

# Laws of nature

Advice on energy efficiency and renewable power is a new line of business for the legal sector, reports *Sarah Murray*



**T**HERE WAS A TIME when the engagement of law firms in the fight against climate change went little further than replacing office light bulbs with energy-efficient alternatives and cutting down on the use of paper. This is changing as the legal sector recognises that advising clients on legal and strategic issues related to energy use and renewable energy represents a healthy new line of business.

In the process, the most innovative lawyers are building knowledge bases, finding different ways of working, retooling legal formulas to fit new deals, and coming up with products and services such as climate risk audits and debt finance solutions.

They are also playing a supporting role in environmental advocacy. Through the Legal Response Initiative, for example, more than 150 lawyers have come together to provide advice to developing-country delegations and non-governmental organisations, such as Oxfam and the WWF, at meetings such as the Copenhagen conference on climate change. The idea is to enable these groups to have a stronger voice at international climate talks by arming them with all the information necessary for such negotiations.

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Some initiatives are emerging as a result of law firms’ corporate responsibility agendas and through pro bono work. At Simmons & Simmons, for example, Steven McNab, partner and head of environmental law, has developed a mechanism to help a range of professions offer pro bono advice on sustainability projects.

Carbon Leapfrog, the business-led charity developed by Mr McNab, now lists more than 250 organisations working with carbon reduction projects and environmental entrepreneurs. But firms see even non-profit work as a means of building knowledge and expertise in environmental issues, and a way of establishing a brand presence in what is a rapidly expanding market for legal services.

“One of the ways we’ve sold [Carbon Leapfrog] to other law firms has been that this is an area in which they will benefit by knowing more,” says Mr McNab. “Being involved in decentralised energy-generation and planning work for renewable energy projects is all good experience when they pitch for the next big job.”

Another project conducted on a pro bono basis is the mechanism developed by Burges Salmon, the UK law firm, to facilitate energy-efficient retrofits of homes for the UK Green Building Council’s Pay As You Save scheme. It involved devising a system that – because the return on refurbishing investments would remain with the homeowner – could be spread over a number of years and successive owners.

The firm came up with two options: linking repayments to local land tax – to be administered by a local authority – or using the electricity utility’s payment systems. The challenge was to come up with a payment mechanism that would be familiar and would work through existing legislative frameworks, while addressing a totally new concept – financing the environmental retrofitting of domestic properties.

“Because it’s consumer based, the scheme is complex,” says Michael Barlow, a Burges Salmon partner in the energy and environment team. “But you have to set it

up in a way that's easy for consumers. All the difficulty is in the setting-up of the scheme in the background."

Because this kind of complexity also applies to large industrial environmental projects, it is hardly surprising that savvy law firms are starting to view projects to reduce carbon emissions as substantial business opportunities.

As governments look to meet ambitious targets for reducing greenhouse gas emissions, investment is being poured into large-scale renewable energy projects, such as offshore wind farms. While breaking new ground technologically, these endeavours still have to meet the complex requirements of investors and legislators.

"When it comes to battling climate change, the role of lawyers is to unlock the market mechanisms for industrial players so they can carry out industrial functions and make a profit, but in a context that promotes social and environmental objectives," says Munir Hassan, a partner and head of clean energy at CMS Cameron McKenna.

Mr Hassan has led the firm's work for National Grid, the UK utility, in assessing the requirements of the emerging carbon-capture and storage industry, covering issues such as employment, environment, health and safety, financing and regulatory arrangements. "This is an entirely new industry," he says. "And part of law firms' role is getting structures in place for a diverse group of players."

When working on such projects, law firms also need to maintain flexible organisational structures, says Stephen Cirell, a partner at Eversheds who is on secondment at Cornwall Council, where he is leading the local authority's ambitious carbon reduction and renewable energy projects.

"We decided the firm had to stay on traditional lines in terms of the way it was organised," says Mr Cirell. "But we tried to overlay the practice groups – such as commercial, litigation, corporate and real estate – with a small team to work out what the opportunities were and what knowledge to acquire. You need that flexibility in relation to climate change."

Law firms have realised they need organisational capacity and a refined knowledge base if they are to compete in the market for specialist environmental legal advice.

