

## PREFACE

This series of three booklets, or 'Information Packs', presents key themes in Law and Governance. The series is designed and edited by Martin Minogue, Director of Regulatory Governance in the Centre on Regulation and Competition (CRC), University of Manchester. The first issue, Modernising Governance, examined a range of public sector management reforms, in particular those UK-based changes that provided a leading model for public management reforms in developing countries. The second issue, Private Sector Development and Regulation, looked, by contrast, at the institutional and policy foundations of capitalist market systems, with particular reference to key economic reforms in privatisation, regulation and competition, both in the UK and in developing countries.

This third issue, Improving Public Policy focuses on the processes and institutions that determine effective and accountable public policymaking. Recent reforms designed to improve public policy in the UK are considered, with contributions from senior practitioners who are, or have been involved in core areas of British government, both centrally and locally. Emphasis is placed upon the significance of effective policy systems and new policy tools for the design and delivery of efficient public policies, programmes, and services; and the link to changing mechanisms of public accountability is examined.

In all three issues, the main focus is on institutions, policies and reforms in the United Kingdom system of law and governance, but comparisons are made with international experience, and there is analysis of the application to developing countries of developed country reforms.

*Editor's note:* all contributions to this booklet reflect the personal views of the authors, and do not represent the official views of their institutions. I wish to give particular thanks

to Sarah Pearson and Angela Liang for their tremendously helpful contributions to the production of the whole series.

The Centre on Regulation and Competition, Institute of Development Policy and Management, University of Manchester was assigned by the British Council to collect and contribute all the papers for the Information Packs 2003-2004

## SECTION ONE

### Introduction: Analysing Public Policies

*Martin Minogue, CRC, University of Manchester*

The first booklet in this **Law and Governance** series examined the changes in structures, institutions and practices generally labelled as 'public management'. The second booklet presented and analysed economic reforms, privatisation and regulation, which have constituted major changes in economic policy in a number of countries over the past three decades. These two sets of reforms- managerial and economic- both involved significant changes in the system of governance itself, notably in the ways the boundaries between the state and the non-state sectors were shifted, and through the introduction into the traditional public sector of many practices and mechanisms which hitherto had operated largely in the private sector. These reforms raise issues about the nature of the state, the type of governance people want, the activities which the state should be responsible for, the balance that exists between the responsibilities of the state and the rights of its citizens. These are all issues on which people may differ in their views and preferences, so that choices have to be made between alternative possibilities. This is also true of specific areas of social and economic concern, eg health, education, the environment, for example. But how are these choices between alternatives to be made? Who should be involved in making such choices? How should scarce resources be allocated between all the competing alternatives? And once these choices are made, how will they be translated into practice, and who will decide whether this has been done effectively?

These questions are the province of what is termed 'public policy', which can be defined as 'what governments do'. There is a rational model of what stages are involved in public policy: the stage of *policy formulation*, in which governments identify problems that need solutions; a stage of *policy decision*, in which governments consider a range of possible solutions and either choose one of these solutions or decide not to act at all; a stage of *policy implementation*, where decisions are translated into real actions and practice, with clear organisational outputs; and a stage of *policy evaluation*, when governments analyse *policy impact* ie the results or outcomes of the policy decisions that have been put into effect. In this highly rational model of public policy, evaluation completes a virtuous circle of learning, and produces a further policy cycle, so that public policies are progressively improved and adapted to the real world.

In analysing public policy, we are concerned, not just with this rather formal process, but with the policy choices themselves, the *content* of policy. We want to establish what works and what does not work in particular sectors ie which policies succeed and which policies fail, if we can devise ways of establishing how to do this. Where failure is identified, we want to know how to remedy failure, or we may want to improve efficiency even where policies are judged to be effective. We also need to be alert to the possibility that policies may have unintended consequences, so that their impact may not be what was intended or anticipated, a function of the reality that governments may have only limited or partial information and knowledge of the areas in which they intervene. Finally, we may also see opportunities for improving the policy process itself, as a means to secure better decisions and better outcomes.

While public management tends to focus on formal structures and institutions, public policy gives more attention to decisions, activities, and actions; though of course this stream of action must take place in part through formal mechanisms of organisation. Contemporary approaches emphasise a movement away from the traditional conception of the state as the principal provider and decision maker, towards a model in which the state acts as an overarching coordinator of many different types and levels of social organisation and social actor. This means that decision making and even implementing powers are dispersed across a range of governmental and non-governmental agencies, so that the principle of hierarchy is replaced by the concept of *networks* through which policy decisions are mediated and policy outcomes delivered and regulated. This emphasis on collaboration and cooperation draws in issues of citizen involvement, participation and consultation in order to build partnerships, strengthen social capital and secure social consent to governance, and to specific acts of policy. This interactive and participative process is not just a matter of ensuring public accountability: it is also more efficient in the long term in obtaining solutions to major social and economic problems. Since all public policy systems entail relationships of power and influence, it is necessary to incorporate into the analysis the significant role likely to be played by political institutions, actors, ideas and resources.

Because of the complexity of economic, social and political systems and their interactions, the rational model of policy processes set out above may give an incomplete picture of social reality, and an unworkable set of policies. It is essential to test this model against 'real world' practice, preferably through case studies of actual

policies.

Section 2 of this booklet describes and analyses the British public policy process, and efforts that have been made recently to improve and strengthen the British policy system, both at central and local levels.(Note: 'British' is used interchangeably with the official international title 'UK' , or United Kingdom of Great Britain and Northern Ireland).

Section 3 presents an innovative approach to policy analysis-Regulatory Impact Analysis- designed to improve policymaking processes and policy outcomes, using examples from the UK and from Sri Lanka.

Section 4 presents concluding comments and Section 5 lists useful websites through which interested readers can obtain more documentation and detail on the issues and cases contained in the booklet.

## **SECTION TWO: Public Policy in the UK**

### **Introduction: The Policy Framework**

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This section describes and analyses a series of reforms in the British governmental system intended to improve the quality of public policies and decisions. Most of the reforms presented here are located at the crucial centre of the public policy making system, homing in on the significance of the most important central institutions, which are the Cabinet Office and the Prime Minister's Office. Clearly many other parts of the governmental system (government departments and executive agencies) play a part in the process by which public policies are designed and implemented. Moreover, this public decision making process takes place within the framework of the broad set of executive, legislative and judicial institutions which make up the whole public sector. Beyond this, it is essential to understand the position and powers of regional and local government since many of the major functions of British government are provided and managed at the regional and local level.

As noted in 'Modernising Governance', the first booklet in this series, it is not easy to provide a simple guide to the British system of governance and policy because of the absence of a formal written constitution. Other European countries have public institutions and practices based on written constitutions, laws and legal norms. Local levels of government have guaranteed protection from national government interference. Individual public servants have legal rights which give them a measure of independence from politicians. Changes in institutions and procedures are often subject to legislative and judicial controls. Arrangements of this kind are much less clear-cut in the UK. Ministers can, for example, determine the spending levels of individual local authorities, alter the funding arrangements for universities, change the pay arrangements for civil servants, appoint people to run semi-governmental agencies, establish executive agencies, even privatise specific functions; all without the need for changes in the law or reference to parliament.

In the British system how does an issue become identified as a problem which is then resolved by a solution or policy? There is a clear set of formal steps in any major policy decision. The executive in the form of government departments and agencies will identify the policy problem, and formulate a response. A process of political approval

may be followed through ministerial committees or the Cabinet itself (the Cabinet is a group of approximately 20 Ministers chaired by the Prime Minister, which constitutes the senior political executive. Ministers are always members of the dominant political party, i.e. the one which wins executive office through a system of regular national elections.) The next stage may be submission to the legislature, often in the form of legislation which is considered and approved by both Chambers (House of Commons and House of Lords, the elected Commons chamber carrying much the greater weight and authority) and then received Royal Assent (a constitutional formality). The policy is now a statutory Act of Parliament enforceable at law. The administration of the Act may be the responsibility of permanent officials in central departments, or may be allocated to other public bodies especially local authorities. For most major public policies, the executive will usually institute a policy debate prior to legislation by presenting outline proposals in the form of a Paper to Parliament. (A White Paper) or a general consultation document (a Green Paper)

There are also significant political elements in the public policy process. Ministers are able to take initiatives which may have significant implications for public services and their management. They may do so to fulfil political manifestos, or to meet the expectations of their political supporters, or in pursuit of their own political careers. Major initiatives will usually involve some form of legislative enactment and therefore a means of public accountability; but these formal means of accountability are significantly weakened by the political controls exerted by the executive over the legislature, and the ability of elected politicians to deploy public financial resources behind specific initiatives intended to boost their political popularity. In the long run therefore, the most reliable form of accountability is exercised periodically by the public through regular opportunities to vote governments out of office, usually every four to five years. This democratic form of accountability is also exercised in much the same way at the regional and local levels.

A more informal type of accountability is through policy networks or communities. Essentially these are groups with an interest in debating and shaping particular policy issues, especially through bringing to bear pressure and influence upon formal decision makers such as ministers and civil servants. These communities may include parliamentarians, business people, voluntary bodies, community groups, the media and academic specialists.

It has been suggested that overall this policy making process can be understood as one which is influenced by four dynamics:

the *partisan* dynamic: the political direction injected into policy by the governing party

the *administrative* dynamic: embodied in the civil service which is responsible for carrying out existing policy and advising on the feasibility of policy changes

the *public* dynamic: involving expression of public opinion often reflected through parliamentary or media debates and reports

the *interest group* dynamic: bodies outside government who may be affected by policy and so have a stake in influencing policy decisions.

The British policy framework might then be summarised in the following way:

- Parliament provides a forum in which the regulated competition of democratic government is publicly conducted
- Political parties compete to dominate the system, to organise the electorate, to carry out the work of parliament, and to provide the ministers who lead and manage the executive
- Civil servants are subordinate to ministers but their permanence, professionalism and vested interest in consensus and continuity give them substantial influence upon public decisions
- The judiciary's role is to interpret legislation in line with parliament's authoritative intentions and to call ministers and officials to account if they act unfairly, unreasonably, or without statutory authority
- A broad range of organised private interest groups seek to influence government institutions and parliament, the most powerful often being very influential in supporting or resisting policy and legislative changes
- The media (newspapers, radio and television) play a significant part in informing the public, leading public debate and exposing executive failures.

Finally, it should be noted that major parts of the British governance framework

are decentralised, whether to regional or local forms. Within the national system, elected regional assemblies exist in Scotland, Wales and Northern Ireland. The Scottish and Welsh assemblies in particular are responsible for a substantial range of policies and their implementation within their own regional boundaries. They are the subject of separate elections and do not therefore necessarily conform to the political complexion of the UK parliament. The Scottish Parliament is able to enact laws on health, education, local government and housing, and to raise or lower the basic rate of income tax. The Welsh Assembly has fewer devolved powers but can influence legislation.

Local government has long occupied a traditional place in the British system and remains a significant actor in the public policy system. It is still the largest public sector employer, and is responsible for a fifth of all public expenditure. It is responsible for the provision and management (under parliamentary law) of substantial public services including primary and secondary education, personal social services, housing, police and fire services, local planning and roads, leisure and cultural services, and waste collection and management. Local authorities have independent legal status, have a limited power to set their own local taxation and budgets, are run by democratically elected political leaders, and administered by professionally qualified and trained officials. The policy role of local authorities is illustrated through the case study of a major London based local authority, Ealing (Section Two, Part 2).

