mingers (eds.)  
Wiley 2001



### The Government of Risk: understanding risk regulation regimes

Christopher Hood, Henry  
Rothstein and Robert Baldwin  
Oxford University Press 2001

*'...a significant contribution to the existing  
literature on risk regulation.'*  
*West European Politics*



### Regulation and Risk: occupational health and safety on the railways

Bridget Hutter  
Oxford University Press 2001

*'...a classic and deft piece of  
socio-legal scholarship ... sure to have an  
enduring impact on the debate.'*  
*Public Law*



### Cranston's Consumers and the Law (3rd ed.)

Colin Scott and Julia Black  
Butterworths 2000



### Regulation Inside Government: wastewatchers, quality police and sleaze-busters

Christopher Hood, Colin  
Scott, Oliver James, George  
Jones and Tony Travers  
Oxford University Press 1999



### Telecoms Regulation: culture, chaos and interdependence inside the regulatory process

Clare Hall, Colin Scott  
and Christopher Hood  
Routledge 1999



### The Politics of Telecommunications

Mark Thatcher  
Oxford University Press 1999

*'an excellent comparative  
study, rich in empirical  
findings, given analytical focus by  
an explicit theoretical framework.'*  
*Government and Opposition*



### The Audit Society: rituals of verification

Michael Power  
Oxford University Press 1999

*'A book like this – so rich  
in ideas, observations and  
interpretations – has to be taken seriously.'*  
*European Accounting Review*



### A Reader in Environmental Law

Bridget Hutter (Ed.)  
Oxford University Press 1999

*'a timely and useful bringing  
together of major socio-legal  
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 Martin Lodge  
*Journal of Public Policy* 22 (3) 2002: 271-97

**Embedding Regulatory Autonomy in Caribbean Telecommunications**  
 Martin Lodge & Lindsay Stirton  
*Annals of Public and Co-operative Economics* 73 (4) 2002: 667-693

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*Accounting, Organizations and Society* 28 2002: 379-394

**Neglected Risk Regulation: the institutional attenuation phenomenon**  
 Henry Rothstein  
*Health, Risk and Society* 5 (1) 2003: 85-103  
 (see page 11)

**Regulation (Law and Legal Theory Library 2nd Series)**  
 Colin Scott  
 Dartmouth-Ashgate 2003

**The Bonn Guidelines on Access to Genetic Resources and Benefit Sharing**  
 Stephen Tully  
*Review of European Community and International Environmental Law* 12 2003

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