

OPENING UP POLICY MAKING

*A case study of the National Planning Policy Framework
and other models of more open policy making*

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About the author

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Acknowledgements

The idea of a case study on the National Planning Policy Framework arose from a conversation that Andrew Adonis and I had with Oliver Letwin in summer 2011. He pointed to it as an example of the way the Government was interested in changing policy making – a theme that has now been picked up in the Civil Service Reform Plan of June 2012.

The case study itself draws on interviews which Edward Marshall and I did in autumn 2011. We are very grateful to those who helped. I am also very grateful to Peter Thomas and Peter Riddell for reviewing, and to Andrew Murphy for helping it through to publication.

Executive summary

The Government is committed to more open policy making. This is one of the leading commitments in the new Civil Service Reform Plan which asserts that open policy making will become the default and the Government will develop a clear model of open policy making.

This report is in two parts. In the first part we look at a detailed case study of an experiment in open policy making – the use of a ‘practitioners’ advisory group’ (PAG) to produce a first attempt at a new streamlined planning framework. However this process did not avoid controversy when the Government finally launched its own version, very heavily based on the PAG draft. The PAG played no role in the subsequent development of the policy which followed more traditional lines.

There are lessons to be learnt from the PAG experience. Our verdict is that it was a potentially valuable new approach but one that would be improved in the future by greater transparency and clarity. In order to make this sort of new model work, the Civil Service will need to develop new ‘policy commissioning’ skills.

In the second part of the report we look at the experience of other methods of opening out the policy process, such as:

- contracting out policy making – either by ad-hoc review or through a standing capacity like the Australian Productivity Commission
- bringing outsiders in – as Defra has done with its recently established Animal Health and Welfare Board for England
- creating safe spaces for innovation – the role played by Sitra in Finland and MindLab in Denmark
- crowdsourcing policy – as in the Red Tape Challenge.

We compare these models against the attributes of more open policy making set out in the Civil Service Reform Plan – and conclude that different models exhibit different attributes. There is no one model – and the choice of model will depend on the objectives to be met through greater openness. Just as policy makers need to evaluate and learn from policy interventions to understand what works, they also need to evaluate and learn from what works in innovations in the process of making policy. That will allow them to understand how more open policy making can best help them make policy better.

1. Introduction

Better policy making is one of the Institute for Government's key themes.

In April 2011, we published a series of reports on how policy is made in Whitehall¹ and the experience of attempts at reform since 1997. We noted that, despite repeated efforts over the past decade and a half to improve policy making, both ministers and civil servants felt policy making could be done better. And we pointed to a general lack of responsibility for quality of the policy process.

In *Policy Making in the Real World*, we noted that the ability to innovate in policy making, which had been identified as a relative area of weakness in the Cabinet Office's *Modernising Government* white paper in 1999, remained an area of weakness over a decade later. Former ministers reported their disappointment at levels of subject expertise and knowledge in the permanent Civil Service. And we noted that policy design – the ability to translate strategic concepts into deliverable policy – tended to be neglected.

In our recommendations report, *Making Policy Better*, we argued that there was strong case for opening up the policy-making process to:

- bring in more views
- allow ministers to be able to challenge civil service advice
- develop policy in a more collaborative and potentially innovative way.

A more open policy process, bringing outsiders into the policy process, was one of the characteristics of the six case studies of 'policy successes' we looked at in our report *The S Factors*.² Those 'successes' included devolution, the introduction of the national minimum wage and the Pensions Commission. We also picked up on the need for more openness in our open letter to the leadership of the new Civil Service.³

More open policy making is counter-cultural: the policy-making norm is for policy to be developed in one government department (or maybe by a number of departments, under a lead), behind closed Whitehall doors. That policy will then go for sign-off through the Cabinet Committee process. There will then be a 12-week consultation on a document that sets out the Government's approach. If the Government needs to legislate there may (or may not) be a draft bill and pre-legislative scrutiny.