In the rest of this booklet, recent reforms in policy making at the centre are presented through contributions by leading policy practitioners who are able to give an insider view of the policy system. Professor Amann places recent reforms to the central policymaking system in a longer historical perspective, demonstrating that the search for better and more effective institutions at the centre of British government is not at all new, but reflects a continuing concern over the past century. Geoff Mulgan, a principal policy advisor to the Prime Minister, gives an account of the significant efforts to create more strategic thinking and action at the heart of British government. Leonora Thomson, a political leader in a major London local authority, shows how the policy and managerial reforms at the centre have been emulated at the local government level. Later, in Section 3, Phillip Rushbrook, Head of the Public Sector Team at the highly regarded Cabinet Office's Regulatory Impact Unit, describes the Unit's

innovative work in pursuing the desirable combination of reducing bureaucratic costs and burdens while producing better policy delivery. Additional analysis and linking material is provided by the editor. Taken together, these contributions provide an authoritative understanding of contemporary reforms in the British policy process.

## **Section Two, Part One: Policymaking at the Centre**

### **Policymaking at the centre of British Government in historical perspective**

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and former Director-General of the Centre for Management and Policy Studies, UK  
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The British Civil Service is steeped in a distinctive administrative culture that has evolved over the past 150 years. The Northcote-Trevelyan Report of 1854, which after a mixed reception began to be implemented in the 1870s, was one of the great Liberal reforms of the 19<sup>th</sup> century, and has had a marked influence on British political life ever since. The widespread nepotism and corruption of earlier times was decisively brought to an end. In its place, a new generation of 'Civil Servants' began to be appointed on the basis of open competition, and not as a consequence of the exertion of personal or political influence on their behalf. This objective process of selection was achieved through the introduction of a rigorous (and very difficult) series of public examinations. Once appointed, Civil Servants were subject to a stringent code of conduct, which placed a high premium on personal integrity and a capacity to serve ministers of widely different political affiliations with equal commitment. This new system of public administration took firm root during the period between the two world wars, in the 1920s and 1930s.

The ethical values and administrative competence of Civil Servants are a major source of stability and legitimacy of the British state, and because of that, the British 'mandarin class' is widely admired throughout the world. Certainly, the carrying out of government business in an honest and orderly manner is a necessary condition for having a fully effective Civil Service, and is a justifiable source of pride. But as the passage of time would show, it is not the whole story.

We can observe something of a paradox here. The relatively secluded world of the senior Civil Servant in Whitehall, which has nurtured the creation of an exceptionally efficient machine for handling routine business, for advising and supporting Ministers, and for enforcing ethical codes through the development of powerful mutual trust, is less geared up to engaging the outside world directly when it is obliged to do so. There are two key roles where the need for Civil Servants to be outward facing is inherent. Both have at times presented difficulty, and have required institutional reform. The first area concerns the management of large projects and the delivery of services to the public, where specialist management skills and a focus on the customer are required. Problems in this area lay behind the 'New Public Management' reforms introduced during Mrs Thatcher's time as Prime Minister; they are the subject of a separate booklet in this series. The second area is, of course, policy making, which to be effective and realistic must draw upon a wide range of specialist knowledge as well as engaging with different public interests and perspectives. The ultimate danger, to be avoided at all costs, is that of an out of touch political class talking only to itself and being told only what it wants to hear. As the legendary Head of General Motors Alfred Sloane once expressed it to his junior managers : "Don't bring me the good news, it weakens me".

### **The ebb and flow of reform of central policy making**

For most of the 20<sup>th</sup> century the British Civil Service has resisted attempts to introduce systematic and radical institutional reforms into the sphere of policy making. In particular, the privileged access of senior Civil Servants to Ministers has been maintained with determination. A pattern can be observed, which has had a tendency to be repeated. During periods of national crisis, 'outside' specialists were hurriedly brought in, and brilliant solutions to the challenges which at that time faced the nation were often improvised. For a while, the lessons arising from the initial lack of preparation seemed to have been fully recognised. Public commissions of enquiry were set up by the Government of the day with an invitation to come forward with bold recommendations in order to ensure that these lessons were embedded in future practice. However, when the crisis subsided many of the able 'outsiders' returned to their regular jobs, and the radical thrust of the reformer's recommendations got bogged down in a discouraging swamp of detail. Momentum was crucially lost. Historical developments are summarized below.

(1) During the First World War, Prime Minister David Lloyd George brought in many very able young specialists from outside the Civil Service to support him in his office. They formed a kind of 'kitchen cabinet' designed to cope with the most immediate pressures. In the longer term, the underlying general issue of how Government should make more effective use of specialist knowledge in policy making was addressed by a special Committee of Enquiry 'On the Machinery of Government' chaired by Lord Haldane, which reported in December 1918. Most of the Report's radical proposals, which would have had the effect of increasing the status and influence of the specialist professions within the Government service, were diluted in the course of implementation. They ran counter to prevailing notions of senior Civil Servants as 'generalists' whose special skills could only be learned 'on the job'.

(2) Winston Churchill, like Lloyd-George, also gathered a group of outside specialists and advisors around him in Downing Street during the Second World War. New and very effective advisory structures were created at the heart of government. However, in the flush of victory, these innovations were not consolidated, and the Civil Service returned to the familiarity of its pre-war procedures. Peter Hennessy, one of the most distinguished academic historians of Whitehall, has argued that the failure to capitalise on the huge reservoir of creative talent that was drawn into the Civil Service from 1939-45 was a crucial 'lost opportunity'.

(3) But the pressing issue of how to permanently strengthen central policy-making capacity was only postponed for a few years. By the late 1950s to early 1960s there was a widespread feeling that following the end of empire a largely unreformed Civil Service was a contributory factor in Britain's perceived economic decline. Senior Civil Servants were hurtfully criticised as 'gifted amateurs'. The major Fulton Report published by the Government in 1968 sought to introduce a new vision of professionalism based on the acquisition and systematic use of specialist knowledge. However, once again, the most radical aspects of the reform were sidestepped or diluted. The Civil Service College, which was set up following the publication of the Fulton Report, never acquired a research capacity which would have given it a critical and independent voice in policy making. The specialist professions within the government machine such as scientists, economists, social researchers and statisticians continued to occupy a relatively subordinate position in the status hierarchy.

(4) A further thrust to reform of the government machine was given by the incoming Prime Minister Edward Heath in 1970. As a former Civil Servant himself, Heath was concerned that Ministers were overloaded with detail and that, as a result, policy making lacked strategic coherence. To strengthen the capacity of the centre, therefore, he set up a new Central Policy Review Staff (CPRS) offering general support to departments but reporting to him personally ; this was the so-called 'Think Tank'. The question of whether the CPRS was an embryonic Prime Minister's Department or whether it had been created primarily to support departmental policy making, was never satisfactorily resolved. Certainly, several of its Reports were deeply unpopular with departments, and served to undermine its support across Whitehall. The 'Think Tank' was finally closed down by Mrs Thatcher in 1983, but it had already been weakened by prolonged internal rejection.

There are some important lessons to be drawn from this very brief summary of reform that are likely to have parallels in other countries and in other cultures. It is clear that building a capacity for national policy- making is much more than a simple matter of administrative tinkering. In the UK, bold (and sometimes visionary) attempts to do this have run up against rivalries between departments and the centre of government, and between the relative status of specialists and generalists, with the latter having succeeded in preserving their prime position in the pecking order. There is also a sense in which British Civil Servants are impatient with complicated sounding 'systems' of knowledge management, and uneasy at the greater exposure to public scrutiny that the introduction of such systems would entail. As Walter Bagehot, that great authority on the British Constitution put it as long ago as 1856 : 'The brain of the great administrator is naturally occupied by the details of the day, the passing dust, the granules of that day's life ; and his unforeseeing temperament turns away uninterested from reaching speculations, vague thought, and from extensive and far off plans'.

### **Recent criticisms of policy-making**

Mrs Thatcher, Prime Minister from 1979-1990, made use of policy advisors from outside government like Sir Alan Walters and Sir Alfred Sherman, and convened a number of famous academic policy seminars at the Prime Minister's country retreat, but she was less interested in the mechanics of policy- making than her immediate predecessors. Her real passion was directed at improving the management skills of Civil

Servants, and improving their ability to deliver better value for money to the citizen. Tony Blair (1997-present) by contrast, has demonstrated a keen interest in improving policy-making. Unlike Harold Wilson or Edward Heath, who as former Civil Servants retained a professional interest in refining the machinery of government, the current Prime Minister and his ministerial colleagues focus more pragmatically on putting in place processes which deliver public policies and services that 'work'. The emphasis has been on flexibility and experimentation.

The Labour Government which came into office in 1997 had already absorbed many of the policy agendas of academics and independent think tanks which were current at that time in such areas as devolution, social exclusion, health inequalities, sustainability of the environment, and the potential of the modern 'knowledge economy'. In a sense, this allowed the incoming Government to hit the ground running. They appreciated the value of an effective interface between Whitehall policy-makers and outside specialists. More ambitiously, the engagement of a wide variety of experts and voluntary organisations was seen as part of a more general project of political modernisation ; as a way of increasing public participation in the business of government and thereby rejuvenating democracy.

During the late 1990s the Cabinet Office and a number of other government departments published a series of major studies of policy-making. They were mainly written by Civil Servants themselves, and are therefore based on an intimate knowledge of the real strengths and weaknesses of the policy-making process. The volume of realistic knowledge now in the public domain is therefore unprecedented. No longer can one complain, as many have done in the past that, "the people who write don't know, and the people who know don't write!" A selection of these [Key Sources](#) can be found at the end of this section.

The main line of criticism to come out of this new body of literature is that policy making in the past has been too narrowly focussed on advising Ministers, securing 'clearance' through compromises between departments, and drafting legislation. In an era when the general public have become more demanding in what they expect of government, and the media have higher expectations about the visibility and accountability of public servants, it is argued that policy makers need to draw upon a much wider range of evidence, ideas and specialist advice. Similar criticisms, as we have seen, have cropped up throughout the 20<sup>th</sup> century. In short, policy-making is now viewed as a *complex*

*process to be managed* rather than as a task assigned to a small team of insiders, however brilliant they might be.

Based on a critical review of policy failures over the preceding decade, the major principles for securing future improvement in policy making are seen to be :

\* *More evidence-based policy* in order to ensure that the proposed policy solution is proportionate to the problem. (The Dangerous Dogs Act of 1991, for example, which laid down that all dogs of a particular breed should be muzzled, is seen as a classic example of 'moral panic' where the Government felt impelled to act quickly on the basis of exaggerated perception rather than hard evidence).

\* *More joined up cooperation between departments* in order to deal effectively with particularly complex areas of policy (longstanding national weaknesses in addressing problems of poverty and social exclusion, for example, are seen to have been exacerbated by the fact that responsibilities for education, health and housing came under different ministerial empires with insufficient focus on shared policy outcomes).

\* *Closer links at an early stage between the makers of policy and those responsible for implementing it.* The angry demonstrations which accompanied the introduction of the Poll Tax in 1989 and the creation of the Child Support Agency in 1993 are regarded as classic examples of major policy initiatives which failed to anticipate adverse public reaction, and which underestimated the practical difficulties of implementing the policy. It is believed that many of these problems could have been avoided if policy makers had listened more carefully to advice from the grass roots at the policy design stage.

