

# Risk & Regulation

Magazine of the ESRC Centre for Analysis of Risk and Regulation

No 10 Winter 2005

## **A Leap into the Unknown? the Risk Management of London 2012**

**also**

**Hitting the Bar – Regulating the  
Legal Professions**

**CARR: the Next Five Years**

**Organizational Encounters with Risk**

**Meet the Information Commissioner**

**Regulatory Innovation**

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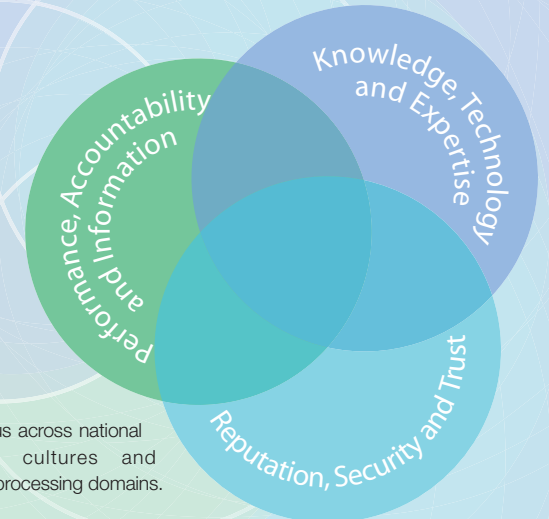
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# CARR: The next five years

We are delighted to announce that in October 2005 CARR began work on its second five year programme of research with core funding from the ESRC.



In its first five years, CARR provided a unique environment for interdisciplinary and comparative research by scholars of regulation and of risk management. Over the next five years, CARR will build on this initial body of work, while moving towards a greater focus on the analysis of 'risk regulation'.

We will develop our analysis of the governance, accountability and processing of risks, both within organizations as part of their risk management and compliance functions, and also at the level of regulatory and other agencies that constitute 'risk regulation regimes'. We will do this with reference to three themes, which we hope will cut across all CARR research projects:

- Performance, Accountability and Information
- Knowledge, Technology and Expertise
- Reputation, Security and Trust

These three themes will be the focus of interdisciplinary work which considers both the public and private domains. Risk has become an organizing concept for regulation within and beyond the state. Governments and businesses increasingly argue that risk regulation should become risk based regulation – so regulation is increasingly seen as a way of managing risks and one which should be self-reflexive in its use of risk-oriented templates for action or inaction. Our research will examine the ways in which both sectors manage risks and use risk management approaches as organizational templates. It recognizes regulation as an activity which may be organized by the state and also beyond the state, as activities which have a broadening participatory base.

CARR research projects examine topics of contemporary importance. Some will focus on risk regulation regimes – for example, the role of public opinion in shaping risk regulation regimes, public participation in risk regulation and managing the institutional risks of risk regulation. Other projects focus more on organizational risk management: for instance, business risk management practice, the role of errors and expertise in risk regulation, issues of operations and internal control and the measurement of performance. All will adhere to CARR's continuing methodological commitments to maintain a wide ranging focus on the institutional settings for the regulation of risk and to pursue a

comparative focus across national contexts and cultures and overlapping risk-processing domains.

The ESRC has generously provided the core funding for CARR's next five years. Additional funding is provided by the British Academy, Deutsche Bank and the ESRC for graduate activities and early career fellowships. In September we held CARR's fourth Graduate Conference which attracted more interest than ever with some 100 participants from 19 different countries. These conferences have become a huge success and a large number of researchers have passed through; indeed this year's participants represent a second wave of young internationally based risk regulation researchers.

CARR has put a great deal of effort into building capacity. Graduate students affiliated to the Centre attend interdisciplinary seminars and workshops organised by CARR staff and have access to funds to help them in their research. We also strive to bring in younger scholars through postdoctoral and early career appointments. Several of these have moved on to tenured lectureships, while others have taken up research posts. We hope to secure further funding sources to further our capacity building in the risk regulation area and help pursue our next five year programme, which is of growing contemporary relevance in the public and private domains and will be of interest to academics, business and politicians.

**Bridget Hutter**  
CARR Director

Risk&Regulation: CARR Review  
No 10 Winter 2005

Editor: **Robert Kaye**

Assistant Editor: **Stephanie Harris**

Enquiries should be addressed to: Centre Manager  
ESRC Centre for Analysis of Risk and Regulation  
The London School of Economics and Political Science  
Houghton Street, London WC2A 2AE  
United Kingdom

Tel: +44 (0)20 7955 6577 Fax: +44 (0)20 7955 6578

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

Email: [risk@lse.ac.uk](mailto:risk@lse.ac.uk)

Published by the

ESRC Centre for Analysis of Risk and Regulation  
The London School of Economics and Political Science  
Houghton Street, London WC2A 2AE

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The information in this leaflet can be made available in alternative formats. Please contact Stephanie Harris  
Tel: +44 (0)20 7849 4635 Email: [risk@lse.ac.uk](mailto:risk@lse.ac.uk)

Design and Art Direction: **LSE Design Unit**

Photography (unless stated):

**CARR and LSE Photography**

Printed by: BSC Print Ltd

ISSN 1473-6004

Online ISSN: 1473-6012

Front cover photography: Getty Images



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

# Regulation after privatisation public anxiety and the new regulatory paradigm

Across the world over the last 30 years, the locus of many economic activities has shifted from public to private. Whereas in the past huge swathes of industrial output were undertaken by entities held in public hands, today the model for industries such as telecoms, water, post, as well as heavy industry such as steel and shipbuilding is one of private capital, private ownership and private enterprise. In short, we have seen a change from public monopoly to regulated private monopoly. It is a change which has often seen increases in productivity and consumer welfare, especially when accompanied by robust, targeted regulation.

In this article I want to comment on a parallel shift that has been less well explored: the shift in public concern and anxiety.

Under public monopoly, public concern was with the provision of employment and the availability of basic services. Government as ultimate provider was seen to have failed if there were employment problems or a suspension in service. Where the two coincided – for example, through a strike – the impact on the Government's standing could be disastrous.

Public concern with employment and the provision of service has gradually given way to a more complex series of anxieties, concerning the nature of capitalism and regulation. I have discerned four distinct sources of public anxiety.

- **fat cats:** privatisation enriches undeserving managers and shareholders, often to levels considered obscene by the general public;
- **unaccountable regulators:** regulators no longer appear to respond to the public interest, but exist simply to pursue their own bureaucratic agendas;
- **too much regulation:** regulation – commonly tagged as 'red tape' – is itself out of control;
- **not enough regulation:** the world is full of risk and uncertainty, and the Government must create institutions to protect individuals from it.

The NAO has responded to each of these concerns. Our initial work on regulation in the post-privatisation world, published in 1996, directly addressed the concern about **fat cats** by looking at how

regulators set prices and rates of return for regulated monopolies. We brought out that there was plenty of scope for delivering the benefit of increased efficiency to consumers through lower prices. We also pointed out that competition generally provided better protection to consumers than regulation, so suggested that regulators should focus on introducing competition to energy and telecoms markets wherever possible.

If a concern with fat cats was an immediate public response to the shock of privatisation, this gradually gave way to a subtler and more persistent anxiety about the nature of regulators. The media and the public have started to fret about who the regulators represent, whether they exist simply to further their own interests, and whether they really act in the public interest; in short, whether regulators are **unaccountable**. This worry is an example of the more generalised distrust of expertise and professionalism that appears to be a growing feature of the modern world. And it is a worry that impels the public auditor to action, reporting to Parliament, and – through the media – to the public on the work of regulators: their achievements, their processes, their successes and failings. The NAO has provided Parliament with over 20 reports on the work of economic regulators in the last 10 years.

Unaccountable regulators may create **too much regulation**, or regulation of the wrong type: burdensome, overly detailed, too restrictive. In recent years, public concerns about excessive red tape have grown, and newspapers in the UK gleefully point out the latest absurdity thrown up by rigid rules and regulations. The UK Government has responded to this concern with a flurry of activity in recent months, including a radical reassessment of the value and purpose of inspection activities by regulators (the Hampton Review) and a challenge to government to measure and reduce the administrative



**Ed Humpherson**  
is Director of  
Regulation at the  
National Audit Office

burden on companies (the 'Less is More' report). The NAO has crucial contributions to make to this agenda, both by supporting reforms to the way regulators behave, but also by reporting progress – or lack of it – to Parliament.

But if the public are anxious that there is too much regulation on the one hand, they often express concern about the **lack of regulation** on the other. Indeed, in a world full of risk and uncertainty, the public may demand ever increasing levels of regulation, for example, of the safety of travel and of environmental discharges by governments. Where a government is seen to fail to respond to public concerns about hazard – for example over food safety – it can be heavily criticised. And the government response is often to create more regulations and more regulators. To take a recent British example, Jamie Oliver's television documentary about the quality of school lunches led to demands for a new inspectorate of food served in schools.