¹ *Policy Making in the Real World*, Hallsworth, Parker and Rutter, *System Stewardship: the Future of Policy making*, Hallsworth, M. and *Making Policy Better*, Hallsworth and Rutter (Institute for Government), April 2011

² *The S Factors: Lessons from Institute for Government's Policy Success Reunions*, Rutter, Marshall and Sims (Institute for Government), January 2012.

³ *An open letter: Two Challenges and An Opportunity*, Peter Riddell (Institute for Government), March 2012

But there is increasing interest in different approaches to policy making from both ministers and from the leadership of the Civil Service. The Civil Service Reform Plan published in mid-June states that “open policy making will become the default. Whitehall does not have a monopoly on policy-making expertise. We will establish a clear model of open policy making...”⁴

In this short report we look at ways government can open up policy making. In the first section we look at one particular example of opening up policy making – the use of a ‘practitioners’ advisory group’ (PAG) by planning minister, Greg Clark to help produce the new National Planning Policy Framework (NPPF). This was seen by leading ministers as a prototype of the way they thought policy could be made in the future. Based on interviews with a number of the participants and external observers we set out both the details of the PAG process and lessons based on that experience for those who might follow that route in the future.

The Institute for Government has a particular interest in this case study; the Institute was chosen as the ‘neutral’ location for the launch of the draft produced by the PAG to invited stakeholders in early June 2011. We said at the time that we were interested in doing this because we were interested in the lessons that could be learnt from the process on new ways of making policy.

The NPPF has been the subject of much debate, both inside and outside government. The intention here is not to comment on the merits of that debate – but it is interesting to reflect on whether:

- the debate was inflamed by the process the Department of Communities and Local Government (DCLG) embarked on for drawing up a new planning policy framework
- an opportunity was missed for a different approach which might have reduced the temperature
- planning is the sort of zero-sum issue where there is inevitably going to be a battle.

As one of our interviewees remarked, it is difficult to pass judgement on a process before we know where it will end – and the real litmus test is not only what the Government finally produces on planning, but the impact across the country as the new planning regime takes hold.

In the second section, we look at some other examples of more open policy processes which are being implemented in the UK and elsewhere. We benchmark those more open processes against the model for more open policy making, which the Institute for Government developed for the senior leadership of the Civil Service last year as one strand in the Transforming the Civil Service project.

Finally we conclude with a discussion of the benefits and possible risks of more open policy making and some suggestions about what ministers and civil servants need to do to open up effectively.

⁴ *Civil Service Reform Plan* (June 2012) accessed at <http://www.civilservice.gov.uk/wp-content/uploads/2012/06/Civil-Service-Reform-Plan-acc-final.pdf> p.14

2. Case study: The national planning policy framework

Planning has a long history of being a highly contentious issue. Under the last government, local planning decisions had to be compatible with regional spatial strategies and with a large amount of planning policy and guidance. Regional spatial strategies in particular attempted to allocate new housing to districts – a move that was deeply resented by many local people.

The Government also introduced a new regime for planning nationally significant infrastructure projects. This would allow ministers to produce national planning statements, but final decisions would be taken out of ministerial hands and adjudicated instead by a new quango – the Infrastructure Planning Commission (IPC). This measure was designed to overcome the long delays which were seen to bedevil development in England.

In opposition the Conservatives had promised a move to 'open source planning'⁵ – with an emphasis on more local ownership of development plans and an end to imposed targets through regional spatial strategies. They also pledged to abolish the IPC – in line with their more general approach to arm's-length bodies – to restore ministers' role in making final planning decisions. Open source planning was defined as "a planning system where there is a basic national framework of planning priorities and policies, within which local people and their accountable local governments can produce their own distinctive local policies to create communities, which are sustainable, attractive and good to live in".

The document promised: "a long overdue and fundamental rebalancing of power, away from the Centre and into the hands of local people. Whole layers of bureaucracy delay and centralisation will disappear as planning shifts away from being an issue principally for 'insiders' to one where communities take the lead in shaping their own surroundings".