\* *Anticipating future policy priorities rather than responding to events.* It is understood that a Government loses the initiative, loses coherence and eventually loses control if it fails to be constantly scanning the horizon for future threats and opportunities. New capacities need to be created which are dedicated to this task. Good intentions are not enough.

\* *Greater analytical rigour in policy making.* It is accepted that although the specialist professions in the Civil Service are highly competent, economic and social modelling techniques and the methodologies used for the rigorous evaluation of policy need to be

brought up to the highest world standards, such as those to be found in the United States' policy community.

### **Reform of the policy-making process under the Blair Governments (1997-2004)**

The last seven years have seen a concerted attempt to improve policy-making in the directions advocated by the above principles. These initiatives are too numerous to be included here in their entirety. Only the most important of them are summarised briefly below in order to convey a sense of the overall flavour of reform :

(1) *The Performance and Innovation Unit (PIU)* was set up during the first few years of the Blair Government. Situated in the Cabinet Office, the Director of the PIU reported directly to the Prime Minister, and for that reason the PIU (and its successor body, the Prime Minister's Strategy Unit) is sometimes seen as an embryonic Prime Minister's Department. The main job of the PIU/SU is to develop policies in areas which cut across the traditional boundaries of departments, and where action is urgently required (examples include the diversification of the rural economy, measures for recovering the proceeds of crime through greater international cooperation, the reorganisation of the national network of post offices, and policies designed to enhance the UK's standing in the global knowledge economy). Typically, these policies are developed by mixed teams of Civil Servants and outside specialists, making full use of available research evidence, horizon scanning techniques, and liaising with a broader community of experts and practitioners. In order to encourage freshness and independence, a policy Steering Group is often chaired by a Minister whose current responsibilities lie outside the area under investigation. As well as producing workable policies for the Prime Minister and his Ministerial colleagues, therefore, the PIU/SU also aims to demonstrate new ways of working to a wider Civil Service audience of policy makers. (The work of the PIU/Strategy Unit is described in more detail by its current Head, Geoff Mulgan, in the next article in this part of the booklet.)

(2) *Other cross cutting Units* organised on broadly similar lines can be found in more specific areas of policy development : recent examples would include the Social Exclusion Unit, the Women's Unit, the Regulatory Impact Unit, and 'Sure Start' (a major research-based policy initiative aimed at improving the future life chances of the under

fives). These Units, especially the Social Exclusion Unit and Sure Start, are notable for the close links they have developed with practitioners and local communities, both at the policy design and implementation stages. They also respond to the requirement for better cooperation and coordination across government departments and agencies.

3) *The Centre for Management and Policy Studies (CMPS)* was set up six months after the PIU in 1999. The two bodies were complementary. Whereas PIU was concerned with the active development of specific areas of policy, the CMPS role was that of improving policy making capacity and skills across the Civil Service as a whole. This was carried out in the following ways :

- \* The development of a new electronic network, 'Policy Hub', which provides policy makers with easy access to a wide range of high quality research evidence through dedicated 'knowledge pools' and links to key web sites (see [Useful Websites](#) at the end of this booklet).

- \* The organisation of regular seminars for policy makers at which they can exchange their practical experiences face to face and learn from each other.

- \* Special joint seminars for Ministers and the most senior Civil Servants in the general area of policy leadership. (I believe that China is the only country other than the UK that provides development opportunities for officials at this level of seniority).

- \* The testing of new policy-making methodologies; in particular the design of a national 'demonstration project' in the area of employment retention and advancement, based on leading-edge American research and evaluation techniques.

In 2002, the policy resources and policy evaluation strands of CMPS were brought within the Prime Minister's Strategy Unit under the leadership of the newly created Office of the Government Chief Social Researcher. CMPS retains its responsibility for training and development programmes for policy makers and policy leaders at all levels.

(4) *Thorough research reviews*, led by the Treasury (Ministry of Finance), have been carried out in recent years in connection with their regular analyses of public expenditure. Particular effort has gone into reviewing complex cross- departmental areas of policy such as neighbourhood renewal and child poverty, for example. The outcomes

of such reviews feed into shared departmental objectives and pooled budgets, with a view to overcoming the endemic problem of 'departmentalism'.

## **Summing up**

In trying to assess what progress has been made in improving policy-making it is, of course, easy to point to individual examples of failure or significant success. To go beyond the anecdotal level, however, we need to get a reliable sense of the general trend. In recent years we have been in a better position to do this because more representative evidence has become available.

In November 2001, the Centre for Management and Policy Studies (CMPS) published the results of its major survey of policy-making across the whole of Government. This is the largest such survey that has ever been carried out. 130 detailed case studies of policy development were assembled, drawn from a wide range of departments ; 40 of these case studies were written up and published, together with specific contact details which would allow Civil Servants (and others) to approach the principal architects of the policy for further details and advice. At the same time, the National Audit Office also published a valuable survey of policy-making approached primarily from a value-for-money perspective. The two Reports (10 and 11 in [Key Sources](#)) are complementary, and need to be read together in order to obtain the most balanced view.

The general picture to emerge from this body of work is that Civil Servants are clearly aware of the major areas of improvement which have been highlighted in earlier Cabinet Office publications (listed in the [Key Sources](#) at the end of this chapter). Moreover, although more survey work needs to be done, there is some convincing preliminary evidence that they are acting upon this understanding. Major policy developments in such areas as 'Sure Start', 'Job Centre Plus' and the design and implementation of a 'National Literacy Strategy', in particular, reveal a high level of professionalism when measured against these criteria.

It should be emphasised that the progress described above has been achieved on the basis of pragmatic measures rather than systemic reforms. There is not yet a comprehensive knowledge management system in place to support policy making, such as one might find in the most advanced multi-national companies and management

consultancies. There is no formal Prime Minister's Department to give strategic coherence to the overall policy programme. Unlike the French *cabinet* system, for example, the amount of direct support given to Ministers by experts from outside the Civil Service is still strictly limited. These are areas of potentially fundamental change where the traditional customs and practices of the Civil Service have not been frontally challenged. On the other hand, the vision of the current Head of the Civil Service of a service in which the most senior officials do not hold their jobs for life, in which there is a much higher level of turnover and outside recruitment at the top levels, and in which the specialist professions will be 're-positioned', does strike at the very heart of the traditional culture as it has evolved for more than a century. It will be fascinating to see the specific ways in which this vision will be realised over the next few years.

### **Key Sources referred to in the text**

(1) *On the Organisation of the Permanent Civil Service* (The Northcote-Trevelyan Report, 1854 ) Reproduced as Appendix B to the Fulton Report – see below.

(2) *Report of the Machinery of Government, Cp 9230*, December 1918 (The Haldane Report).

(3) Peter Hennessy, *Whitehall*, Fontana Press, 1990.

(4) *The Civil Service. Vol. 1, Report of the Committee 1966-68, Cmnd. 3638*, June 1968 (the Fulton Report).

(5) *The Reorganisation of Central Government, Cmnd.4506*, October 1970.

(6) *Modernising Government, Cm 4310*, March 1999 (Chapter 2 is on policy making).

(7) *Professional Policy Making for the Twenty-first Century*, Cabinet Office, September 1999.

(8) *Wiring It Up : Whitehall's Management of Cross-Cutting Policies and Services*, PIU, Cabinet Office, January 2000.

(9) *Adding It Up : Improving Analysis and Modelling in Central Government*, PIU,

Cabinet Office, January 2000.

(10) *Better Policy Making*, CMPS, Cabinet Office, November 2001.

(11) *Modern Policy Making : Ensuring Policies Deliver Value for Money*, Report by the Comptroller and Auditor General, November 2001.

(12) Public Administration Select Committee Seminar, *Reforming the Civil Service while Safeguarding its Values*, 29 October, 2003 (plus David Walker's interpretation of this 'Re-balancing act' in the *Guardian*, 3 December, 2003).

## **Changing approaches to policy and strategy in UK government**

*Geoff Mulgan, Head of Policy, No 10 Downing Street(Prime Minister's Office)*

Over the last two decades a quiet revolution has been underway in how strategy, policy and delivery are undertaken in the UK. The traditional model of policy-making in UK government had the following characteristics:

Policy was generally conceived as a linear process – taking proposals from political party manifesto commitments, through Green and White Papers to legislation and implementation. Usually the policy-makers were entirely separate from those involved in delivery. This divide became even more marked with the advent of executive agencies in the late 1980s.

Policy making was generally combined with line responsibilities – policy making and development was the responsibility of the lead officials covering the area, and had to be fitted in alongside their day to day responsibilities

Policy making was generally closed – overseen by ministers and run by professional civil servants with relatively limited external input and scrutiny

During recent years there has been a steady evolution towards different approaches. At the heart of this is a clearer link between strategy, policy and delivery. Strategy draws on public demands, assessments of threats and opportunities to define high level goals (for example cutting crime or CO2 emissions). This direction then provides the framework for individual policies. These are then turned into delivery plans which take account of the need for changes to structures, finance, IT and cultures, with continuous feedback coming both from the public and from the new knowledge generated by pilots, performance management and learning networks.

This emerging model therefore involves:

- more use of evidence and analysis, including formal piloting and testing of policies
- engagement of stakeholders both in policy design and delivery
- more testing of the robustness of policies against possible future scenarios
- more risk management and formal assessment of the viability of policies
- more involvement of practitioners in the teams developing policy
- greater openness, including publication of analytical papers, interim proposals and draft legislation
- more formal learning once policies have been implemented – for example through ‘what works’ units.

In addition a growing proportion of policy development has been taken ‘offline’ to be conducted at one remove from day to day decisions and preconceptions.

### **The Strategy Unit**

These new methods have been at the core of the approach of the Strategy Unit (SU) and its predecessor the Performance and Innovation Unit (PIU). The SU, which was set up in 1998, reports directly to the Prime Minister, although it often also works direct to other Cabinet ministers.

Its main role is to undertake long-term strategic reviews of major areas of policy, with a particular emphasis on cross-cutting policy issues. It also works with departments to promote strategic thinking and improve policy making across Whitehall. The unit is strongly focused on practical policy design and implementation, and most of its reports are published as statements of government policy that are quickly put into effect. The background to the advent of the SU was a perception by the second half of the 1990s amongst senior officials and Ministers, including the Prime Minister, that Government needed to

rebuild its capacity to do long-term thinking and strategic policy work. There was also a need for better ways to tackle issues that cut across departmental boundaries.

In the past many different models of strategic policy-making had been used in the UK and elsewhere. The closest previous equivalent to the PIU was the Central Policy Review Staff (CPRS) which was established by Edward Heath in 1970, and which continued in existence under Prime Ministers Harold Wilson, Jim Callaghan and Margaret Thatcher. This brought together civil servants and people temporarily seconded from outside Government, to review policy on issues ranging from the future of the motor industry to energy efficiency.

In other countries a wide range of different models is used for strategic policy work. Many maintain very substantial policy staffs within Prime Ministerial offices. Others follow a similar approach to France, which complements a strong in-house capacity with think-tanks such as the *Commissariat General du Plan* and the *Conseil d'Analyse Economique*. Some locate a significant strategic capacity within their parliaments.