One unexpected consequence of public concern with regulation is that a public auditor such as the NAO has far more contact with and exposure to the commercial world **after** privatisation than it ever did when many industries were in protected public ownership. The ever more complex array of worries and anxieties creates fertile ground for the public auditor to report to its Parliament. And they show that while privatisation solves some problems, it creates new public anxieties. It is to these anxieties that a public auditor, acting in the public interest, must respond.

## Staff News:

**Carl Macrae** joins us in January as an ESRC Postdoctoral Fellow. Carl joins us from the University of East Anglia, where he has been completing his PhD on aviation safety.

**Will Jennings** has been awarded a Postdoctoral Fellowship by the British Academy for his work on the Regulation of Government by Public Opinion. Will will be looking at six regulatory regimes, including immigration and asylum; terrorism and homeland security; the MMR vaccine; cloning; and genetic profiling.

**Carl** and **Will** will be jointly co-ordinating CARR's events programme, including lunchtime seminars (see p. 13), speeches and debates. Thanks to **Javier Lezaun** for his work over the past two years.

Four new Research Students joined CARR in October. They are **Ritanjan Das** (who will be working on the risks posed by new-age terrorism), **Niki Panaougius** (clearing and settlement in financial markets), **Yaz Santissi** (data protection and privacy), and **Umit Sonmez** (independent regulators).

**Rune Premfors** of the Stockholm Centre for Organisational Research (SCORE) is with us as a Visitor from October to December.

Congratulations from all at CARR to **Sabrina Fernandez** and her husband Richard on the birth of her daughter Gabriela Maria in October. **Stephanie Harris** is covering Sabrina's duties during her maternity leave.

Finally, we say goodbye to **Joan O'Mahony**, who has taken up a research fellowship at the LSE Centre for Environmental Policy and Governance; and to CARR's Centre Managers **Louise Newton-Claire** and **Anna Pili**.

## CARR IMPACT:

**Julia Black** advised the Department of Constitutional Affairs on the governance structure of the proposed Legal Services Board (with Robert Baldwin and Martin Cave, see page 11). She also advised the Department of Environment, Food and Rural Affairs on the use of enforcement tools (with Robert Baldwin), and was appointed to the Steering Committee on the Better Regulation Executive's review of penalties.

In November, **Bridget Hutter** contributed to a conference for Independent Regulators, jointly organized by the Better Regulation Task Force and the National Audit Office. In May and November, she was a contributor to World Economic Forum workshops on Global Risks.

At the ESRC Insurance Industry Seminar in June, **Mike Power** presented a paper on 'the costs of verification and disclosure in the UK financial services sector'.

**Henry Rothstein** participated in a high-level workshop: 'Social Science Insights for the Risk Assessment Process' which was facilitated by the Royal Society on behalf of the Food Standards Agency. The workshop brought together the Chairs of the FSA's scientific advisory committees and leading social scientists to discuss the relevance for risk assessment processes of findings from the social sciences on issues such as individual and societal perceptions of risk and uncertainty.

## Academics Overseas



**Christopher Hood** and **Robert Kaye** both spoke at an international conference on Accountability hosted by Queens University Belfast.

**Javier Lezaun** was invited to speak at a conference 'Normativities: Law, Science, and Society', organised by the Center for Interdisciplinary Research in Bielefeld, Germany.

**Henry Rothstein** was the plenary speaker at a 21st Century Trust seminar: 'Taming the Wind? Science, Policy and Public Perceptions in an Era of Rapid Innovation', held in Berlin in April.

**Robert Kaye** gave a paper on the limits of ethics regulation at a conference in Leuven, Belgium, organised by the European Group for Public Administration and the American Society for Public Administration.



**Mike Power** presented a paper on 'Organizations and Auditability' at a conference organized by our colleagues at the Stockholm Centre for Organisational Research (SCORE).

**Colin Scott** presented a paper on 'Gatekeeping and Non-State Intermediation in Regulatory Governance' at the European Consortium for Political Research conference, in Budapest.

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The **Information Commissioner** is responsible for implementing and overseeing legislation on Data Protection and Freedom of Information. We talk to deputy Commissioner **David Smith** about his organisation's response to the Hampton review of regulation and inspection.

**CARR: What does the Information Commissioner do?**

**DS:** In simple terms, our job is about protecting privacy. That's what the Data Protection Act is there for: to protect the individual's right to privacy.

**CARR: And you're now also responsible for enforcing the Freedom of Information Act?**

**DS:** Yes. Freedom of Information and data protection work very well side by side. They're not opposites – we've described them as other sides of the same coin. They're both about good information handling practice – keeping information accurate, up-to-date, well-ordered, able to retrieve it when you need it. They're both about people having rights of access.

You get a lot of hybrid cases which we need to be able to approach ourselves in a coordinated, joined-up way. Increasingly, individuals approaching public authorities just want access to information, and it may be a mix of personal information about themselves which is a Data Protection right and more general information which is a Freedom of Information right; and the individuals don't distinguish between the two. And the areas can rub up against each other: if the data is actually about someone else, then their data protection rights come into play and restrict what the public authority can release to you.

**CARR: How far is your organization divided into a Data Protection side and a Freedom of Information side?**

**DS:** It is divided into two areas at the moment although we're reviewing whether that's right in the longer term. Essentially, we set the office up with two streams so that we could give enough attention to Freedom of Information in its early days. There was a real risk that if we just ran the two together the ongoing data protection work would push out the new thinking that was needed to deal with Freedom of Information. We do want to bring them much closer together.

I suppose we're more like an ombudsman on our Freedom of Information work, and more like a regulator on the data protection work. The Freedom of Information work is much more geared towards considering individual cases, the data protection side is more concerned with good practice and bringing about compliance with the law.

**CARR: What are the Information Commissioner's powers?**

**DS:** Our powers are mainly about enforcement, about bringing about compliance. So if the information that you hold is inaccurate, the normal approach would be to ask you to change it and

there'd be negotiation. Our power is ultimately to issue you with an order that requires you to make changes. Failure to comply with an order can then be a criminal offence. But unless people are acting wilfully or maliciously or wrongly, they're not going to face a penalty.

As well as our power to issue an enforcement notice under the Data Protection Act, where consumers are involved we also have powers to seek 'Stop Now' orders under the Enterprise Act. It's a power which can make us more effective more quickly. With an enforcement notice, we issue a preliminary notice; the organization can make representations; we then issue the final notice; and they can appeal against the final notice to a tribunal. The notice doesn't come into effect until after the appeal. With 'Stop Now' orders, you go before a court and it comes into effect immediately.

**CARR: How do you go about identifying problem areas?**

**DS:** The starting point is that we have round about 300,000 organizations on our register. If you're keeping personal information about people on electronic systems, then unless you come within one of the exemptions you need to register with us. We receive now something in the order of 15,000 complaints and enquiries from the public every year. That's always been our pointer to where we look more deeply and take action.

One of the things we've done recently is to adopt a strategy for using our regulatory powers. And we're now looking more widely, at issues that come up in the media, general issues of public concern, and the use of new technology. To do our job as a regulator properly we can't just rely on complaints drawing attention to problems: individuals aren't necessarily aware of what information is being kept on them and how it's being used. We need to go out and look at what's going on for ourselves.

**CARR: Regulators have been encouraged by the government's 'Hampton Review' to risk-base their regulatory activities – how is the ICO responding to Hampton?**

**DS:** We are adopting a risk-based approach, although I wouldn't characterize it simply as our response to Hampton. It's something we were doing and would want to do anyway. We have limited resources and we want to use those where we can be most effective in protecting privacy for the most people. We can't do that by following up in detail every complaints case that comes through our door. We can say to the individual 'we don't regard this as a sufficiently serious matter to use our enforcement powers – you can take the matter yourself through the courts if you want to pursue it'.

But if complaints raise a serious issue, one which affects the complainants seriously, or which doesn't affect them so seriously but there's a large number of people affected, then we can investigate in more detail. At all those stages we're filtering out, so that we're dealing with the cases that matter, where there's the greatest risk.

**CARR: How far do you think there is a problem with organizations understanding the principles of Data Protection?**

**DS:** Sometimes, organizations get good advice and there isn't a problem. But we do have an issue, not just with people getting poor advice that leads them not to comply, but getting advice which is over-the-top as well. The Data Protection Act is written in very general terms. It's all about handling information 'fairly' and keeping information 'accurate' and 'up-to-date'. It doesn't lay down for the most part specific standards that have to be complied with. So there's always a large degree of interpretation as to what is actually required on the ground to comply with the law.

**CARR: And this must give rise to a lot of myths about data protection?**

**DS:** We prefer to talk about 'myths and realities' because behind a lot of myths there is some reality. When you're thinking about disclosing information or passing information on to another organization, many people believe that the law simply prevents that happening. Well it doesn't, it introduces controls. By and large if there's a good cause to disclose information to another organization, then the law doesn't stand in the way of it.