They also promised a radical simplification of the 1,000-plus pages of planning policy statements (PPSs) and the accompanying thicket of planning policy guidance (PPGs). Specifically the green paper committed to "fundamentally reform national planning policy and make it accountable to Parliament. We will integrate into one document – a national planning framework – the principal features of all national planning policies. This simple and consolidated framework will set out not only what the Government's economic and environmental policies are, but how they relate to each other".⁶

National planning statements for nationally significant infrastructure however, would remain outside the new framework.

⁵ *Open Source Planning* – Policy Green Paper no.14 ps.1-2

⁶ *Open Source Planning* p.15

The person who had done much of the spadework on that in opposition was John Howell MP. One impact of the Coalition was that Greg Clark – who had been shadow climate change and energy secretary – was moved across to the Department of Communities and Local Government (DCLG), under Eric Pickles, combining the briefs for decentralisation and planning. John Howell became Greg Clark’s parliamentary private secretary to provide a degree of continuity.

2.1 Set up

In October 2010, as DCLG was putting the last touches to the planning bill, ministers came up with an idea. They invited a group of proponents of the competing interests in planning outcomes to thrash through the necessary choices in order to produce the streamlined planning framework they had promised in opposition.

Planning choices are always highly controversial: they need to balance the interests of those who have already benefited from development against those of the potential beneficiaries of future development. And they need to reconcile the imperatives of growth versus, for example, environmental or heritage protection. These choices are played out at either national level (through planning policy and guidance) or at local level (through individual planning decisions taken within that framework).

Rather than a conventional approach – where ministers advised by officials would make trade-offs which the competing groups would then comment on – the purpose of establishing the PAG was to ask others to try to come up with a satisfactory way of reconciling those differences in the hope of producing a framework which would command wider consent.

DCLG itself had had a good experience of a more open style of policy making, with the *Fire Futures Review* in 2010 where four individuals had formed an advisory group.⁷ DCLG had viewed that as a successful process, which took issues off the agenda and rebalanced the relationship between the fire service and central government. DCLG had seen an advisory group of individuals who commanded respect as a useful way of getting buy-in to potentially controversial changes.

DCLG had been planning before the election how to address the manifesto commitment to produce a new planning framework. They had set up a programme board, and had produced a 500-page draft before the election.

In opposition, the Conservatives had had a ‘planning sounding board’ of planning experts to advise them. This board provided the nucleus of the Practitioners’ Advisory Group which would be tasked with coming up with a draft national planning policy framework. The people asked to be on the PAG were:

⁷ See *Fire Futures* summary and reports, available at: <http://www.communities.gov.uk/fire/firerescueservice/firefutures/>

- John Rhodes, **Director of Quod**, planning consultant, and former head of RPS Group Plc's London Office
- Simon Marsh, **Acting Head of Sustainable Development at the RSPB**, who had acted as the lead contact person for the environmental non-governmental organisations (NGOs) with planning ministers
- Councillor Gary Porter, **Leader of South Holland District Council** and Chairman of LGA Environment and Housing Programme Board
- Peter Andrew, **Director of Land and Planning at Taylor Wimpey UK**.

The selection of the four was very ad hoc. The participants appeared to be very surprised to be asked and did not really understand the reasons for their selection. They were each invited for a chat about planning with Greg Clark at which they were invited to take part. There was no hint of using Nolan processes for public appointments and no formal announcement of the establishment of the PAG. The Royal Town Planning Institute (RTPI) pointed out that the informality and secrecy of the process meant that none of the normal sounding-out of interested parties happened.

Members of the PAG said they joined because they saw it as a challenge and an opportunity to influence an important new document. It was always clear that the members were there in an individual capacity and were not committing the organisations they worked for to an outcome which would inevitably involve compromises. It was, for instance, always clear that the RSPB would want to comment on the final output and was likely to have objections to some of the compromises reached.