The SU (and before it the PIU) drew on the best features of these different models to ensure that it complemented the day-to-day work carried out by other parts of the centre of Government:

- the unit's work has consisted primarily of time-limited projects, with teams given the time and space to develop forward-looking policies rather than reacting to short-term pressures
- the unit has been staffed with a roughly equal mix of civil servants and non-civil servants
- there has been an emphasis on analytical rigour and analytically-driven solutions
- most projects have had a sponsor Minister to act as a sounding board and give political direction

- project teams generally included civil servants from the departments which will take responsibility for implementation
- the unit has taken an open and outward-looking approach, engaging with stakeholders inside and outside Government. It has been receptive to new ideas for improving policies and services, and publishes much of its work on the web
- most reports have been published as statements of Government policy with clear indications of how conclusions will be taken forward and on what time-scale
- a significant number of projects were designed to tie in with spending reviews run by the Treasury.

In 2001 the SU absorbed parts of the Centre for Management and Policy Studies (CMPS) covering work on best practice in policy-making, evaluation, knowledge management, and knowledge pools, overseen by Sue Duncan, who is Chief Government Social Researcher. Geoff Mulgan was director of both the PIU and subsequently the Strategy Unit, combining the latter role with being head of policy in the Prime Minister's office to ensure close links between day to day policy and longer term strategy.

### **What has been achieved**

The work of the SU and its predecessors has covered a very wide range of policy areas, and significantly changed both the culture and practice of policy making and the achievement of practical results. The areas covered include e-commerce, rural policy, the future of the Post Office, recovery of criminal assets, adoption, e-government, trade policy, migration, global health, resource productivity, workforce development, charity law, sport, electronic networks, risk, waste and childcare.

A clutch of work has focused on various aspects of change in central government, including reports on better mechanisms for coordinating different

parts of government, on central government's presence in the regions and localities, and on the use of modelling and other methods for improving policy-making.

A series of shorter think-pieces have been produced on topics including delivery, social mobility, social capital, geographical mobility, public value and life satisfaction. There is a full list of published documents at the end of this briefing. The unit's reports have had a significant and practical impact, and most of their conclusions have been put into effect.

Examples include:

- the establishment of a new agency to recover criminal assets (Proceeds of Crime Act 2002)
- new legislation on adoption (the Adoption and Children Act 2002) which has led to a rapid growth in numbers of adoptions
- establishment and subsequent strengthening of the e-Envoy's office and strategy for e-commerce which has pushed the UK into the lead internationally as an environment for e-business
- the Government-wide strategy for e-government which has put the UK amongst the top five governments worldwide in this area
- a changed approach to migration, including new legal entry routes for high and low skilled migrants
- measures to increase labour market participation by the over-50s, which have contributed to a significant turnaround from a high point when nearly 3m people between 50 and retirement age were out of work
- detailed design work contributing to the establishment by the United Nations of a global fund for HIV, TB and Malaria
- the establishment of universal banking services and associated changes to the Post Office network
- a major expansion of renewable energy and recycling

- the creation of at least 250,000 new childcare places by 2005/06, and the establishment of new children's centres to provide childcare, family support and health services
- the development of a radical new 'demand-led' strategic framework for Government policy on workforce development
- a new approach to rural policy, with a focus on environmental management, new industries and a more targeted approach to agricultural markets
- a new modern legal framework for charities, now being taken forward by the Home Office
- establishment of the National Offender Management Service and a radically new approach to prisons and probation
- comprehensive strategies for reform of the key public services – health, education and transport

A comprehensive paper listing the impacts of past reviews is regularly updated on the Strategy Unit website(see [Useful Websites](#) at the end of this booklet). Current projects are reviewing and reshaping government strategy in relation to disability; police reform; deprived areas; countries at risk of instability; and access to justice.

## **People**

The SU has followed a distinctive approach to recruitment which is now being emulated in other parts of government. Of the roughly 80-120 staff in the SU at any one time about half come from outside government. They come from a very wide range of backgrounds including: Government departments; businesses ranging from Ford and Glaxo to KPMG and McKinsey; other parts of the public sector, such as the Financial Services Authority and the Welsh Development Agency; voluntary sector bodies, such as the Kids Club Network and Age Concern; universities such as Newcastle, Warwick, Harvard and LSE; think-tanks such as the Institute of Economic Affairs and the Institute of Public Policy Research; and from other governments around the world, including Germany, the United States, Canada, Australia and France. The aim has been to ensure a more creative balance between insiders who know how government works and outsiders who can bring fresh perspectives. Most teams aim to include people

with direct experience of frontline delivery to minimise the risk that strategies will work well on paper but not in reality.

### **The approach of the Strategy Unit**

The work of the unit – and increasingly of other policy and strategy units across government - has been grounded in a distinctive approach:

*A strong focus on evidence-based policy* and analytical rigour. Most projects begin with a thorough examination of statistical trends, causal relationships, evidence of what works, lessons to be learnt from UK and overseas experience, as well as evidence of public concerns and needs.

*A strong emphasis on creativity* and challenging conventional wisdom, helped by the presence of significant numbers of people from a wide range of backgrounds.

*A cross-departmental approach*, in which much of the work involves bringing together teams from different departments and helping to broker agreement.

*Ensuring effective implementation.* All reports published as statements of future Government policy set out how conclusions will be taken forward, by whom, and to what time-scale. Subsequently, Ministers regularly report back to the Prime Minister on progress. In some cases the unit also runs parallel teams with departments to ensure a smooth hand-over process.

*Strategic Audit.* A major exercise was undertaken in 2003 to assess UK performance and UK government performance and challenges. This involved detailed analysis of key issues; a comprehensive benchmarking of the UK; interviews with Cabinet ministers and Permanent Secretaries; and extensive discussion of key choices. A summary report was published on the website in November 2003.

*Futures work.* Extensive use has been made of modelling, forecasting and scenarios, to ensure that Government is better prepared for the impact of long-run trends as well as short-term shocks, and to test the robustness of policies in the light of different futures. Seminars have been held on a very wide range of

topics – examples include the future structures of central governments, risk, transport, and electronic networks. Presentations and issues papers from these seminars can be found on the SU website, along with a report mapping lessons to be learnt from futures work around the world.

## **Work with departments**

Over the last two years a strong emphasis has been placed on improving strategic capacity across government. This has involved:

More senior appointments of lead strategists in the main departments, often from outside government (for example the recent appointments of head strategists in health, environment and education from Kingfisher plc, BP and the BBC respectively).

Within each department strategy teams have been built up and designed in such a way that they can play a direct role in shaping legislative, funding and other key decisions. Most have also taken research and analytical functions under them.

To assist policy makers the SU has built up a comprehensive toolkit for strategists. This is now available on the website (the Strategy Survival Guide) and provides readily useable material on project management, analysis, stakeholder and communication issues and policy design. The SU also seconds staff, helps with senior civil service training and provides coaching for departments.

All the major departments have been commissioned to prepare 5 year strategies for publication, setting out the primary goals, policies, delivery trajectories and funding allocations.

There will always be strong countervailing pressures against a more sober, strategic approach to the business of government: some of these come from the media, from parliament and simply from the pressure of events. But the relative political and economic stability of the UK over the last few years has made it possible for government to become much more strategic in its approach. Moreover in the

government's own analysis of which nations around the world were succeeding best in achieving economic, social and environmental goals (published as part of the Strategic Audit) one of the striking findings was that the best performers tended to be those that were also taking strategy most seriously – generally smaller countries in northern Europe and some in Asia.

## **Section Two, Part Two: Policymaking at the local level**

### **Policymaking in the London Borough of Ealing**

*Councillor Leonora Thomson, Deputy Leader, London Borough of Ealing*

#### **Background/Introduction**

The London Borough of Ealing in West London is a unitary authority with a population of approximately 311,000 people. Like other local authorities in London it is responsible for providing a wide range of services including education, environmental services, planning, housing, libraries and personal social services. Its 69 councillors are elected once every four years by residents aged over 18 in the borough. The councillors all belong to the national political parties and the elected membership is 48 Labour, 17 Conservative and 4 Liberal Democrat councillors; the administration is therefore controlled by the Labour party. There is also an elected London-wide authority which acts on behalf of the capital to promote its strategic needs but this paper concentrates on the relationship between local government and central government using the London Borough of Ealing as a case study.

#### **The structures**

The modernisation programme initiated by the Local Government Act 2000 (LGA 2000) radically changed the structure of local councils, firstly by offering three possible governance models and also by more clearly defining the local authority's executive and non-executive functions.

Although options were provided for a mayor with executive powers, directly elected by the people of the area, or for a mayor with a council manager, most authorities, including Ealing, have chosen the Leader and Cabinet model where senior councillors are chosen for Cabinet positions by their elected colleagues. This was despite the national Government providing significant encouragement for the mayoral model by allowing a petition signed by only 10% of the authority's population to trigger a referendum on an elected mayor. Ealing tested the desire for a local mayor in 2002, when enough signatures were raised to trigger a referendum. In the ensuing referendum the number of

people voting for a mayor (from a 9% turnout) was less than had signed the petition and the cabinet model has continued.

The LGA 2000 also drew clear lines around the responsibilities of councillors, so that the executive, made up of a number of senior councillors, takes responsibility for developing strategy and policy for the council. Non-executive colleagues play an important role in the council's work by reviewing and developing policy and through scrutiny functions by which the executive is held to account.

In Ealing, major decisions are made by the Cabinet, which consists of the Leader and eight councillors from the majority political party. However the full council, where all 69 councillors meet approximately 10 times a year, remains the supreme decision-making body of the council and delegates powers in order to streamline decision making. Each of the 69 councillors in Ealing is democratically accountable to the residents of the specific local areas that elect them, but their overriding duty is to the whole community.

In the current year Ealing has improved its arrangements for scrutiny by introducing an Overview and Scrutiny Committee under which there are panels with differing responsibilities. In particular there is a new Performance and Audit panel, specifically responsible for monitoring the performance of the council and holding the executive to account.

A third branch of activity relates to the regulatory duties that the council undertakes, such as planning and licensing, where a committee of councillors drawn from all three political parties meets to take decisions. These regulatory decisions require a different kind of decision making process than that for policy making and it is important that this quasi-judicial decision-making is not constrained by the many performance standards councils have to meet. For example, the requirement to process a major planning application in 13 weeks is a government performance indicator which counts towards the Audit Commission's Comprehensive Performance Assessment (the national audit and inspection framework within which councils' performance is measured). The desire to meet targets must not interfere with the quasi-judicial process which ensures decisions based on the merits of the application.

Lastly, certain decisions can be taken at a local area level. Ealing has seven Area

Committees, comprising the councillors elected in those areas, which can make some minor decisions on local transport and environmental matters.

One of the characteristics that gives local government in the UK its unique flavour is the relationship between elected members and officers of the council. Audit Commission studies have shown that good member/officer relations lie at the heart of good corporate governance for local authorities. When these key relationships deteriorate, poor performance usually follows. Each authority should have a protocol explaining how these relationships can be managed. In Ealing the Convention on Working Relations between councillors and officers helps both to perform effectively by giving guidance on their respective roles and expectations. It also gives guidance on what to do when there are problems. The responsibilities of officers and members are distinct: councillors are responsible to their electorate and serve only as long as their term of elective office lasts, whilst officers are paid employees and are responsible to the council. It is not the role of councillors to involve themselves in the day to day management of the council's services.

The Chief Executive of the council leads a management team consisting of the senior managers (sometimes called Chief Officers) who usually head up individual departments such as housing, environment, education and social care. They are directly appointed by councillors and are responsible for implementing policy and for service performance. Councils also have three officers responsible under statutory law for staffing issues, legal and financial matters. These three positions are statutorily protected so that councillors cannot fire these officers without an independent inquiry.