There was a recent case involving the police. A person's car had been vandalised and the police had arrested and cautioned someone. But when the person whose car had been damaged wanted to take legal proceedings the police wouldn't give him the name and address of the person who'd been cautioned. There was nothing to stop the police in that case, but there's an element of truth and an element of myth. Clearly the police can't just hand out everybody's name and address to anybody. There are risks there. But you can cause problems either way and there's often no risk-free answer.

We recognize there's an onus on us to provide simpler guidance for organizations. And we have got a project in place to deliver that and we've started to deliver that, but there's still quite a long way to go. We haven't had enough simple 'question and answer' guidance up to now. There is a responsibility on us not to make life seem too difficult!

# Running the Risk?

## London 2012 and the Risk Management of Everything Olympic

### Will Jennings shows how risk has become an integral element of the Olympic experience

London 2012 promise to be, like every successive Olympics, 'the best games ever'... but what political and administrative pitfalls lied ahead for the governance of Olympic risk? Within twenty-four hours of the IOC vote to award the 2012 games to London, an attack on the London transport system by four suicide bombers provided an unmistakable reminder of the vulnerability of this type of mega-event to external threats and contingencies. For the biggest event in the world, the potential hazards and uncertainties are as pronounced as the prospective rewards. The development of the modern Olympics has produced a global industry of risk assessment and risk management – with London 2012 only the most recent instalment.

Risk is now ubiquitous in both the selection of host cities and organization of the Games. However, the criticality of 'risk' to the modern Olympic movement must be understood in the context of over a century of Olympic history, through which risk has been discovered and construed through the glories or ignominies of past Games. It is also a consequence of a relentless growth in the scale and complexity of the Olympic Leviathan – and its global profile – combined with risks affecting the international political economy and administration of modern sport.

Even the earliest Olympics of the modern era (Athens 1896, Paris 1900, St. Louis 1904) were afflicted by difficulties with organization and worldwide representation.

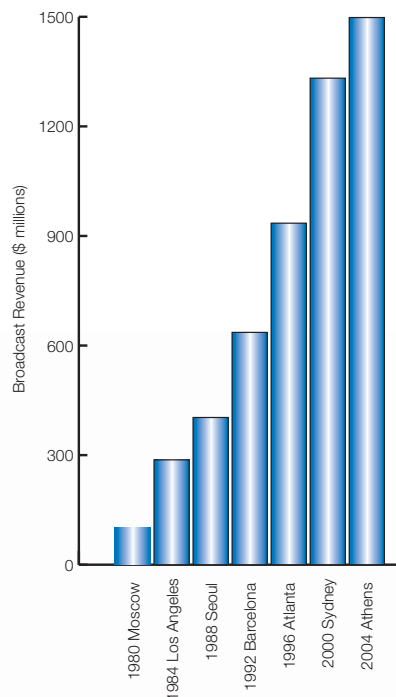
However, a number of seminal events have provided defining images in the emergence of versions of Olympic risk. The threat of terrorism was highlighted when a group of Israeli athletes was kidnapped and murdered by Palestinian terrorists at Munich 1972. Throughout history the Olympics have been exposed to geopolitical risk: interrupted by World Wars in 1916, 1940 and 1944, exploited by Hitler in 1936, and disrupted by anti-apartheid boycotts by African nations in the 1960s and 1970s, and Cold War boycotts by the USA and USSR in 1980 and 1984 respectively. Most of the time the IOC must tread a diplomatic tightrope as a symbolic venue for wider conflicts. It is perhaps revealing that the IOC recognizes more countries than the UN.

Financial risks associated with hosting the games were demonstrated by Montréal 1976. In a moment of hubris, Montréal Mayor Jean Drapeau declared: 'the Olympics can no more have a deficit than a man can have a baby'. Montréal proceeded to incur a budget deficit of over \$1 billion. Over the past thirty years, staging costs have varied, but typically the final figures have far outreached initial estimates. Total costs for Athens 2004 escalated from £3.2bn to £6.3bn. However, perhaps the nadir of modern Olympic risk was Atlanta 1996. Overshadowed by the bombing of Centennial Park which left two dead and over a hundred injured, haunted by transport and logistical problems and tainted by over-commercialisation (notably

fierce ambush marketing), it provoked the IOC to vow 'never again'. Significantly, in development of the Olympic movement, collective memory has informed a learned, and adaptive, conception of risk.

It is therefore unsurprising that the rhetoric of risk, and risk management, has become so popular in the Olympic industry. For London 2012, risk is already an organizing concept in the practice of Olympic politics and administration and the IOC selection process was a self-confessed exercise in risk assessment. The IOC's Evaluation Commission described its task as 'a technical and fact-finding one: to verify the information stated in the candidature file, to determine whether proposed plans are feasible and to make a qualitative assessment of risk'. Of course, assessments were communicated in the typically diplomatic and coded language of the IOC, while the political realities of lobbying and vote-trading mean it is difficult to assess the actual attention to 'risk' in the final vote. Nonetheless, the rhetoric of risk assessment is illustrative of how the notion of risk is pervasive in the modern Olympic movement. The IOC is driven by protection and promotion of the Olympic brand. Its official symbol, the five Olympic rings, is the most widely recognised image in the world (identified by 90% of the world's population, exceeding even mega-brands such as McDonald's or Coca-Cola). The IOC proactively manages its reputational risk through protection of the logo and regulation of any commercial use of Olympic words by unaffiliated companies (with the support of legislation by host governments). Heightened media spectacle and the symbolic status of the Olympic

Revenue from Olympics



Source: IOC, Marketing Matters, Issue 19, July 2001.

Games means that when everything can go wrong, everything is a reputational risk. It is therefore unsurprising that there is risk management of everything Olympic.

If risk assessment is archetypal of the IOC, it is also a priority for candidate cities. London 2012 is no exception to this generalisation. In 2002, a 'Stakeholders Group' for London 2012 – consisting of the Government, Mayor of London, and British Olympic Association (BOA) – commissioned an independent report by ARUP/Insignia Richard Ellis on the practical feasibility of staging the Olympics. The report included a provision in the budget of £109 million for 'risk'. It is perhaps revealing that this provision is not really risk at all. Rather, it represents a conservative projection that 'all bidding and staging costs will be 5% higher than estimated and that capital costs will be 30-50% higher than estimated'. Other less quantifiable risks identified as inevitable by the report – attached to security, transport, construction, and most other things Olympic – were to inform 'the decision whether or not to bid', but also be 'set against the opportunities to avoid or mitigate risk through management, anticipation, and planning'. That qualification suggests that this initial risk assessment

Olympic risk management since 1996. It is, however, not just victim to a prevailing vogue for the risk management of everything. In fact, experience of Olympic 'risk' has validated and reinforced global understanding of the core narrative of the wider risk industry. This contends that risk is ubiquitous and demands management. The Olympic movement has been conscious of 'known unknowns' for many years. For London 2012 there are three distinct spheres of risk management. First, the *risk industry* is publicly active in provision of outside commentary on and analysis of Olympic risk. Before Athens 2004, the many prophecies of risk analysts included security and natural disasters. Even ahead of the IOC vote in July 2005, industry reports were promoting risk management of London 2012 – warning UK firms that 'with increased opportunity comes risk'.

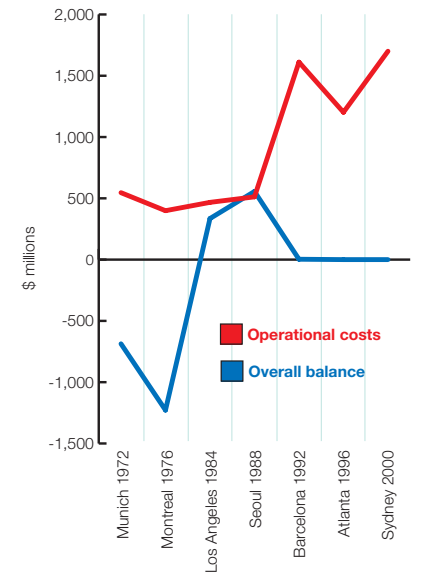
Second, the *governance of Olympic risk* by the IOC, organising committees and government involves an array of strategies that might be labelled as 'risk management'. For Athens 2004, the IOC purchased \$170m of cancellation insurance for protection against acts of terrorism or

institutional regime under which the Olympic Games are organized (and is a criteria upon which bids are evaluated). Primarily this includes legislation establishing the organizing committee for the host city. The *London Olympics Act 2005* provides a legislative response to several risks identified by policymakers through statutory provisions and the design of institutional arrangements. In this, the leading strands of risk management are directly informed by experiences from Atlanta 1996, Sydney 2000 and Athens 2004. First, the establishment of the Olympic Delivery Authority (ODA) to coordinate the development of venues, land and transport infrastructure/systems provides focus for timely implementation of the London blueprint. The travails of late completion threatened by Athens 2004 caused the IOC to impose a 'master schedule', regularly supervised by the IOC Coordination Commission, upon the organizers. Regulation of advertising and trading aimed to prevent 'ambush marketing' imitates the strategy of Sydney 2000, itself implemented in response to the problems that were experienced in Atlanta 1996. Meanwhile, although the management of Olympic security is under control of a Cabinet committee chaired by the Home Secretary, it is also likely that London 2012 will create an Olympic Intelligence Centre (for provision of risk assessments) replicating the experience of Atlanta 1996, Sydney 2000, and Athens 2004.