In parallel to establishing the practitioners' advisory group, but without mentioning it, Greg Clark announced the review of the National Planning Policy Framework (NPPF) on 20 December 2010. He asked for views and set a deadline for the end of February:

This Government have a commitment to greater transparency and openness in developing their policy. To begin the process of writing the framework, therefore, and in advance of formal consultation on a draft, I invite organisations and individuals to offer their suggestions to the department on what priorities and policies we might adopt to produce a shorter, more decentralised and less bureaucratic national planning policy framework. Details of how to do so have been placed on the Department for Communities and Local Government website. I would be pleased to receive proposals by 28 February 2011. The department will also organise a number of roundtable discussions with key organisations to promote debate on the framework⁸

DCLG received more than 3,000 responses. These were given to the PAG, but John Rhodes pointed out that most were statements about what the NPPF should try to achieve or

⁸ Ministerial written answer, 20 December 2010

<http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm101220/wmstext/101220m0001.htm#1012204000019>

highlighted areas in need of review, rather than concrete suggestions. The RSPB made a presentation to an early meeting of the group on the case for a spatial strategy, but this was rejected, which shows the limits of insider status.

The group was only acknowledged in March 2011. Its ad hoc establishment meant it could not be given official status. However people in the know in Whitehall and beyond were aware that there was an exercise in train which added to the awkwardness. The lack of official status meant that DCLG emphasised to external bodies that the department was drafting the new NPPF.

2.2 Getting to work

The PAG set to work in January 2011. They were not given a formal terms of reference by the minister – indeed they were asked to produce their own. However, some of the parameters were clear: the Government wanted a new framework that would support growth and was not looking to change policy on the green belt. However John Rhodes was clear that the group was not given explicit instructions or steered in that direction.

The PAG had its own small secretariat, separate from the DCLG. Miatta Fahnbulleh – a deputy director on secondment from the Cabinet Office to act as planning adviser to Greg Clark at DCLG and a former Strategy Unit member – was the secretary to the group, separate from the normal DCLG planning directorate. John Rhodes reports an early meeting with DCLG's director of planning who was very supportive of the approach. PAG members were also allowed access to advice from the DCLG subject experts on individual issues. John Rhodes reports that ministers made it clear to the group that they should ensure the thinking remained their own.

The group met weekly. Around the second or third meeting they settled into a routine and had a structure for their discussions. The PAG approach was to start with current policy and adapt, rather than come to issues completely afresh. John Rhodes would produce some notes to kick-start the discussion. They would also have a brief by the relevant departmental subject expert who would attend the meeting. The advisory group had regular, fortnightly meetings with Greg Clark and John Howell as well as a meeting with the minister for government policy, Oliver Letwin.

That allowed ministers a role in shaping the PAG's thinking by "prompting them in certain directions". The bulk of the drafting was done by John Rhodes and Simon Marsh with the others offering comments. By March they had an initial draft document; this was described as an iterative and co-produced process with DCLG policy leads brought in to provide challenge to the PAG.

PAG members told us that the process was much more time-consuming than they expected. None of them were paid for their work, so there was a clear bias in favour of those for whom this could be part of their day job. However their unofficial and unacknowledged status meant they were freed from lobbying by the main groups with interests in planning – something the group itself appreciated greatly – though as their existence became known in the wider planning community, the fact that it was not public became a source of confusion.

Although they had access to DCLG advice, the group did not have regular interaction with other government departments with interests in planning – Business Innovation and Skills (BIS), the Treasury, the Department for Transport, the Department for Environment, Food and Rural Affairs (Defra) and the Department for Energy and Climate Change (DECC) for example.

There was one day, before their draft was finalised, when departments came in one by one to see the PAG and to discuss their issues with the planning system. Departments were not shown the emerging PAG draft because of the determination that it should be the PAG's draft. The time to expose it to intra-Whitehall 'write round' and scrutiny would come but, initially at least, ministers wanted the draft to reflect the views of the PAG.