The Chief Executive and Chief Officers of an authority work closely with the political executive, both advising them and ensuring the executive's policies are implemented. However, they also have a role in advising scrutiny members. Officers help councillors to achieve their policy goals but also have a duty to say no when appropriate( usually where national law or regulations may be infringed) and suggest alternatives.

## **Relations with other tiers of government**

While local authorities still have a significant impact on the lives of the people living in their area it is in the nature of national governments to govern and despite the LGA 2000 many believe that power has increasingly gravitated to Westminster and to Brussels(headquarters of the European Commission). In its manifesto for the 2004 European elections the Local Government International Bureau pointed out that as much as 70 per cent of UK law impacting on local councils has its origins in EU legislation. With a highly prescriptive national government as well, there is little room for policy autonomy at a local authority level with councillors more often required to consider implementation rather than strategy.

Procurement is a good example of an area where there is little room for manoeuvre for local councils. Councils are subject to EU law, which requires contract letting to be open, fair and transparent and also to other UK legislation, for example, health and safety legislation, and construction design and management regulation. Although heavy handed and bureaucratic (for example, on tenders worth over £250,000 an executive member of the council has to be present with the relevant officer specifically to open the envelopes!) the rules do ensure fair and transparent tendering, and mitigate against corruption.

Councils also have to comply with significant EU directives on many of the environmental issues such as waste, air quality and noise, and trading standards.

There are two aspects to the relationship between local government and central government. On the one hand, local councils deliver services locally according to the national agenda, but on the other hand they have a role as community leaders (recently enshrined in law in the LGA 2000) which extends their role beyond merely the provision of services. There are inherent tensions in these dual roles as many councils feel that national targets are too prescriptive and do not allow councils to prioritise their resources locally to secure effective community leadership.

Funding is one of the key areas of tension between local and national government.

Approximately 70% of Ealing Council's revenue budget comes direct from national government in grant form. Less than a third is raised through local taxation – the council tax - which residents of the authority pay according to the value of their properties. The ability of councils to charge their own rates to businesses was removed in 1990 and since then the National Non-Domestic Rate, although collected by local government, has been centrally pooled and then redistributed by national government. For a council like Ealing, this inhibits our local power to raise or lower local taxes and removes a direct and important link with local business and the local economy. A further financial constraint is the level to which national government directs local councils to spend on specific areas of activity – the concept of “ringfencing”. Funding for schools, worked out by formulae and given to councils in grant form, has to be “passported” to the schools directly. This means we have no choice but to give over half of our revenue budget directly to schools.

Another major issue influencing central/local government relations is the ‘best value’ regime. Improving performance was the third arm of the Labour government's modernisation programme, as it saw high standards of performance as essential for achieving good community leadership and delivering good services. The introduction of a best value regime in 1999, which essentially enabled local councils to secure continuous improvement through economy, efficiency and effectiveness, gave central government the tools to monitor performance and even the power to intervene in a council if it were deemed to be failing. Whilst local government takes to its heart the concept of continuous improvement, there are grave doubts about the cumbersome nature of the process, which central government is now beginning to address.

*Strong Local Leadership: Quality Public Services*, published by the Government in 2001 moved beyond best value, and introduced a new comprehensive performance framework for local councils. The main change was the introduction of the Comprehensive Performance Assessment (CPA) for local councils, carried out by a team from the Audit Commission. The CPA, which is based on a series of judgements on particular areas of service (either based on Best Value reviews or other inspections) and a corporate assessment, places councils in one of five categories: excellent, good, fair, weak and poor. Excellent and good authorities are given a “holiday” from inspection, and poor and weak authorities are likely to trigger government intervention. In Ealing – rated a “fair” authority - whilst we have had some issues in the past with the process, we find the whole idea of a comprehensive assessment energising and encouraging. We

are striving for a “good” rating in the next round, but we are also aware that it is easy to become obsessed by the CPA process. We constantly check that we are targetting resources responsibly, not solely to get us one step further up the CPA ladder, but more importantly to deliver improvements in services to the public.

The Local Government Act 2003 has broadened the range of freedoms available to local authorities, particularly those identified as fair, good and excellent by the CPA. Local government has welcomed these reforms, but the general feeling is that they do not go far enough and do not allow the flexibility needed to support major innovation and continuous improvements across all service areas

### **The influence of local people and their access to information and services**

The duty of councillors is to serve the best interests of the community as a whole. Consequently it is essential that the process of voting once every four years is supplemented by a more active local democracy through an ongoing dialogue with local people. This can take the form of dealing with individual problems and concerns on a one-to-one basis through surgeries, to listening to the chants of a group of protestors outside the Town Hall(headquarters of the local authority). Local issues are hotly debated by the public at area committees. In addition, councillors can be sure that the local media, both print and broadcast, will be there to challenge them on difficult issues. In particular the letters page of the local newspaper is an opportunity for the public to make their views heard – whether those people who write in are representative of the population or not.

Pressure groups often form around certain contentious issues such as the proposals to build a new tramway through Ealing, the mayoral referendum, the implementation of bus lanes, or the level of Council Tax. Councillors and council officers have to judge again whether such groups are representative of wider feeling, or are sometimes not more than the loudly-voiced concerns of an articulate minority.

Many of the formal processes of the Council, such as planning applications, have a consultation process built in to ensure that all viewpoints are heard.

Citizens have a number of rights when dealing with the council, some of which are laid

down in law, others which depend on the council's own processes. The public may attend (though not necessarily participate) at all formal council meetings, and agendas for these are published in advance. The public can see reports and records of decisions made by the council, and also has the right to inspect the council's accounts. Every citizen has the right to complain to the council itself; to the local government Ombudsman (a national adjudicator on matters of due process) after the council's complaints procedure has been exhausted; and to the Standards Board of England about any breaches in the Councillors' Code of Conduct.

There is also a stringent access to information procedure laid out in Ealing's constitution, based on a presumption of openness, in order to maximise the amount of business conducted in public.

From 2005, the commitment of councils to good democratic leadership will be put to the test, as the Audit Commission is placing community leadership at the heart of its inspection framework.

The growth of the internet, which has had a great influence on access of information issues, has also radically changed people's expectations of how they should be able to access council services. In the age where customers can access their bank 24 hours a day, it seems unacceptable that they are only able to conduct business with their local council between the hours of 9.30am – 5pm.

In 2001, the Government introduced Implementing Electronic Government (IEG) statements which required councils to set out their plans for e-enabled services. In return for meeting ongoing annual targets, capital funding (£175 million in 2004/5 and £96.5million in 2005/6) is to be released to local authorities in grant form to help meet further, tougher targets. (This is another good example of the ring-fencing of funding which causes such tension between local and national government).

Ealing has taken a radical approach to meet those targets, which form just one part of its plans for more customer-focussed services. In 2003 we reviewed the way we delivered our services and it quickly emerged that our structure and processes were not designed to meet customer needs. Our Response Programme aims to improve dramatically the experience of Ealing customers by:

\* dealing with 80% of all customer queries at the first point of contact (whether by phone, internet or face-to-face)

- introducing a single telephone number for the council instead of 61 current external customer numbers
- providing one central reception area instead of the 23 currently within one mile radius of the Town Hall

The programme involves the use of modern technology, private sector customer service techniques and a major staff reorganisation and development programme.

The significant capital investment of £31 million will break even within four years. Then, as we are funding this ourselves, rather than going with a private sector partner, we will be able to use the financial benefits to meet the future demands of our customers. By delivering the Response Programme by December 2005 we aim both to meet our IEG targets and raise our Audit Commission rating from “fair” to “excellent”.

However, the challenges we face in implementing this initiative illustrate some of the tensions that lie at the heart of local and central government relations. The inflexibility of the funding regime has meant that raising the revenue funds required has been difficult, and with so many nationally-imposed targets we have little discretion over which activities we prioritise whilst we are trying to make the savings to afford the innovative programme.

In April 2004 the Local Government Association (LGA), the representative body for local councils, started a debate about how local politics can be strengthened and reshaped to meet the complex demands of today’s society. It urges the introduction of a new way of funding services to allow communities greater financial independence, with at least 75 per cent of councils’ income being raised and distributed locally. It argues for an unambiguous reassertion of the importance of local politics, with new opportunities for councillors to represent their electorate on local bodies, and suggests there should be a new process for setting targets and allocating funds which genuinely takes account of local priorities and pressures. Should central government respond positively to this agenda, there would be cause

for great confidence that local councils would once again be able to make policy rather than just act as a vehicle for the delivery of national services. However despite the frustrations that local politicians feel about the constraints within which they have to work, it must not be forgotten that local councils still have an enormous and direct influence on the lives of the people living and working in their areas.

## Section Two, Part 3: Public Involvement

### Participation, consultation and information

*Martin Minogue, CRC, University of Manchester*

It is generally accepted that public policies will always work better if there is the widest possible participation of ordinary citizens in the policy process. Since this is quite difficult to achieve, in practice the focus is on what are termed 'stakeholders', i.e., those who are likely in some way to be affected by the operation of the policy. Stakeholders might constitute quite narrow, organised groups and interests but they might also constitute quite large and unorganised target populations. It could also be argued that officials involved in policy activities are themselves stakeholders, and should be consulted about changes in areas covered by their own responsibilities. The recent Labour administrations have actively pursued stakeholder involvement in a wide range of public policies. It has been estimated that in 2000, 238 task forces, advisory groups and policy reviews had been set up. Typically these groups included substantial numbers of 'outsiders' ie not Ministers or civil servants. For example, in 1999 the Department of Health established a central board comprising health service managers, professionals, and academics to give policy direction in the health sector, and to provide direct policy advice to the Health Minister. In another case, the Social Exclusion Unit (responsible for policy issues relating to poor and disadvantaged groups of people) set up policy action teams including staff from community, voluntary and business organisations, local government, and the health service, as well as civil servants.

The Prime Minister declared in January 2004, on launching a *Code of Practice on Consultation* that 'effective consultation is a key part of the policy making process'. Earlier reforms had placed some weight on the rights of citizens as consumers, notably in the Citizens Charter reforms which subsequently became Service First. In the Service First arrangements a large panel of consumers was regularly consulted for their views on specific activities or measures, though there is little evidence about what impact such surveys might have had on government policies. The 2004 Code of Practice was quite explicit in instructing official policy makers on the basis of six consultation criteria:

\* Consult widely throughout the process, allowing a minimum of twelve weeks for written consultation at least once during the development of a policy

\* Be clear about what your proposals are, who may be affected, what questions are being asked, and the time-scale for responses

- Ensure that your consultation is clear, concise and widely accessible
- Give feedback regarding the responses received and how the consultation process influenced the policy
- Monitor your departments effectiveness at consultation, including the use of a designated consultation coordinator
- Ensure your consultation follows Better Regulation Best Practice, including carrying out a Regulatory Impact Assessment if appropriate

Though the Code does not have legal force it is regarded as binding on UK departments and their agencies, though Ministers may waive this consultation procedure in exceptional circumstances. Since the Code is very recent it is too early to judge how effective it will be in broadening the range of citizens and groups who are drawn into the public policy process.(The article on local government in Section Two, Part Two describes how user consultation and participation are promoted at the local government level)

Many commentators argue that a more important issue is the question of freedom of information, that is, the ability of citizens to require government to be as open as possible in the pursuit of government decision making both in general terms and in relation to disclosures on matters which affect individuals. In the past there have been substantial complaints and criticisms of the heavy-handed nature of the Official Secrets legislation, on the grounds that politicians and civil servants could too easily use such rules as an excuse to prevent the release of information, and to avoid transparency in decisionmaking.