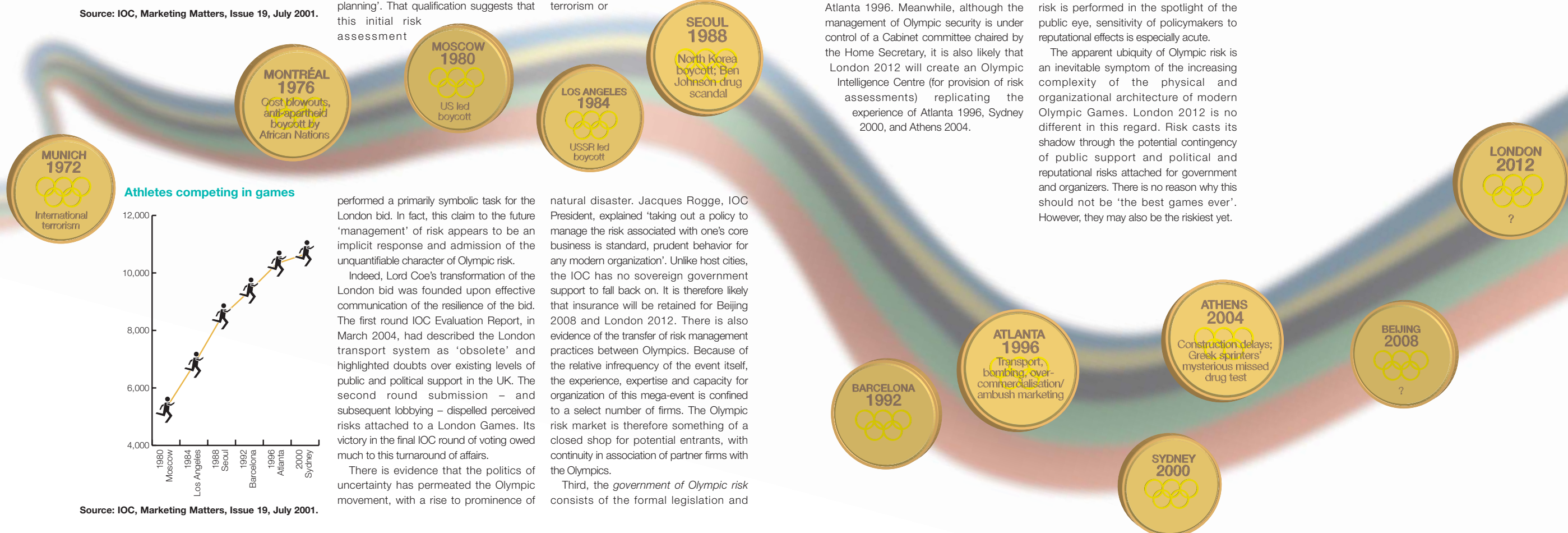
It is instructive that public opinion research is now an important element the IOC bid assessment. Use of this assessment component is recognition of the criticality of public support to successful implementation. London 2012 was not a frontrunner as far as this local popularity contest was concerned, ahead only of New York in the second stage evaluation. However, for government and organizers there remains political risk in the conditionality and contingency of public opinion. At present, when faced with an estimated cost of £1.8 billion, to be recouped by a successful Olympics, some 65% of the public supported the proposition that London 2012 is 'worth the financial risk' (YouGov/Evening Standard, *The Olympics in London*, 6-9 December 2002). It remains uncertain how fickle public support could be when the bulldozers move in and council tax bills arrive in Londoners' mailboxes. It is worth noting that in November 1996 opinion research identified public backing for a proposed Millennium Exhibition in Greenwich – only for this *projet de grandeur* to end as the widely maligned Millennium Dome. Because management of Olympic risk is performed in the spotlight of the public eye, sensitivity of policymakers to reputational effects is especially acute.

The apparent ubiquity of Olympic risk is an inevitable symptom of the increasing complexity of the physical and organizational architecture of modern Olympic Games. London 2012 is no different in this regard. Risk casts its shadow through the potential contingency of public support and political and reputational risks attached for government and organizers. There is no reason why this should not be 'the best games ever'. However, they may also be the riskiest yet.

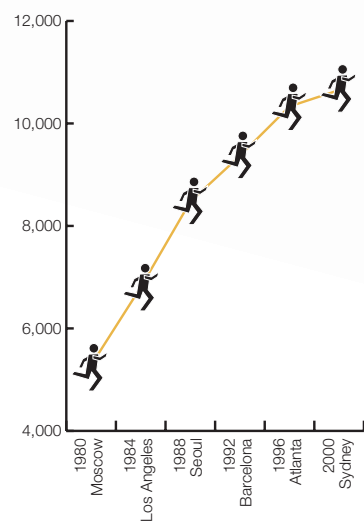
Financial balance of Olympic Games Organizing Committees



Source: Preuss (2004). Preuss, H. (2004) 'The economics of staging the Olympics: a comparison of the Games 1972-2008', Edward Elgar: London.



Athletes competing in games



Source: IOC, Marketing Matters, Issue 19, July 2001.

performed a primarily symbolic task for the London bid. In fact, this claim to the future 'management' of risk appears to be an implicit response and admission of the unquantifiable character of Olympic risk.

Indeed, Lord Coe's transformation of the London bid was founded upon effective communication of the resilience of the bid. The first round IOC Evaluation Report, in March 2004, had described the London transport system as 'obsolete' and highlighted doubts over existing levels of public and political support in the UK. The second round submission – and subsequent lobbying – dispelled perceived risks attached to a London Games. Its victory in the final IOC round of voting owed much to this turnaround of affairs.

There is evidence that the politics of uncertainty has permeated the Olympic movement, with a rise to prominence of

natural disaster. Jacques Rogge, IOC President, explained 'taking out a policy to manage the risk associated with one's core business is standard, prudent behavior for any modern organization'. Unlike host cities, the IOC has no sovereign government support to fall back on. It is therefore likely that insurance will be retained for Beijing 2008 and London 2012. There is also evidence of the transfer of risk management practices between Olympics. Because of the relative infrequency of the event itself, the experience, expertise and capacity for organization of this mega-event is confined to a select number of firms. The Olympic risk market is therefore something of a closed shop for potential entrants, with continuity in association of partner firms with the Olympics.

Third, the *government of Olympic risk* consists of the formal legislation and

# Regulation Hampton style

**Clive Jones** considers the implications of a diverse range of regulators adopting a single overarching principle of risk-based regulation



Of Hampton's 35 recommendations, Risk Based Regulation (RBR) is possibly the most noteworthy feature, and the response of regulators is likely to be broad adoption of the recommendations. Some businesses may well have to provide further information and data to regulators so they will be able to conduct their risk assessments; how will business respond to such requests? Hampton, as it sits on the page, has received a cautious welcome from those that speak on behalf of business but, post implementation, will we be hearing criticisms of 'regulatory creep' and 'needless bureaucratic burden' levelled at it in years to come?

In Summer 2005, CARR held a roundtable forum chaired by Professor Bridget Hutter and Dr Julia Black, both of whom have published papers on RBR\*. The forum sought to explore the issue of risk based regulation and its role in regulatory organizations. What was not explored in this particular forum were the possible responses of businesses to RBR nor their likely expectations of it.

Risk based thinking in general and risk management practice in particular have rapidly risen to prominence in government over the last ten years. Sir Philip Hampton's review for HM Treasury, *Reducing Administrative Burdens: effective inspection and enforcement*, of March 2005, placed an emphasis on risk based approaches to inspection and enforcement. This is the latest of a series of reports in recent months to address how public sector organisations respond to risk.

Many in the private sector and some in the public sector assume that all UK regulators adhere to a single model of regulation – universal inspection. However this has not been the case for over a decade as several regulators have been refining a method for regulation that is very different from the popular stereotype of a clipboard-carrying inspector treating every business on their 'patch' identically.

Senior representatives from over 20 regulators were present at the roundtable, selected from a deliberately diverse range of regulatory bodies who ordinarily have little contact with one another. One of the aims of the workshop was to facilitate a dialogue between different agencies. Prior to the roundtable, CARR research had indicated that RBR is a collection of varying approaches, sets of principles and practices which have developed over time in a number of unconnected domains.

The discussion focused on three main issues:

- The meanings of risk based regulation;
- The challenges and risks of RBR; and
- Managing the risks of risk based regulation.

Although the discussion related to specific aspects of RBR it was wide ranging and included accounts of innovations and refinements in regulation policy and practice. Despite bringing together such an apparently disparate group of organizations for a roundtable forum – senior regulators were present from financial, social, health, safety and environment domains – there was more similarity than difference in the room.