One outsider told us that he was unclear whether the PAG thought their remit was simply to précis existing guidance or to make new policy. And indeed there seemed to be continuing confusion over whether the NPPF was simply a restatement of existing guidance in more usable form or a real change in policy. The PAG themselves report heated debates over:

- the presumption in favour of sustainable development
- issues such as flood protection – a big issue in Gary Porter's home county of Lincolnshire, but where the environmental view held sway
- the viability of building
- whether there should be local or national standards for sustainability.

Overall the PAG saw their role as trying to reach a substantive position on an issue, cutting out waffle and producing what John Rhodes described as "policy with attitude".

2.3 The final output

The PAG draft was finalised in May 2011. The group had achieved the radical simplification desired – producing a new draft of just over 50 pages.⁹ In their letter to Greg Clark of 20 May 2011, attaching their proposed draft, they positioned the document as an input into the government process:

The document has been developed from a practitioner's perspective and represents the independent but collective views of the Practitioners Advisory Group. Whilst we bring experience from different parts of the planning and development industry, we have found it stimulating to work together and to find common ground in a suggested planning framework which we believe can deliver sustainable, responsible growth. We very much hope that our document will be a useful contribution to the debate about how to reform and simplify national planning policy and that it may usefully assist the Government in its preparation of the National Planning Policy Framework.¹⁰

One of the challenges facing the PAG was resolving the sort of disputes that government usually has to decide in order to reconcile competing interests. John Rhodes told us that he thought the breakthrough came when he and Simon Marsh came to the view that it was possible to

⁹ <http://www.nppfpractitionersadvisorygroup.org/a-proposed-draft-from-the-practitioners-advisory-group/>

¹⁰ <http://www.nppfpractitionersadvisorygroup.org/letter-to-greg-clark-mp/>

construct 'win-wins' for both development and the environment – with the draft emphasising both a positive approach to development and a desire to see environmental enhancement as well as protection. The draft established a 'presumption in favour of sustainable development' as the 'golden thread' running through the document.

The PAG had been asked to go out and engage with their colleagues about the merits of their draft. This was clearly happening informally throughout the process. They held one workshop with a stakeholder group – but that process was derailed when a legal firm for one of the developers shared information about the draft framework. This in turn accelerated the move to publication.

While recognising the status of their document, the PAG also made two recommendations on how the government should proceed. One was that the NPPF should have immediate effect when produced. The second was that any new guidance should be developed through a similar process:

A similar practitioners' group is invited to generate succinct guidance for the preparation of local plans and for development management. We believe that a practitioners' group could undertake a similar role in relation to guidance to that which we have attempted in relation to policy, i.e. the significant reduction and clarification of guidance; and...

We are not convinced that government is best placed to be the arbiter of best practice guidance. We have attempted to contain within the NPPF itself that which we believe it is important for government to express and we believe that others can make a useful contribution to identifying best practice guidance within specialist areas of planning practice. To avoid confusion, it would be sensible for government to scope those areas where guidance would be helpful and to identify the parties who may most usefully contribute to that guidance. Thereafter, however, government should allow those parties to develop acknowledged best practice and for it to be clear that such guidance is useful – but it is not policy.¹¹

2.4 The launch

The lack of clarity about the status of the document complicated its launch enormously. It had never been clear to PAG members whether or not the draft was intended for public consumption or indeed whether it would form the basis for the government consultation.

And there was a feeling by some that the department tried to distance itself from the draft. As it developed the PAG were keen to see the draft published, as was Greg Clark. There was inevitably some tension with DCLG officials who traditionally would have been asked to draft the new policy framework themselves. DCLG were clear that the document could not have any special status – it had to be regarded as just one input of many into the process of producing the

¹¹ <http://www.nppfpractitionersadvisorygroup.org/letter-to-greg-clark-mp/>

government draft. That meant the draft could not be published on the DLCC website – so the PAG had to assemble its own website at very short notice on which to put it.