In 1994 a *Code of Practice on Access to Government Information* had been introduced which at present underwrites the existing piece-meal set of arrangements for publication of information, some statutory and some in the form of informal codes. However, in 2000 Parliament passed the Freedom of Information Act, though this is not due to come into effect fully until January 2005. The Act will then replace the 1994 Code of Practice and involves the

establishment of an Information Commissioner who will have various responsibilities under the Act, including the approval of schemes drawn up by public authorities for the routine publication of information promotion, and the promotion of good practice by public authorities in relation to disclosure of information. Under the Act any person will be able to request and obtain information held by a public authority. 'Public authority' includes government departments, Parliament, local government authorities, the National Health Service, police authorities, and publicly maintained schools and universities. While the Act will undoubtedly substantially increase rights of access to information held by public authorities, it also contains a long list of exemptions including the refusal of access on public interest grounds, or in the interests of national security, or in relation to the formulation of public policy. There is the right of appeal against specific exemptions to an Information Tribunal and the courts, but some commentators have suggested that these exemptions will neutralise the intention of the reform to provide more open and accessible government.

The Freedom of Information Act marks a radical development in open government despite the broad exceptions it contains. It contains a presumption in favour of the communication of information on request, and the public authority must justify non-disclosure to the Information Commissioner. It may be said both to strengthen the rights of citizens and to contribute to the more effective participation of citizens in public affairs. Meanwhile a National Audit Office report in 1999 found that government policies on e-government have stimulated considerable interest among citizens and substantially increased access to public information through central and local government office websites (Readers can see this for themselves through the [Useful Websites](#) listed at the end of this booklet). As indicated in the first booklet, *Modernising Government*, institutional reforms have addressed concerns over public ethics, and ombudsmen, or 'complaints and information commissioners', exist in relation both to central government (through Parliament) and local government.

Taken together, these attempts to improve the flow of communication between government and the public promise to make government more responsive to publicly expressed views on particular areas of policy, and at the same time make government more openly and clearly accountable for the decisions they

make and the actions they take.

## **Section Three: New policy tools for better policy design:Regulatory Impact Assessment.**

Regulatory Impact Assessment (RIA) is essentially a method for measuring and assessing the probable effects of new regulations or legislative proposals upon businesses. RIA has been in use for some years in developed economies and been strongly promoted by the Organisation for Economic Cooperation and Development (OECD). But it is the UK which has developed the strongest initiative, initially in 1988, with further momentum from the creation by the 1997 Blair administration of a Better Regulation Taskforce, and a Regulatory Impact Unit (RIU), within the framework of the Cabinet Office. Not only was RIA extended to public sector regulatory decision making; it was also defined so that all public policy changes involving rule making or legislative powers could be assessed. It is now likely to be applied to the potential impact of new policies on public services. Below, the Head of the Public Sector Unit of the RIU describes the work of the RIU in relation to orthodox regulation, to improved policy making, and to the reduction of bureaucratic inefficiencies in policy implementation. There have also been initiatives to extend RIA to other countries on the basis of what is regarded as a 'best practice' model drawing on developed country experience, and an account is given of how this is working out in one developing country, Sri Lanka.

### **Regulatory Impact Assessment and improved policymaking in the UK**

*Philip Rushbrook, Head of Public Sector Team, Regulatory Impact Unit, UK Cabinet Office*

#### ***A. Regulatory independence and institutional design***

In the UK there is no official definition of an independent regulator. However, the independent Better Regulation Task Force proposed the following:

‘A body which has been established by Act of Parliament but operates at arm’s length from Government and which has one or more of the following powers: inspection, referral, advice to a third party, licensing or enforcement.’

The present government had defined the strategy guiding public services (including those delivered by private companies under franchise or contract using public funds) as having to comply with four principles:

National standards and frameworks

Independent regulation

Earning more local autonomy and management flexibilities after demonstrating good standards are maintained

Broadening customer choice

The development of independent regulators can also be viewed as freeing up central ministries to concentrate on strategic issues and fulfilling the government's policy agenda. The move away from ministry-based regulation (i.e. "dependent" regulators) to independent ones can be summarised as having the following benefits:

More consistency of decision-making

Long term decisions rather than short ones

More transparency in decision-making

Better and clearer accountability

More trust between regulator and regulated

Freedom from political interference

However, there are limits to the implementation of all concepts. Three areas of public concern have increased in prominence in recent years as the creation of the network of independent regulators has grown extensively, i.e.:

Multiple regulators in some sectors

Over complexity of rules and micro management of service providers

Inflexible rules not applied in a proportionate manner

Independent regulators have been set up at different times and have different powers, structures and responsibilities. The concept has proved so popular with politicians that some public sectors have several regulators in operation. This can lead to blurred boundaries in responsibility in some cases and duplication of regulatory demands on service providers. Where too many independent regulators operate an excessive burden of bureaucracy can be created.

In parallel to the development of independent regulators, the UK has been undertaking a programme of regulatory reforms. The purpose is to remove and simplify old regulations and to promote the creation of better, more effective regulations in the future that are not burdensome. Five principles of better regulation have been defined:

**Proportionality**: regulators should only intervene when necessary and remedies should be proportionate to the risk posed.

**Accountability** : regulators must justify decisions and be subject to public scrutiny

**Consistency** : government standards must be implemented fairly

**Transparency** : regulators must be open and keep regulations simple

**Targeted** : regulations should focus on a problem

Much work has been undertaken at the centre of Government by the Cabinet Office to promote better regulation and has introduced the discipline on policy makers to assess the likely financial impact on business and services before a regulation is proposed to ministers and Parliament. These assessments are known as Regulatory Impact Assessments (RIAs).

Within each ministry there is a minister responsible for regulatory reform and bureaucracy reduction who is assisted at the departmental management board by a senior official responsible on this agenda. Departmental Regulatory Impact Units ensure that policy officials undertake RIAs and propose policies that minimise new regulatory demands. In addition, ministers responsible for public services are beginning to develop

internal bureaucracy reduction units to remove or reduce progressively the bureaucratic burdens imposed by existing administrative rules requirements and processes. The work of ministers is encouraged and supported by a specialist unit, the Regulatory Impact Unit, in the Cabinet Office. This has the backing of the Prime Minister and Cabinet Secretary (i.e. Head of the Civil Service). A cabinet committee, the Panel for Regulatory Accountability, is chaired by the Minister for the Cabinet Office and is a direct means of calling in ministers on issues of bureaucracy and regulatory reform.

### ***B. The regulatory impact assessment method in the UK***

An RIA is an analysis of the likely impact of a range of options for implementing a new or changed policy. There is a standard format (as known as the “template”) for RIAs, which is set out in detail in the Cabinet Office Regulatory Impact Unit internet website (see Useful Websites at the end of this booklet).

The principle of RIA is **evidence-based policy making**. An RIA must set out the risk or problem to be addressed by the policy and the options available – including ‘do nothing’ and possible non-regulatory options, such as Codes of Practice, industry standards or information campaigns. The option to create a new legal regulation or law should be viewed only as the last resort. An RIA must also set out the likely costs and benefits for each option. A good RIA will answer the question “Is this the best way of achieving the objective?”

The RIA process enables policy officials to:

Think through the full **impact** of their proposals

Identify and assess **alternative options** for achieving the policy goal;

Ensure a public **consultation** exercise is meaningful and reaches the widest possible range of stakeholders;

Inform **negotiations** at the European Union (EU) level;

Determine whether the **benefits justify the costs**; and

Determine whether particular business or other sectors are **disproportionately affected**.

An RIA must finally be signed by the responsible Minister to demonstrate that he or she is satisfied the benefits justify the costs, before progressing to present to Parliament any consequent legislation.

Government departments are required to defend to the public or a Cabinet Committee a decision not to produce a RIA. All departments have also set up departmental regulatory impact units (DRIUs) to advise their policy officials on how to prepare RIAs and to ensure that officials will not try to evade the requirement to produce them.

A good RIA will:

Include the best information available at the time;

Be clear, concise and proportionate to the problem/risk it is addressing;

Be a stand-alone document, explaining the problem clearly, setting out the alternatives to regulation and the options, without the need to refer to other documents

Use plain English to ease understanding

Avoid technical terms that may not be intelligible to the lay person

### **When to prepare a RIA?**

RIAs are a policy development tool. Policy officials are encouraged to start drafting an RIA early in their policy – making work. This means the RIA process is a continuous one. It can be thought of as consisting of three phases:

An **initial RIA** is a short document prepared as soon as a policy idea is generated

A **partial RIA** which builds upon the initial RIA, is produced prior to a public consultation exercise and must accompany the consultation document

A **full or final RIA**, building on the information and analysis in the partial RIA, which is prepared for post-consultation, collective ministerial agreement by all government

departments and, if it is a regulatory proposal, for the process of Parliamentary approval

### **Initial RIAs**

The initial RIA should inform an official's report (known in the UK as a "submission") to their Ministers when seeking their Minister's agreement to a proposal. It usually consists of an approximate and quick analysis based on what is already known. It should include best estimates of the possible risks, benefits and costs, and should help identify areas where more information is needed. The size and detail provided at this early stage RIA should be **proportionate** to the likely impact of the proposal.

### **Partial RIAs**

The partial RIA builds on the initial RIA and must be submitted with any proposal needing collective (i.e. cross-department) ministerial agreement from the Cabinet Committee, Prime Minister's Office or other interested Ministers in other departments. It must also accompany the document issued at the formal public consultation stage. It should be developed by more discussions, data gathering and informal consultations. Officials are expected to have refined their cost and benefit estimates from those used previously in the initial RIA.

### **Policy Options**

The policy options will include those from the initial RIA that are judged still to be feasible following further work. It should also include those dismissed, and explain why, to show what has been considered. More details could be included on e.g. when the proposal might come into effect, whether a small firm exemption might be appropriate and different methods of enforcement. The options should be set out in terms a lay person will understand.

The partial RIA should present a much more thorough consideration of the risks

associated with the implementation of the options. The likely sources of risk for each option should be explained along with an estimation of the likelihood of these risks occurring. The consequences of these risks for the proper implementation of the options and the likely outcomes should be examined.

### **Final RIAs**

The full or final RIA builds upon the analysis in the partial RIA. It will accompany legislation when it is presented to Parliament. A regulatory assessment becomes a final RIA when a declaration is signed by the responsible Minister is lodged in the library of the House of Commons ( the elective chamber of the UK Parliament). It should also be placed on the departmental website for public access.