Most striking was that despite a broad range of domains those present shared perspectives on the difficulties in implementing RBR. There was clearly enthusiasm for further workshops of this type and CARR will continue to run similar events as long as there is interest from the risk regulation community.

**Note:** Attendance at such roundtable forums is by invitation only: all comments made are non-attributable.

If you have a suggestion for a similar roundtable forum or wish to be considered for attendance at a future RBR forum please contact: Clive Jones, by email with details: [c.j.jones@lse.ac.uk](mailto:c.j.jones@lse.ac.uk)

\* Bridget Hutter, *The Attractions of Risk-based Regulation: accounting for the emergence of risk ideas in regulation*, [www.lse.ac.uk/collections/CARR/pdf/Disspaper33.pdf](http://www.lse.ac.uk/collections/CARR/pdf/Disspaper33.pdf); Julia Black, *The Emergence of Risk-Based Regulation and the New Public Risk Management in the United Kingdom*, *Public Law*, Autumn 2005 issue, published by Sweet & Maxwell

# No longer a law unto themselves

## Regulating self-regulation in the legal professions

**Robert Kaye** suggests that publication of the government's White Paper on legal services signals the emergence of a new paradigm for regulation of the professions.

In October the Department for Constitutional Affairs (DCA) published its White Paper on regulation of legal services. CARR staff, including Julia Black, Colin Scott and Mike Power, had participated in discussions leading up to the White Paper, including Sir David Clementi's review of legal services.

The bill is a profound challenge to what might be considered one of the last bastions of professional self-regulation – lawyers. Indeed, the DCA argued that one reason for a review of legal services regulation was that the sector was 'one of the last examples of a self-regulatory system in which primary accountability is to the regulated providers through their trade associations rather than the public'.

While the legal professions might resent the 'trade associations' label, the fact is that they combine their regulatory responsibilities with the task of representing the professions and furthering their members' interests. The Bar Council describes its role as including 'developing and promoting the work of the Bar' and 'promoting the Bar's interests with government', while the Law Society adds 'negotiating fair rates of pay for solicitors'.

Such a conflation of roles was always going to be difficult to maintain, but it was made more difficult by the damning findings in Dame Janet Smith's report on Dr. Shipman's murders, where she blamed many of the General Medical Council's failings on the medical profession's belief of the medical profession that the GMC could and should be both its regulator and its representative. Dame Janet felt that allowing professionals to elect a majority of the members on a regulatory body inevitably undermined its independence from the profession. Conscious of a similar concern expressed in the Clementi review's discussion paper, both the Bar and the Law Society have begun to ring-fence their regulatory and representative functions. Under the new legislation, this will be a regulatory requirement.

The main focus of media attention when the White Paper was published was the so-called 'Tesco law' proposal under which legal services may be provided through 'alternative business structures' – which could see solicitors working in partnership with estate agents, conveyancers alongside surveyors, or even legal services provided directly by high street retailers. The Clementi review had favoured allowing partnerships between providers from different legal disciplines such as barristers

and solicitors ('legal disciplinary partnerships' or LDPs) but had stopped short of recommending partnerships involving lawyers and other non-legal professionals ('multi-disciplinary partnerships' or MDPs). However, the government has opted for a wider possibility, envisaging no statutory restrictions on business model, indeed encouraging the development of new business models.

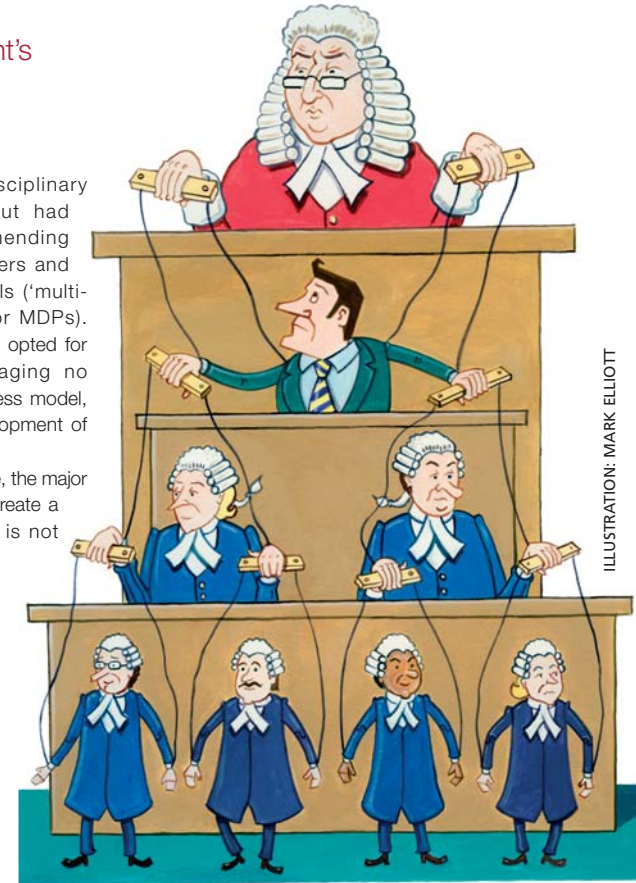
From a regulatory perspective, the major innovation is the proposal to create a Legal Services Board. This is not intended as a mega-regulator like the Financial Services Authority and the Food Standards Agency. To put the LSB's role in context its budget has been estimated as £4.5million annually, while the Financial Services Authority spent over £200million on regulatory activities last year. But the LSB's power is to be exerted through leverage over the regulatory activities of the professional bodies – and these will be far less 'self-regulatory' if the government's plans are accepted.

The creation of the LSB suggests the emergence of a new paradigm of regulated (self-)regulation in professional services. It follows the creation of new 'meso-regulators' in both medicine and accountancy that sit above the existing regulatory bodies – whether those bodies are self-regulatory associations, like the accountancy institutes, or statutory regulators like the General Medical Council. Crucially, the new meso-regulators can be expected to develop their own regulatory expertise and offer the sort of 'sustained and focused control' that central government cannot. They will also be expected to 'muddy their hands' with what Black, Baldwin and Cave (see p. 5) call 'day to day regulation', whether that involves acting as an appellate mechanism for the fitness to practise decisions of frontline regulators, or ordering a frontline regulator to change its rules.

If this new 'oversight' element is designed to protect minimum standards, competition between regulators could also create a countervailing downward pressure. The existing bodies will

compete with each other and with new entrants for the right to regulate the new-structure practices. But if businesses – and that is what the new providers are – are able to choose between a number of different regulators, then one way in which front-line regulators might attract regulatees is to offer a more favourable regulatory environment – or simply less regulation. Meanwhile, the possibility for the LSB to intervene to change a frontline regulator's rules should they be inadequate might further encourage frontline regulators to leave tough decisions to the LSB.

While the new paradigm is intended to alleviate the dangers of capture inherent in a based around principles of self-regulation, creating this new tier involves a risk that regulatory expectations will shift up a level from the frontline regulator to a meso-regulator which lacks the resources to regulate effectively. This leaves the embryonic Legal Services Board facing two separate but linked issues. Does it want to be a hands-on regulator or a benign hidden hand? And how far is it content to leave it to the market to protect the interests of consumers of legal services?



# Vive la différence?

## Regulating higher education institutions in the UK and France



Foreign students represent both an opportunity and a potential source of risk for universities. CARR research student **Annaliese Dodds** examines what the British and French experiences of regulating universities say about regulatory capacity.

From 1979 onwards, both French and British governments have increasingly encouraged foreign students from Western and emerging economies to enter domestic higher education institutions (HEIs). Traditional links with ex-colonial Africa have been gradually dismantled, as foreign students have become a matter for industrial policy, rather than international development or foreign policy. Tony Blair recently described overseas students as 'a market we need to exploit as ambitiously as possible', whilst Jean-Pierre Raffarin, when Prime Minister of France, claimed that foreign students represented an important means of boosting the French economy.

Both nations have attempted to encourage HEIs to recruit more foreign students from the West and from emerging economies through three mechanisms: the use of financial incentives; the strengthening of quality assurance; and the alteration of visa regimes.

Yet British governments have found it much easier to engineer a new policy towards foreign students than have their French counterparts. Why might this be the case? A close comparison of the two countries reveals significant differences in the extent to which HEIs were able to coordinate resistance to new government initiatives. French HEIs frequently cooperated with each other to define their own policies towards foreign students, and to resist government measures. In contrast, British universities and colleges were both less able and less willing to work together to prevent new legislation being passed, and to disrupt the implementation of new policies.

This is clear, firstly, from both governments' development of financial incentives to stimulate HEIs to change their recruitment policies. British governments used the incentive of profit from full-cost fees. In Britain, universities and colleges have been able to charge foreign students full-cost fees since 1981. French governments have used the

incentive of additional funding from contracts struck every four years, which, since 1989, have included an increment for improving the recruitment of foreign students.