"A lot of the clients we deal with have in-house legal teams with a high degree of expertise, so they're

## CLIMATE CHANGE AND SUSTAINABILITY

Firm	Innovation	Originality	Rationale	Impact	Total	Description
<b>STAND-OUT</b>						
<b>Legal Response Initiative</b>	Setting up the Legal response initiative	8	8	7	<b>23</b>	A team of more than 150 lawyers provided advice to Oxfam, the WWF and other non-governmental organisations during the Copenhagen climate change summit and beyond
<b>Eversheds</b>	Renewing Cornwall	7	8	6	<b>21</b>	The secondment of a partner to Cornwall Council has established an ambitious climate-change programme, including fleets of electric cars for staff and energy self-sufficiency by 2025
<b>Norton Rose</b>	UK offshore wind farms advising the Crown Estate	7	7	7	<b>21</b>	The firm's role went beyond strict legal advice as a key voice in developing the world's biggest renewable energy project, which is expected to produce 30,000MW of green power by 2020
<b>De Brauw Blackstone Westbroek</b>	First model agreement for green investment schemes	7	7	6	<b>20</b>	Developed a manual to operate as a non-compulsory platinum standard, ensuring revenues from the sale of carbon credits are used on sustainable projects
<b>Linklaters</b>	Developing a climate risk tool for HSBC and Railpen	7	6	7	<b>20</b>	The tool has enabled asset owners to assess the impact of climate change on their long-term investments
<b>Simmons &amp; Simmons</b>	Carbon Leapfrog	7	7	6	<b>20</b>	Partner Steven McNab plays a key role in a charity that unites multidisciplinary skills to advise relevant sustainability projects on a pro bono basis
<b>HIGHLY COMMENDED</b>						
<b>Eversheds</b>	UK offshore wind farms advising a bid consortium	6	6	7	<b>19</b>	Helped reconcile the multiple interests of the bid consortium members with those of the Crown Estate on a groundbreaking renewable-energy deal
<b>Herbert Smith</b>	Enabling the decommissioning of future UK nuclear generators	7	6	6	<b>19</b>	A clever approach to tax and funds law that will give clients Centrica and EDF an edge in their bid to build the UK's nuclear capacity
<b>Anderson Strathern</b>	Pentland Firth and Orkney Waters wave and tidal development	6	6	6	<b>18</b>	Worked to complete the world's first renewable marine energy-generation development agreements with the Crown Estate
<b>Burges Salmon</b>	Pay As You Save scheme	6	7	5	<b>18</b>	By designing a mechanism to spread the cost of refurbishing a property over a number of years and successive owners, the firm has facilitated the "greening" of UK homes
<b>De Brauw Blackstone Westbroek</b>	The Luz Verde programme distribution of 30m light bulbs in Mexico	6	7	5	<b>18</b>	The debt finance structure developed by the firm enabled the project to be completed in time to be used at Copenhagen as an example of a successful clean development mechanism scheme
<b>Herbert Smith</b>	Furthering the agenda of sustainability in the built environment	5	7	6	<b>18</b>	Took on a leadership role in developing groundbreaking equity and debt finance solutions, including solar projects in developing economies such as India
<b>COMMENDED</b>						
<b>Clifford Chance</b>	Making carbon markets work	5	5	5	<b>17</b>	Packaged environmental assets in new ways to create a more liquid market in carbon. Investors see the firm as a pioneer in the boardroom
<b>Clifford Chance</b>	Wind power project in Cape Verde	6	6	5	<b>17</b>	Power purchase and government support agreements transformed a poor net importer of expensive dirty energy into an exporter of renewable energy
<b>CMS Cameron McKenna</b>	UK carbon capture and storage (CCS) pilot demonstration	6	5	5	<b>17</b>	Working for National Grid Carbon, the firm helped shape the emerging CCS market in the UK. It created confidence in the new field by drawing parallels with existing industries

looking for something in addition," says Richard Metcalf, a specialist energy lawyer at Norton Rose, which is advising the Crown Estate, manager of the sovereign's land and property in the UK, on an offshore wind-farm development – one of the world's biggest renewable energy projects.

For lawyers, this means putting in work upfront to develop expertise in the complexities of climate-change law and the investment strategies related to energy efficiency and renewable energy.

However, Mr Metcalf believes such efforts will pay off.

"We're trying to understand ahead of clients what all these changes are in the energy sector, with a view to having something extra to sell beyond the traditional scribing services of lawyers," he says. "So we're looking at this as an opportunity." ■

**For the full climate change and sustainability results table, go to [www.ft.com/il10](http://www.ft.com/il10)**