The Institute for Government provided a suitably neutral venue for the public launch – prefaced by a few words from Greg Clark, but intended as a chance for the PAG members to explain their thinking to 'stakeholders'.

The draft seemed to be quite well received at the launch and the majority of stakeholders present thought the exercise had been worth doing¹² – though as John Rhodes commented, people take a different view when a draft comes from government. However Trudi Elliott, Chief Executive of the Royal Town Planning Institute felt that ministers might have been lulled into a false sense of security by the lack of reaction to the PAG draft and then were “blindsided” by the strength of opposition when their own draft was launched.

The government draft

The Government had committed to produce its own draft in July. Despite the fact that the PAG draft had been given no official status, the Government's final draft – produced by DCLG and subjected to the normal Whitehall clearance procedures – looked remarkably like the PAG version. It was a similar length and also based on the presumption in favour of sustainable development. The structure of the document was very similar and whole sections were lifted word for word from the PAG version.

Members of the PAG were asked for their opinions as the internal Whitehall negotiations proceeded and were given the opportunity to comment on the Government's draft before it was published. They took the view that they could not write government policy and therefore were “glad that the Government were going to review it and produce their own final version”.

Both John Rhodes and Simon Marsh thought there were some improvements as a result of the process of official scrutiny – for example there was a new section on sustainable communities. There were other changes of emphasis – such as the strengthening of protection for heritage assets and in some cases the flow of the PAG draft was lost by the Government redrafting. John Rhodes thought the Government's definition of 'sustainable development' was better than the PAG's, but the PAG's language on environmental sustainability was removed.

However, most controversy focused on some of the strengthened language around growth, which changed the tone of the document. In particular, critics singled out the way the definition of 'sustainable development' had been biased towards growth and, most notably, the addition – apparently at the behest of the Treasury – that “decision takers at every level should assume that the default answer to development proposals is 'yes'”. This opened the Government to accusations that the document was a developers' charter which could allow a planning free-for-all. The RTPI, for example, described it as a “Treasury document” which had been “sloppily drafted”.

¹² See Institute for Government blog: *Opening Up Policy Making: the Wisdom of Four*, 14 June 2011

In fact, the pass may have been sold on this while the PAG were still working through their draft. The Government's plan for growth was published alongside the budget in March 2011. Signed by both the chancellor and the secretary of state for business, innovation and skills, planning was singled out as an area for attention. One of the "benchmarks for success" set out in the document was "an increase in the proportion of planning applications approved and dealt with on time."¹³

That suggested the Government had diagnosed that the planning system was not only a source of delay, but also was too hostile to development. The Government then backed this up by explaining how it would support "mid-cap" businesses:

To make it easier for mid-caps to get planning consent, the Government is introducing a powerful new presumption in favour of sustainable development so that the default answer to development is 'yes'.¹⁴

The Government also said it would set "clear expectations that with immediate effect local planning authorities and other bodies involved in granting development consents should prioritise growth and jobs".¹⁵

The government draft was finally published on 25 July 2011 with a request for responses by 17 October. Publication triggered a full-scale row between the conservation lobby, the pro-development lobby and the Government. DCLG received 13,700 responses to the consultation¹⁶ with particular attention focused on the implications of the insertion of the default presumption, which was not in the original PAG draft, but with many other criticisms as well.

The Telegraph started a "Hands off our Land" campaign. The prime minister was forced to respond to try to reassure the director general of the National Trust, stating:

I believe that sustainable development has environmental and social dimensions as well as an economic dimension and we fully recognise the need to achieve a balance between the three.

He went on to say: "We must ensure appropriate protections for our magnificent countryside."¹⁷

Greg Clark had originally asked the PAG to respond to the Government's draft, but that did not happen. John Rhodes submitted evidence to the Communities and Local Government Select Committee Enquiry into the NPPF with his comments on the government draft. In a parallel inquiry, the Environment Audit Committee criticised the failure to give a robust definition of

¹³ *Plan for Growth*, BIS and HM Treasury, March 2011 p.6 available at http://cdn.hm-treasury.gov.uk/2011budget_growth.pdf

¹⁴ *Ibid*, p.18

¹⁵ *Ibid*, p.43

¹⁶ DCLG Minister Andrew Stunnell, House of Commons, 20 October 2011

¹⁷ Rt Hon David Cameron MP, letter to Dame Fiona Reynolds, quoted in *The Telegraph*, 'David Cameron: "I promise to protect the countryside"', 20 September 2011.