The use of these financial incentives reflects the extent of coordination in each higher education sector. The lack of coordinating mechanisms between British HEIs prevented them from mounting a coherent challenge to the full-cost fees proposal. It further compounded differences between HEIs once implemented, as they now competed with each other. HEIs became increasingly differentiated, especially from 1993 onwards, in terms of their numbers of foreign students and the income they derive from these.

The differentiation and competition instilled by the British use of financial incentives was not replicated in France. Although contracts are often used as a method of setting up 'quasi-markets' in the public sector, their use in France appears to have resulted in an increase in the autonomy of individual institutions, through individualising their relationship with the Education Ministry.

Secondly, the impact of coordination between HEIs on government policy is also clear from an examination of quality assurance in both countries. Both the French Comité Nationale d'Evaluation (CNE) and the British Quality Assurance Agency (QAA) developed evaluatory criteria covering the treatment of foreign students, in discussion with HEIs.

In France, the universities' peak association, the Conférence des Présidents d'Université, was extensively involved in the development of the quality criteria. In contrast, British HEIs were unable to present a united front in negotiations over quality standards. The British QAA had to arbitrate between different universities' conceptions of acceptable standards, rather than developing these in discussion with the sectoral peak association. In contrast with the French evaluations, which avoided

ranking different HEIs, the QAA's reports were intended explicitly to aid the promotion of 'UK Plc' through exposing 'rogue traders' and developing a hierarchy of HEIs.

Finally, in both nations, visa rules were significantly tightened in the early part of the period before being loosened later as part of a strategy of encouraging more foreign students into domestic HEIs. Both governments also manipulated the regulation of foreign students' visas to restrict illegal immigration and to control the entry of visitors from countries that allegedly posed security risks.

On a number of occasions, the government failed in each country to obtain the support of all HEIs for particular new approaches to foreign students' visas. Crucially, however, opposition to the government's goals was less frequently coordinated amongst British than French HEIs. The heterogeneity of the British HE system allowed some HEIs to opt out of government regimes, but these actions were confined to 'powerful' universities such as Oxford and Cambridge. In contrast, non-compliance and protest was often coordinated across the French system through the HEIs' peak associations, as when a number of universities refused to implement new requirements to examine all foreign students in the French language.

Comparing British and French approaches to the recruitment of foreign students thus indicates the importance of domestic constraints for the development of industrial policy. The redefinition of foreign students' policy as an economic rather than political or moral matter was more easily achieved in Britain, with its relatively heterogeneous and competitive higher education sector. In France, by contrast, HEIs were able to coordinate their opposition to this new, market-based approach towards foreign student recruitment.

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

### Paradoxes of 'Safety'

Professor Jerry Ravetz,  
James Martin Institute, Oxford  
11 October 2005

In this lecture, Professor Ravetz questioned the linear 'risks' model, arguing that modern hazards are complex as well as uncertain. 'Safety' as an attribute is pragmatic, contextual, moral and recursive. To illustrate this Prof Ravetz discussed his 'Catch-22 Haiku' on 'Safety in the Global Knowledge Economy':

In the global knowledge economy, constantly accelerating innovation buys temporary safety for firms against their competition but cannot guarantee the safety of their innovations in the environment.

In the face of these possible dangers from innovations, governments lose public trust by reassurances of their safety and regain public trust by admission of their danger.

But by admitting danger and thereby inhibiting innovation, governments lose safety in the politics of the global knowledge economy.

### Do Businesses Take Internal Compliance Programs Seriously? An Empirical Test – Preliminary Results

Dr Christine Parker, University of Melbourne  
25 October 2005

Presenting preliminary results from a survey of 1000 large Australian firms, Dr Parker discussed whether encouraging and forcing businesses to adopt internal compliance systems – 'meta-regulation' – is the best tool regulators have for making a difference inside business management to identify, correct and prevent breaches of the law or little more than expensive window-dressing. Indeed, they may be using the compliance system to avoid regulatory liability or to deflect blame or conflict about regulatory compliance away from top management.

### Railtrack's demise – the implications for independent regulation

Tom Winsor, White & Case  
8 November 2005

Controversial as the decision to put Railtrack into administration was, perhaps the most serious implication of the Railtrack affair was the Government's threat to the independence of the Rail Regulator, done in order to sever Railtrack's financial lifeline and prove to a judge that the company was insolvent. Although the threat was never carried out, it was enough to persuade the senior management of Railtrack not to resist an order for Railtrack to be placed into

administration. After the resignation of Stephen Byers as Transport Secretary, the Government tried hard to airbrush this out, and the new Secretary of State made three statements to Parliament describing independent economic regulation in the railways as essential. But in October 2005, those assurances were discarded and the Government tabled a Commons motion explicitly endorsing the threats made to the independence of the regulator. In this seminar, the Rail Regulator at the time discussed what this sudden reversal in policy means for the constitutional position of independent regulation in all privatised industries.

### 'Freedom Without responsibility' Occupational Communities and Safe Practice in Railway Maintenance

Assistant Professor Johan M Sanne, Linköping University, Sweden  
22 November 2005

Railway infrastructure maintenance technicians create conditions for a safe and timely traffic. However, the work involves risk to the technicians themselves and their work may create risks to traffic if it is not properly performed. They claim a responsibility to manage risks, including attitudes and practices that aim to 'make it work': flexible coordination concerning conditions for track access, calculated risk-taking and informed rule bending. Responsible practice requires organizational discretion. These practices and related attitudes, expressed as 'to know what you are up to', are enforced through mechanisms of social control.

### The Limits of Loyalty? The Contested Relationship between Civil Servants and Politicians

Professor Rune Premfors, Stockholm Centre for Organisational Research, Sweden  
8 December 2005

In modern democracies constitutional rules typically state that civil servants must be loyal to their political masters. Bureaucrats are expected to carry out ministers' wishes and directives, and also to provide them with policy analysis and advice. But what if civil servants are confronted with situations where they disapprove of a course of action favoured by a minister?

This seminar presentation examines how civil servants within the Swedish Government Office (Regeringskansliet) act when obedience becomes an issue. The research reported includes a questionnaire sent out to all civil servants significantly involved in policy analysis, advice and execution within the Government Office. Apart from reporting and discussing the

Swedish findings the talk includes reflections on methodology, asking in particular if an all-out ethnographic approach is both possible and more appropriate in this 'back-stage' area of government. Finally, the Swedish case was compared with what we know about others, in particular the available research on Britain.

### FORTHCOMING LUNCHTIME SEMINARS

#### The Regulation of Genetic Testing

Tuesday 17 January 2006

Stuart Hogarth, Research Associate, Department of Public Health and Primary Care Institute of Public Health, Cambridge University

#### Risk Regulation and Administrative Constitutionalism

Tuesday 14 February 2006

Dr Liz Fisher, Tutorial Fellow in Law at Corpus Christi College, University of Oxford

#### Analysing the Higher Education Regulatory State

Tuesday 28 February 2006

Professor Roger King AcSS, Visiting Professor, Centre for Higher Education Research and Information, Open University.

#### Risk, Regulation and the BCCI Litigation

Tuesday 14 March 2006

Joanna Gray, Reader in Financial Regulation, University of Newcastle upon Tyne

**These seminars will take place at 1pm in the CARR Seminar Room, H615, Connaught House, Aldwych, London WC2A**

#### BSE ... ten years on

Tuesday 21 March 2006

Professor Hugh Pennington, Institute of Medical Sciences, University of Aberdeen and President of the Society for General Microbiology.

**This event will take place at 1pm in the Hong Kong Theatre, Clement House, Aldwych, WC2A**

## CARR hosts regular risk and regulation conferences.

### Risk and Regulation: Research Student Conference 2005

**Bankside House, London SE1  
15-16 September 2005**

CARR's fourth annual research student conference took place at the LSE's Bankside building over 15 and 16 September 2005. With participants from Poland, France, Norway, the Netherlands, Germany, Canada, Denmark, the USA, Australia and Turkey, as well as the UK, the conference has now established itself as a major international event for the discussion of risk and regulation issues, and offers a unique venue for post-graduate students to present their work on a global stage. Some forty-seven different papers were given, across a wide range of topics. Some offered a new slant on matters that have previously featured in CARR's work, including GM foods, transport safety, pesticides, BSE and corporate risk disclosure. Others offered totally new arenas for studying risk and regulation, with issues ranging from fisheries to charities, from hospital management to mental health homicide inquiries, from vaccine scares to human tissue engineering, and from the Turkish electricity network to microfinance institutions in Uganda.

If a wide range of topics were discussed, the papers also demonstrated disciplinary and methodological diversity – with papers from students in history, law, economics, sociology, political science, accountancy and finance, and environmental science; and with comparative analyses, case studies, quantitative surveys and conceptual discussions – as well as a variety of takes on the nature of risk and regulation.

The conference included a plenary speech from the Chair of the Health and Safety Commission, Bill Callaghan. He defended the HSE/C against some urban myths about 'health and safety', claiming that many stories have no substance in fact, while on other occasions 'health and safety' considerations have been wrongly applied by managers, or used as a smokescreen for an unpalatable decision. But he acknowledged a tension between health and safety, admitting that the HSE/C still had a 'huge job to do on health'. He noted, for example, that while 9 million working days are lost per year on account of workplace injuries, over 30 million are lost because of health conditions caused or exacerbated by work. He also touched on the challenges posed by the Hampton review of inspection and enforcement, expressing confidence that the HSE was 'ahead of the game'.