A full/final RIA should:

Identify the policy objectives; Identify and quantify the risks that the proposal is addressing;

Describe the remaining options, explain for each option how it would fit with existing requirements, describe its key risks and how these can be mitigated;

Identify the business sectors affected;

Set out any issues of equity and fairness;

Compare the benefits and costs for each option considered in the partial RIA. At this stage the estimates of costs and benefits should be much more precise, using the information from the consultation as well as from further data collection and analysis being done within the department. Where there are uncertainties about the impacts, cost ranges are used rather than being spuriously accurate (eg “£1-2 million”);

Explain the assumptions underlying the analysis of costs and benefits and provide references to data sources and data analysis methodologies. Costs should be split between “policy” and “implementation” costs. A monetary value should be placed on all impacts. In the few cases where this is genuinely not possible then detailed qualitative analysis has to be given. There needs to be enough analysis of impacts to enable

Ministers to decide whether or not the benefits justify the costs and for any external scrutiny and challenge to take place;

Record separately 'other' costs and benefits ie, those not just to firms, charities and the voluntary sector but also to consumers/individuals, the public sector and to the economy at large, taking in the economic, social and environmental effects;

Discuss distributional impacts to clearly identify both the positive and negative aspects of any transfers of income or redistribution of opportunities;

Summarise who or what sectors bear the costs and benefits of each option;

Provide a simple or a detailed Competition Assessment (see below)

Provide details of the Small Firms' Impact Test (see below)

Set out enforcement arrangements for securing compliance with each of the proposed options, as well as a consideration of the risks involved with this, and include plans for guidance documentation to be produced by the department,

Discuss how the policy will be monitored and evaluated/reviewed, eg set an appropriate point at which to look back at what the actual costs and benefits were;

Summarise the results of the public consultation exercise, responses received from different sectors or types of business and other organisations and set out how/whether officials have changed the assumptions, costings and recommendations following consultation;

Summarise the impacts, including the impact of each option on small firms and any measures for helping them comply; and

Recommend a preferred option, giving reasons, in particular the analysis of the benefit and costs.

### **Competition Assessment**

All RIAs must include a Competition Assessment. This looks at the impact for UK customers. It should analysis the impacts of a proposed regulation on UK firms in the relevant market(s) and on importers into the UK. Competition is an essential part of a healthy economy, helping to provide low prices and choice for the consumer. It also tends to increase efficiency and innovation. Regulations can prevent markets from

working well when they impact adversely on competition. For example, a regulation is undesirable if it deters potential new entrants to a market, introduces distortions between existing competitors, reduces innovation, or changes firms' behaviour in other related activities may lead to higher prices and reduced choice for the consumer.

Regulations can impact on competition in various ways, for example by:

Directly affecting firms' costs, availability of resources or requirements of customers, e.g. by changing cost structures;

Directly specifying what produce or service must be produced, e.g. by specifying a minimum standard for a product; and

Directly impacting on how firms compete in a market, e.g. by preventing new firms from entering a market

Policies may have unintentional effects of distorting or restricting competition. Carrying out a Competition Assessment helps identify such effects, and to consider whether it may be possible to lessen or remove significant adverse effects by adopting alternative policy options or modifying existing ones.

### **Small Firms Impact Test**

Small businesses are a major contributor to the UK economy. There are over 3.7 million small businesses, which employ 12.5 million people, and account for 51% of private sector turnover and some 99% of all UK business stock. They come in many shapes and sizes: from high-growth start-ups to 'lifestyle' businesses and stock and social enterprises, from sole traders and micro firms to companies with many employees. Their motivations, aspirations and concerns are as important to their success as their financing structures. Government, and its delivery partners, need to understand them better and think hard when implementing policies about how to help them.

Most policy proposals that are likely to impact on business will have an impact on small firms, either directly or indirectly. The Small Firms Impact Test is an integral part of the RIA process. If officials believes a proposal has no impact on small firms, they must test

this assumption by having an informal discussion with small businesses or a representative group.

The definition used for a small firm is a business with:

fewer than 50 employees; and

no more than 25% of the business owned by another enterprise (which is not a small business); and either

less than £4.44 million annual turnover; or

less than £3.18 million annual balance sheet total

### **Ministerial Sign-off**

Once a final RIA is finished, if the Minister chooses a legislative option he or she must sign off the full RIA. Where a policy is shared across two or more departments, it will normally be the lead Minister who is responsible for signing off the RIA.

### ***C. Reducing bureaucratic burdens***

Creating modern and efficient public services is one of the principal challenges taken up by the UK Government. In particular, creating high quality services in the health, education, criminal justice and transport sectors has been singled out for priority attention. It is now important that at central and local levels in Government, the public services and individual frontline staff seize the opportunity to achieve improvements in the delivery of services to the general public.

This is a big challenge for the public sector. It will be achieved in part by changing the status quo through innovation, flexibility and hard work that is unhindered by unnecessary bureaucracy. One innovation developed at the centre of government in the Cabinet Office is a team dedicated to identifying bureaucratic burdens, large or small, that affect frontline staff, negotiating changes for the better inside Government and

making sure the changes get implemented. This is the RIU's Public Sector Team.

Within the diverse range of functions performed by public bodies, their different lines of accountability and the modern-day trend to ever-wider involvement in consultations, decision-making, reporting and inspection, the burden of bureaucracy they generate needs to be questioned constantly. Without an effective check, non-essential bureaucratic burdens stifle the motivation and performance of staff in the very public services a Government is mandated to run, as well as the likelihood of productivity in other sectors of the economy too.

### **An Insight for Change**

The Public Sector Team, located at the centre of government in the Cabinet Office, can stand back from policy departments and ask the most knowledgeable people, front line staff, about the burdens that interfere with their delivery of services. It remains a surprise to even the most seasoned Team members to still discover pockets of policy officials who have little or no contact with service delivery staff and so have little understanding of the burdens created by the way their policies are being implemented. Often a new balance needs to be struck between 'necessary' and 'unnecessary' bureaucracy. To achieve this effectively flows from a will held at the highest level of government for changes and a new realism orientated towards serving citizens and service users.

The Public Sector Team(PST) is part of the Regulatory Impact Unit and has a unique position to work across government departments to broker changes through negotiation and see them put into effect. The Team does not make recommendations but instead negotiates changes with departments to reduce burdens and publishes them as 'outcomes'. No new management paradigm is needed to describe the effectiveness of the Team but what is necessary is a single-minded determination that burdens will be removed. The first and most useful measure employed by the Team is constructive engagement with policy officials and departments to agree measures that will clear away existing burdens. Other forms of negotiation are introduced subsequently. Sometimes it is

important to press firmly the need for a change upon policy units who fail to understand the adverse consequence their excessive bureaucracy has on the provision of efficient services.

### **The Public Sector Team Method**

The PST benefits from having a unique operating structure. The Team comprises:

- Established civil servants, some on loan from other Government departments
- Private sector secondees
- Recent new entrants from outside the civil service.

The Team is divided into three sections and all projects (known as *Making a Difference* projects) progress through three stages in turn, 'development', 'delivery' and 'dissemination and follow up'.

The Development stage is characterised by an active involvement at the point of delivery of front line services, e.g. in schools, doctors' surgeries (GPs), hospitals, police stations, courts and town halls. Suggestions, observations and ideas are gathered from staff, managers and other stakeholders on the activities that reduce the time available to deliver their specific public services. A "long list" of suggested improvements is produced and then reviewed by a "project advisory panel" made up of key stakeholders. For example, in a recent project on GPs this included doctors, unions, professional bodies, government departments and patient representatives. The long list, with suggested ways of overcoming each identified burden, is passed to the Delivery stage. No options are left unexplored.

Delivery involves detailed discussions and negotiations with other departments and agencies to agree the way to remove each burden. A typical *Making a Difference* project may identify 30 to 60 outcomes that need to be negotiated. The Delivery function also sets an agreed target date for the implementation of each outcome and produces an

estimate of the time and physical resources that it will save. The Team always pursues an issue to its conclusion to establish an outcome that is beneficial to the frontline delivery of services.

Dissemination and Follow up is the final stage; this involves report preparation and launch and, of equal importance, the follow up to make sure the timesaving and changes agreed previously are implemented by the responsible government departments. A typical approach is to prepare with the collaborating department(s) for their minister's attention an 'implementation plan' containing for each outcome an implementation deadline date, a named lead official and how the change will be communicated to frontline staff. Through experience it has been found that keeping the original front line public service staff informed of the changes achieved is an essential part of the approach used by the Team.

Communication with the frontline about reductions in burdens made centrally by Government is an unperfected art. Hospital workers, GPs, police officers and teachers are scattered across the country and there is no one means to reach each body of workers. Instead, communicating with the frontline is constantly evolving. *Making a Difference* reports are distributed widely and available through our web site. Individual outcomes that reduce burdens are implemented periodically within weeks or months after a report is launched. Details provided in Government circulars, posters and leaflets is one approach but, through experience, it has been found that this does not penetrate widely. More recently, professional associations, trades unions, citizens bodies and specialist magazines has been used increasingly as vehicles to inform people about changes.

### **Recent Examples**

To put the bureaucracy reduction work of the Public sector team into context two examples of outcomes negotiated recently with policy departments are described:

Local Authorities - removal of 'consent regimes powers'

Consent regimes powers require local government to apply for permission from central government departments to carry out certain activities. In 1997 a review found that 147 such powers existed. Departments have previously argued that the removal of these powers will realise little benefit as they are not frequently used but have now accepted that progress is important as:

There will be some timesaving and resource for local government staff.

The cumulative effect if all regimes are repealed will be significant.

The repeals/amendments will provide freedoms and flexibility that local authorities value and the Government is committed to providing.

Following a *Making a Difference* report (February 2002), a recent Government announcement confirmed that well over half of the powers will be scrapped, i.e. eighty-four had or will be repealed, seven are subject to reviews still underway and fifty-six will be retained.

#### General Practitioners – repeat prescribing and dispensing

In the vast majority of cases a GP is required to sign every time a patient requires a fresh supply of prescribed medicines or other items, even where it is not necessary to examine the patient. In the UK there are up to 410 million prescriptions per year of which 60 to 75% are repeat prescriptions. Removing the requirement for GPs to sign repeat prescriptions in routine cases would be a considerable time saving, i.e. an equivalent of over 200 prescriptions per GP per week.

The Department of Health committed to introducing a repeat dispensing system through pharmacies from autumn 2002 with nation wide coverage by December 2004. This would mean that the majority of repeat prescription for patients with stable, long term conditions would be administered through a pharmacy once the initial prescription authorising

repeat dispensing had been issued by a GP.

### **Concluding Remarks**

The ‘devil’ with bureaucracy is most often in the detail of how it is converted from a policy idea into the day to day procedures used by service providers. Each layer of management can introduce its own variations and additional requests and ultimately those that have to fulfil the bureaucratic requirements are unlikely to have been part of the process to create it in the first place. The Public Sector Team approach is to go some way to redress this situation and to give the frontline staff a voice in influencing the removal of unnecessary burdens.

Other measures are under development to reduce the flow of new burdens in the public sector to prevent overly bureaucratic procedures being devised before a new initiative is put into effect. The ‘policy effects framework’ is a tool that is now available to Government departments and some departments are now operating a high level ‘Gateway’ to review policies impacts, monitoring demands and potential burdens on service providers before initiatives go for ministerial approval. Departments policing themselves effectively and calling officials to account to ministers and frontline bodies for the burdens their policy development will impose are the ultimate goals of the approach being taken to tackle unnecessary bureaucracy.

## **Adopting Regulatory Impact Assessment in Sri Lanka: a tool for better regulatory policy?**

*Malathy Knight-John, Institute of Policy Studies, Sri Lanka*

### **Introduction**

Since 1977, successive governments in Sri Lanka have moved away from a model of state-dominated development to one that places greater reliance on the market. Whilst these policy reforms have admittedly been nuanced by the political philosophies and priorities of the ruling regime at a given point in time, the underlying message has been the same: interventionist strategies failed to deliver the expected results.