The event was well supported by CARR staff, who gave their time chairing panels and hosting 'masterclass' events. Of particular value to post-graduate researchers was a plenary panel towards the end of the conference in which Julia Black, Peter Miller and Ed Page discussed how to get research published. Judging by the quality of the work presented, and the evidence of a growing market in risk and regulation studies, it is clear that there is an enormous impact on academic debate waiting to be made by this new generation of researchers.

### Financial Innovation: markets, cultures and politics

**Hosted by: CARR and the Social Studies of Finance Group (University of Edinburgh)  
16-17 June 2005**

Financial innovation is a key influence on the world economy, and has important consequences for the management of risk, for societies and for political systems. Yet it remains little studied outside of economics and business studies. The purpose of this meeting was to broaden our understanding of financial innovation by bringing to bear the wider perspectives of 'social studies of finance,' especially work based in the sociology of science and technology and in international political economy.

Donald MacKenzie (University of Edinburgh) kicked off the workshop with a paper arguing that finance theory has been an important catalyst of financial innovation (just as science is an important resource for technological innovation). Papers by Fabian Muniesa (CSI, Ecole de Mines de Paris), Alex Preda (University of Edinburgh), Daniel Beunza (Universitat Pompeu Fabra) and Karin Knorr Cetina (University of Chicago) focused directly on the physical, technological, cultural and regulatory setting of financial innovation.

Mike Power, Boris Holzer and Yuval Millo (University of Essex) explored innovation in risk management (including its unintended consequences), while Raghu Garud (New York University) and Daniel Beunza examined the role of securities analysts as 'frame makers'. Layna Mosley (University of North Carolina) and Iain Hardie (University of Edinburgh) broadened the discussion by looking at the interaction of financial markets, regulation, and political systems.



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



## Taking Stock of Trust

**Hosted by:** CARR and the the ESRC Social Contexts and Responses to Risk Network (SCARR)

**Date:** 12 December 2005

**Venue:** LSE Rosebery Hall, Rosebery Avenue, London EC1

Trust enables people to collaborate, negotiate and trade under conditions of uncertainty. The demands placed on trust in a more complex and globalised economy, where people live more flexible and diverse lives, are growing, at a time when trust in experts, public authorities and other institutions is increasingly questioned. This one-day conference will analyse developments and discuss future directions in trust research.

**Fee:** £25 for bookings after 21 October

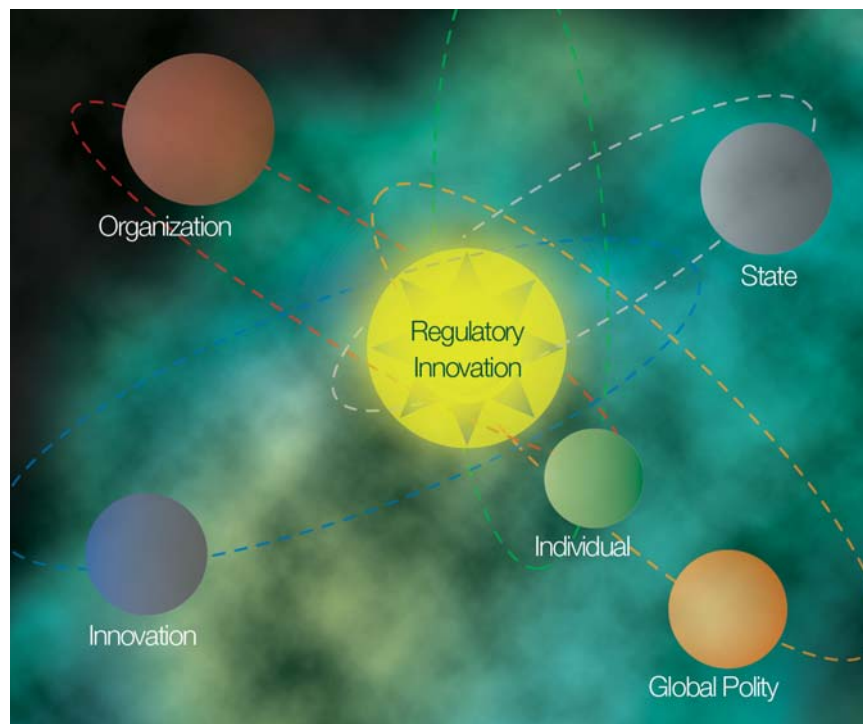
### Participants include

Professor Lord Layard, LSE  
Professor Mike Power, CARR, LSE  
Professor Mike Calnan, University of Bristol  
Professor Christopher Hood, University of Oxford  
Professor Richard Eisler, University of Sheffield  
Dr Matthew White, University of Jena  
Professor Graham Loomes, University of East Anglia

For more information and the booking form see [www.kent.ac.uk/scarr/events/trustcontext.htm](http://www.kent.ac.uk/scarr/events/trustcontext.htm)



# Multidisciplinary perspectives on regulatory innovation



Regulatory innovation is hardly a term that is going to attract much opposition – who is likely to stand up against better or ‘smarter’ regulation? But just what is regulatory innovation; why and where does it occur; and are we seeing ‘hyper-innovation’ occurring, or just a lot of hype?

In an original and comparative analysis, *Regulatory Innovation* seeks to answer these questions. The areas explored are deliberately eclectic, ranging across railways, dangerous dogs, internet gaming, ethics in legislatures, 3G mobile licence auctions, and financial services. Each chapter takes a comparative perspective, exploring whether and how regulators in each domain in different countries produced ‘innovative’ responses to similar policy issues. Some of these are high-tech areas: the regulation of internet gaming; the introduction of auctions for 3G mobile licences; some are low-tech: the regulation of dangerous dogs, or ethics in legislatures. Some are highly fashionable and seen as key aspects of the ‘regulatory state’: telecoms and railways, and/or as areas of ‘hyper-innovation’, such as financial services. In contrast the policy domains of dangerous dogs and legislatures are largely unfashionable (in the sense of attracting little interest), and never feature in these grander meta-theories.

This book represents a multi-disciplinary study,

and one crucial prerequisite in such exercises is agreement on a joint framework that accommodates sensitivities of various disciplines, while also establishing certain boundaries. In *Regulatory Innovation*, Julia Black establishes **five worlds** of regulatory innovation, the world of the ‘**individual**’, of the ‘**organization**’, of the ‘**innovation**’, of the ‘**global polity**’ and of the ‘**state**’. These ‘worlds’ consist of a set of arguments stressing distinct features that are said to facilitate ‘innovation’ and that cut right across social science literatures.

Using these ‘worlds’ to frame the analysis, six main arguments are made:

- Innovations can fail as well as succeed. Moreover, what is regarded as ‘innovative’ can vary significantly between those affected by regulation and detached observers. Similarly, what may be regarded as innovative within a policy domain may be seen as a well-established and conventional regulatory technique elsewhere.
- Individual ‘champions’ are not as significant in regulatory innovations as they, or other analysts, might think. In the innovations analysed in the book, the individual policy entrepreneur has not been at the heart of regulatory innovation as often as the contemporary literature on leadership would want us to believe.
- Innovations are often local, and not the result of globalised policy development. The studies sug-

**Julia Black and Martin Lodge**

gested a less important contribution of international factors in facilitating regulatory innovation than all the talk of internationalisation and globalisation in the contemporary age may suggest.

- Regulatory innovation can be a ‘stimulus response’ by bureaucrats, rather than a rationally planned development or an inevitable product of the institutional context. Similar to those astronomers who are constantly on the watch for new planets ‘out there’, Regulatory Innovation also establishes the existence of a new world of regulatory innovation, that of ‘Pavlovian’ regulatory innovation. By that we mean the conditioned responses of politicians and bureaucrats to particular stimuli that occur regardless of specific institutional contexts.
- Guides on ‘how to do’ regulatory innovation tend to be based on partial and simplistic accounts of how and why regulatory innovation occurs, and focus on successes rather than learning from failures. Clearly delineating the different worlds of innovation highlights the limitations of adopting a single perspective, and the importance of a better understanding of the complex dynamics of regulatory innovation.
- A comparative analysis enables us to assess what is common and variable across the different cases and how ‘innovative’ the British experience of the past two decades has been in comparative perspective.

*Regulatory Innovation* represents the result of truly multi-disciplinary conversations among lawyers, political scientists and economists within CARR. In a world that demands multi-, if not inter-disciplinarity, but at the same time seems to advise individual researchers to remain in their disciplinary (and departmental) silos for career purposes, research centres such as CARR have a unique role to play. They offer an environment in which to have conversations within this set of contradictory pressures. It is only within an environment that facilitates open and sustained conversation that research which draws on, and is informed by, different disciplines can emerge. And it seems that research via frank and open conversations offers one very promising avenue to move from multi-disciplinary to truly inter-disciplinary research.

*Regulatory Innovation: A comparative perspective*. Edited by Julia Black, Martin Lodge and Mark Thatcher. Contributions by Julia Black, Christopher Hood, Robert Kaye, Martin Lodge, Colin Scott and Mark Thatcher; Cheltenham, Edward Elgar, 2005.

# Organizational encounters with risk

**Bridget Hutter and Mike Power**

Organizational encounters with risk range from errors and anomalies to outright disasters. In a world of increasing interdependence and technological sophistication, the problem of understanding and managing such risks has grown ever more complex. Organizations and their participants must often reform and reorganize themselves in response to major events and crises, dealing with the paradox of managing the potentially unmanageable. Organizational responses are influenced by many factors, such as the representational capacity of information systems and concerns with legal liability. But the very complexity of organizations creates new vulnerabilities, and disasters often result from systemic failure rather than ‘events’: they are ‘incubators’ of risk.

This volume draws on a series of workshops organized by CARR. Internationally renowned experts on risk management from a variety of disciplines address these complex features of organizational encounters with risk, drawing theoretical understandings from real world organizational experiences. Contributions include Carol Heimer, Juleigh Coleman Petty and Rebecca Culyba on the ‘legalization’ of medicine; Diane Vaughan on organizational rituals; Tim Besley and Maitreesh Ghatak on incentives, risk and accountability; Donald MacKenzie on risk models and arbitrage; Howard Kunreuther and Geoffrey Heal on intra-organizational interdependencies; and Sheila Jasanoff on causal narratives and political culture.

These chapters raise critical questions about how risk can be understood and conceived by organizations, and whether it can be ‘managed’ in any realistic sense at all. As such the book is not just of academic importance, but offers important lessons to policy makers and regulators. It serves as a reminder that the organizational management of risk involves much more than the cool application of statistical method: as one reader put it, it is ‘a much needed corrective to stylized, narrowly drawn risk analysis.’

*Organizational Encounters with Risk*. Edited by Bridget Hutter and Mike Power. Cambridge University Press, 2005.

**Praise for Organizational Encounters with Risk:**

‘An original collection of the latest thinking by some of the finest scholars of risk. This collection throws out a challenge to existing paradigms of organizational theory with evocative risk paradigms.’

**John Braithwaite**, Regulatory Institutions Network, Australian National University

‘Bridget Hutter and Michael Power have put together an all-star cast that both advances knowledge and sets an ambitious research agenda.’

**James Short**, Department of Sociology, Washington State University

‘*Organizational Encounters with Risk* addresses the paradox of the 21st century: how organizations that enhance our capacity to govern uncertainty simultaneously produce new uncertainties that demand innovative approaches to risk and regulation. While grounding their analyses in real-world organizational encounters with risk, the distinguished contributors to this volume also significantly advance theories of uncertainty, risk and regulation.’

**Richard Ericson**, University of Toronto

‘These remarkably insightful essays freshen and deepen our grasp of the ways in which organizations manufacture risk. Risk is recast as an encounter shaped by the organizing of attention, sensemaking, and structuring. This volume will have a profound resonance for scholars and practitioners alike and represents a milestone in efforts to understand an increasingly significant issue.’

**Karl E Weick**, Rensis Likert Distinguished University Professor of Organizational Behavior and Psychology at the University of Michigan and co-author of *Managing The Unexpected*

‘This collection of essays is a thoroughly valuable addition to our analytic understanding of this important phenomenon, and should be read by managers, risk and safety professionals and academics alike.’

**Nick Pidgeon**, School of Environmental Sciences, University of East Anglia

**Cambridge University Press** is delighted to offer the readers of Risk and Regulation **20% discount** on the paperback version of **Organizational Encounters with Risk**

- To order at the **discounted price of £16** please email us at: [www.directcustserve@cambridge.org](mailto:www.directcustserve@cambridge.org) or phone us at +44 (0)1223 326050 quoting **Ref: Hutter2005**.
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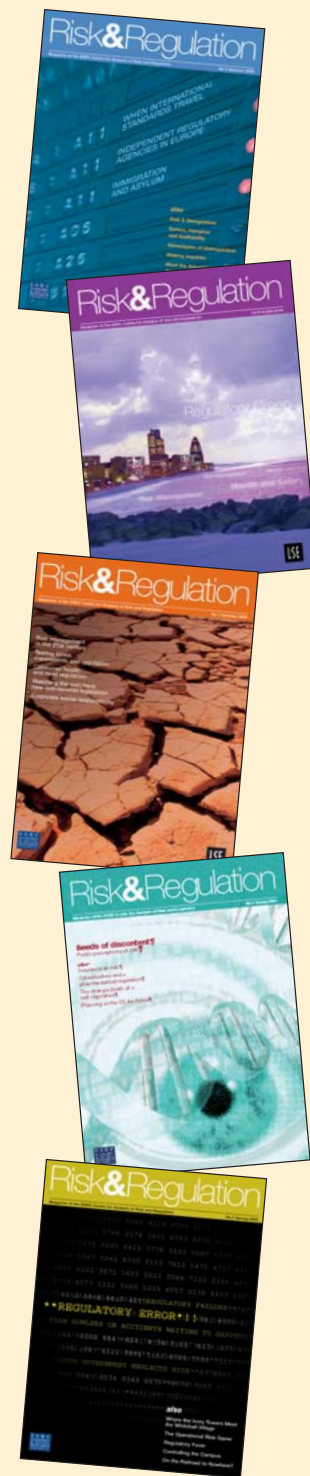
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CARR Director  
Professor of Risk Management  
*Sociology of regulation and risk management; Regulation of economic life; Corporate responses to state and non-state forms of regulation.*

**William Jennings**

British Academy Postdoctoral Fellow  
*Regulation of government by public opinion; Blame avoidance; Policy implementation; Politics and administration of governmental policies of public celebration.*

**Robert Kaye**

ESRC Research Officer  
*Self-regulation and ethics regulation; Regulation inside parliaments and political institutions; Regulatory bodies in the professions.*

**Javier Lezaun**

ESRC Research Officer  
*Biotechnology, biomedicine, and regulation; Traceability and food control; Public participation in science and technology policy; Science and technology studies.*

**Martin Lodge**

CARR Research Theme Director  
Lecturer in Political Science and Public Policy  
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**Michael Power**

CARR Research Theme Director  
Professor of Accounting  
*Internal and external auditing; risk management and corporate governance; Financial accounting and auditing regulation.*

**Henry Rothstein**

ESRC Research Fellow  
*Comparative analysis of risk regulation regimes; Risk regulation and public opinion, the media, interest groups and regulatory professionals; Transparency and accountability.*

CARR research associates

**Michael Barzelay**

Reader in Public Management, LSE

**Gwyn Bevan**

Professor of Management Science, LSE

**Julia Black**

Reader in Law

**Damian Chalmers**

Reader in European Union Law, LSE

**Simon Deakin**

Robert Monks Professor of Corporate Governance, University of Cambridge

**George Gaskell**

Professor of Social Psychology, LSE

**Maitreesh Ghatak**

Professor of Economics, LSE

**Richard Ericson**

Professor of Criminology, University of Toronto

**Sharon Gilad**

Reader, Government Department, LSE

**Andrew Gouldson**

Lecturer in Environmental Policy, LSE

**Terence Gourvish**

Director, Business History Unit, LSE

**Carol Harlow**

Professor of Public Law, LSE

**Keith Hawkins**

Professor of Law and Society, University of Oxford

**Christopher Hood**

CARR Programme Director: Regulation of Government and Governance

**Michael Huber**

Research Associate

**Liisa Kurunmäki**

CIMA Lecturer in Accounting, Accounting and Finance, LSE

**Donald MacKenzie**

Professor of Sociology, University of Edinburgh

**Andrea Mennicken**

Lecturer in Accounting

**Yuval Millo**

Lecturer, University of Essex

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**Nick Pidgeon**

Director, Centre for Environmental Risk, University of East Anglia

**Tony Prosser**

Professor of Public Law, Bristol University

**Judith Rees**

Professor of Environmental and Resource Management, LSE

**Colin Scott**

Reader in Law

**Susan Scott**

Lecturer, Information Systems, LSE; Director, Moving Markets Project

**Lindsay Stirton**

Lecturer in Law, University of East Anglia

**Peter Taylor-Gooby**

Professor of Social Policy, Sociology and Social Science, University of Kent at Canterbury

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ESRC Centre for Analysis of Risk and Regulation  
The London School of Economics  
and Political Science  
Houghton Street  
London WC2A 2AE  
United Kingdom

Tel: +44 (0)20 7955 6577  
Fax: +44 (0)20 7955 6578  
Website: [www.lse.ac.uk/Depts/carr/](http://www.lse.ac.uk/Depts/carr/)  
Email: [risk@lse.ac.uk](mailto:risk@lse.ac.uk)