The adoption of pro-market reforms has not, however, led to a rolling back of the state. Instead, as in several other countries at a similar stage of development, there has been an emergence of what is referred to as the 'regulatory state'. As argued in standard economic literature, regulation is necessary given the presence of market failures; conversely, there is also substantial government failure in countries where principles of good governance are not rooted in the socio-political culture.

Despite having a democratic political structure, Sri Lanka has a long way to go in terms of good governance practices, whether this be in the wider political realm, in state institutions, in private entities, or in society in general. Whilst good governance in the broader sense is beyond the scope of this piece, the issue that is explored here is the potential for regulatory impact assessment (RIA) to bring about better regulatory governance in the context of the socio-political and economic realities prevalent in Sri Lanka.

### **What RIA is and what it is not**

RIA has been defined as involving a systematic appraisal of the costs and benefits associated with a proposed new regulation and evaluation of the performance of existing regulations (Kirkpatrick, Parker and Zhang , 2004) indicating that the process is applicable both *ex ante* and *ex post*.

The concept can be further illustrated by the RIA Checklist in *OECD (1995)* that includes the following:

Is the problem correctly defined?  
Is government action justified?  
Is regulation the best form of government action?  
Is there a legal basis for regulation?  
What is the appropriate level (or levels) of government for this action?  
Do the benefits of regulation justify the costs?  
Is the distribution of effects across society transparent?  
Is the regulation clear, consistent, comprehensible, and accessible to users?  
Have all interested parties had the opportunity to present their views?  
How will compliance be achieved?

As exemplified in the language employed in the RIA definition and in the OECD checklist the main case for RIA is better regulatory governance. The literature on RIA (see *Lee, 2002, OECD 1996 & 1997, Kirkpatrick & Parker, 2003* for instance) further emphasises language such as legitimacy, transparency, consistency, accountability (process elements of RIA); and efficiency and effectiveness (outcome elements of RIA), all associated with accepted principles of good governance. As of now however, the success stories of RIA come from OECD countries where these principles are often deeply rooted in socio-political structures. The challenge therefore is to map out a RIA design for developing countries like Sri Lanka where principles of good governance are an exception to the norm.

It is also important to understand what RIA is not meant to be if this approach is to be employed usefully. Contrary to popular thinking, RIA is not a substitute for decision-making; instead it is merely an instrument that has the potential to facilitate better decision-making on regulatory issues. RIA should also not be reduced to a mechanistic exercise similar to a cost benefit evaluation (CBA), given its immense potential to address qualitative and process dimensions of regulation. This feature lends the RIA approach considerable flexibility in situations not uncommon to developing countries where precise quantitative indicators are hard to obtain. Moreover, it also facilitates the use of RIA in the area of social regulation. Finally, and most important, RIA must not be perceived as a model that can be readily transplanted across societies and cultures. It is in the final instance an approach that has to be carefully designed to fit the economic and socio-political context of a particular country.

### **Applying RIA in Sri Lanka: opportunities and challenges**

Regulation in Sri Lanka has largely been arbitrary and piece-meal, with successive political regimes intent on the speed of reform rather than on systematically evaluating the social-economic impact of these policy measures. The result is a large collection of obsolete bits of regulation, a heavy-handed approach in instances where light regulation would be more appropriate, and poor regulatory enforcement in areas that need it the most. In this rather dismal scenario, RIA appears to be a useful instrument in the quest to bring about a better era of regulation in Sri Lanka.

RIA, if implemented properly, requires open consultations with all stakeholders in the regulatory game. In view of the fact that regulation that works is essentially about relationships of trust amongst the players in the regulatory game, such consultations provide for the legitimacy of the regulator in the eyes of other stakeholders. This is particularly useful in the current Sri Lankan context where the credibility of regulators in the eyes of the public is under assault. The RIA process also requires that analysis and decision-making be transparent at every stage, reducing the potential for subversion or undermining of the regulatory system by special interests. Moreover, RIA brings in a holistic approach to policy making, given that it involves the consideration of costs as well as benefits and can incorporate objectives of poverty reduction along with those of private sector investment. Finally, contrary to popular perceptions of RIA, the adoption of this approach in the ex ante stage of regulation has the potential to reduce costs associated with a given regulatory measure. Currently, the remedial measure for regulatory failure in Sri Lanka is to appeal to the courts. However, given an inefficient legal system where judges have little or no expertise on regulatory matters, this process is costly both in terms of time and money, emphasising the point that preventive measures are often better than curative ones.

In spite of the several opportunities inherent in the process, the implementation of RIA in Sri Lanka faces several challenges. RIA, as indicated in the discussion above, aims at long-term sustainable development and is antithetical to knee-jerk responses to a regulatory issue. Policy making in Sri Lanka however, is governed by the political electoral cycle with arbitrary decision making being commonplace. As such, practically speaking, RIA will only be accommodated in instances where it fits the dominant political agenda. The challenge for policy designers, therefore, lies in developing an approach that can secure political support at the highest level. The regulatory state in Sri Lanka is also plagued by a high level of rent-seeking, with current planners and insiders in the

regulatory game having considerable control of resources, be it tangible, as in the case of financial and physical assets, or intangible, as in the case of information. RIA emphasises transparency at every stage of the process: the question is, how can the approach be designed to overcome the inevitable resistance that would emerge from these vested interests; how can stakeholder influences be built into the process.

RIA is currently a much touted concept in regulatory circles. However, there is a significant gap in analysis and experience on the use of this approach in developing countries. At a broader level therefore, the challenge is to test its potential in developing countries, in different institutional and cultural contexts and to use these experiences to fine-tune the ideal model. In Sri Lanka, the challenge is to use RIA as a tool for better regulatory governance, and by successfully doing so to set the stage for a radical attitudinal change in government, and in society in general, to the democratic base for effective public policymaking.

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## **Section 4: Conclusion**

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The first booklet in this series, 'Modernising Governance', examined a range of public management reforms based on British and international models. The second booklet, 'Private Sector Development and Regulation', analysed specific reforms in privatisation, regulation and competition policy again based on British practice. In both issues a major question was raised; is it possible to extract from British reforms a model of 'best practice' which can then be transferred to governmental systems in developing countries. Two problems were identified: first, how well had the reforms worked in the UK and elsewhere, and secondly, was it appropriate to transfer such models into systems which might have quite different institutions, values and practices?

Inevitably the same question arises when we examine the extent to which lessons on public policy reform might be drawn from the British experience and provide the basis for similar reforms in developing countries. It is clear that political leaders in these countries are searching for more effective institutions of public management with which to deliver improved public services to their citizens. It is not surprising that they look to international experience to provide them with ready-made packages of institutional and policy reform and they are likely to be strengthened in their intentions by the enthusiasm with which large aid donors are willing to finance and support programs of this kind.

Experience with policy transfers of this kind suggests the importance of seeking to adapt best practice models to the real economic, political and social conditions in which practical governance solutions must be embedded. The history of public management reform in this respect has produced mixed results, with a considerable emphasis on formal mechanisms and much less analysis or evaluation of real activities. In other words public management reform in many developing countries has been a rhetorical

process rather than a well founded and progressive set of real institutional changes.

The difficulties encountered have largely been to do with resistant political and bureaucratic cultures; it is well established that cultural and value changes require committed political direction and an acceptance that these will only be achieved in decades rather than in the life of one administration.

If we examine the British experience of managerial and policy reform, we can perhaps derive two major lessons:

The first is that structural management reform must precede reforms to the policy process, since process reforms must be designed and implemented by the public management system itself. By definition, an unreformed management system will not be able to reform itself effectively, or produce more effective decision making. This was the basic presumption of British public management reformers, who only turned their attention to the processes by which public policies and decisions emerge once the main areas of structural change had been addressed. Related to this was the belief that institutional changes had brought a transformation in the managerial culture of the state, creating more flexible attitudes among those responsible for managing the public policy system, and a greater willingness to embrace reform initiatives.

The second lesson appears to be the importance of striking the right balance between central and decentralised parts of the national system. Inevitably, reform designs and direction must come from a strongly committed and resourced centre, not least because reforms of this kind are strategic in nature and cannot be carried out piece-meal in different parts of the system. At the same time, the policy processes themselves must not be over-centralised and must create opportunities for a wide range of interests in society to make their voices heard. The traditional model of hierarchical top-down creation of policy and management from above, must be replaced by the network concept which recognises that in any policy arena there is a range of interests and actors, some in the public sector and some in the private sector, who must be allowed to participate or must at the very least be consulted before decisions are made. The ultimate logic is that policies, once decided, are also likely to be more effective if those most affected by them are involved in their delivery.

Finally, the political and bureaucratic leaderships of each national system must reach their own conclusions on the basis of what they think can be adapted from international

experience. Some reforms, such as the RIA example, promise great benefits, but they also require considerable skills and resources , and a set of well developed institutional relationships with different groups and interests in their economies and societies. Where such resources are scarce, or institutional relationships not well developed, blueprint reforms introduced too prematurely risk failure. It is often wise to see policy innovations as 'experiments', which need to be tried and tested, preferably through 'pilot' reforms, before any general application.

## Section Five: Useful Websites

The booklet 'Modernising Government' contained a number of useful website addresses for those who are interested in obtaining more detailed material. Some of those addresses are repeated here, with new additions.

*Policy Hub Site of the Centre for Management and Policy Studies:* this site has numerous links to other government ministries and agencies.

<http://www.policyhub.gov.uk/default.jsp>

*Prime Minister's Strategy Unit*

<http://www.number10.gov.uk/output/output/Page1.asp>

*Cabinet Office – Regulation*

<http://www.cabinet-office.gov.uk/regulation>

Reports referred to in the Section 3 article on RIA in the UK can be found as follows:

Department of Health/Cabinet Office (2002) 'Making a Difference Report on Reducing Burdens on General Practitioners – second report', June 2002. [www.cabinet-office.gov.uk/regulation/publicsector/index.htm](http://www.cabinet-office.gov.uk/regulation/publicsector/index.htm)

Department for Local Government, Transport and the Regions/Cabinet Office/Local Government Association (2002) 'Making a Difference Report on Reducing Red Tape and Bureaucracy in Local Government, February 2002. [www.cabinet-office.gov.uk/regulation/publicsector/index.htm](http://www.cabinet-office.gov.uk/regulation/publicsector/index.htm)

Policy Effects Framework. See the relevant web page at: [www.cabinet-office.gov.uk/regulation/publicsector/index.htm](http://www.cabinet-office.gov.uk/regulation/publicsector/index.htm).

A listing of all RIAs published by departments since January 2001 can be accessed via the Cabinet Office RIU website at:

[www.cabinet-office.gov.uk/regulation/scrutiny/regreporting.htm](http://www.cabinet-office.gov.uk/regulation/scrutiny/regreporting.htm)

Cabinet Office (2003) "Better Policy Making: a guide to Regulatory Impact Assessment: (Available at website: [www.cabinet-office.gov.uk/regulation](http://www.cabinet-office.gov.uk/regulation)).

*National Audit Office*

Evaluations by the National Audit Office of Regulatory Impact Assessments can be found at: [www.nao.org.uk/ria/index.htm](http://www.nao.org.uk/ria/index.htm)

*Audit Commission*

The Audit Commission Report 'Connecting with Users and Citizens' (2003) on consultation with citizens about public services issues can be found at [www.audit-commission.gov.uk/reports](http://www.audit-commission.gov.uk/reports)

*Local Government Improvement and Development Agency*

URL: [www.idea.gov.uk](http://www.idea.gov.uk)