'sustainable development' to underpin the presumption that lay at the heart of the new draft. Their concerns were expressed in a letter to the prime minister on the need for a clearer definition embodying the concept of environmental gain, not just environmental protection. It stated that the current draft did not bear out the prime minister's assurances to the National Trust and that the final version of the NPPF should make clear that "economic growth did not trump other sustainability requirements".¹⁸ Greg Clark tried to reassure critics in a debate on the NPPF in the House of Commons in October by saying:

*It is not our intention to change the purpose of the planning system. There has been some suggestion that the proposals represent a fundamental change in what the system is about, but they do not. They will, quite rightly, balance the environmental, the social and the economic, and there is no change in that regard.*¹⁹

In its report on the NPPF, published on 21 December 2011, the Communities and Local Government Select Committee was critical of elements in the approach taken. Again it focused on the default presumption, with Committee chair, Clive Betts MP saying:

*The way the framework is drafted currently gives the impression that greater emphasis should be given in planning decisions to economic growth. This undermines the equally important environmental and social elements of the planning system. As currently drafted the default 'yes' to development also carries the risk of the planning system being used to implement unsustainable development.*²⁰

In addition, it called for a more robust definition of sustainable development as well as reinstatement of policies on brown-field land and town centre first. More generally the committee expressed concern that in seeking brevity, the Government had left too many areas ambiguous and this could be a source of delay – the reverse of what the Government was seeking. It recommended:

*The Government should carefully consider the alternative drafts, submitted by many organisations as part of DCLG's consultation, in order to produce a tighter, clearer document, and should not make a fetish of how many pages it is.*²¹

In a few instances it recommended that the Government go back to the PAG draft.²²

¹⁸ Environmental Audit Committee, National Planning Policy Framework, letter to the prime minister, 9 November 2011

¹⁹ House of Commons debate, 20 October 2011, col 1082, quoted in Communities and Local Government Select Committee report at

<http://www.publications.parliament.uk/pa/cm201012/cmselect/cmcomloc/1526/152605.htm>

²⁰ Quoted at <http://www.parliament.uk/business/committees/committees-a-z/commons-select/communities-and-local-government-committee/news/nppf-report-pn-/>

²¹ Communities and Local Government Select Committee, the National Planning Policy Framework, 21 December 2011

²² For example in paragraph 86. "The phrase 'significantly and demonstrably' should be removed throughout the document; we prefer the simpler test of significance. Indeed, the alternative wording from the Practitioners Advisory Group's version: "This presumption should apply unless to do so would cause significant harm to the

Responding to the select committee report, Greg Clark noted that the committee had accepted the broad approach of streamlining and had not proposed a “wholesale rewrite”. He is quoted in the DCLG press notice saying:

I warmly welcome the DCLG Select Committee’s constructive recommendations to the draft framework consultation. I invited the Committee to make specific suggestions to the draft framework and am grateful for the practical and measured way they have approached the exercise.

The Government will consider carefully each of the suggestions that have been made, along with all responses to the consultation.

We are determined that the National Planning Policy Framework will put power into the hands of local people, through a simpler, clearer system, which safeguards our natural and historic environment while allowing the jobs and homes to be created that our country needs.²³

Interestingly, on the same day as the report and response was published, DCLG also announced the appointment of a new director general with responsibility, inter alia, for planning – the former head of the Enterprise and Growth Unit in the Treasury.²⁴

2.6 The final version

The final version of the National Planning Policy Framework was published on 27 March 2012 to almost universal acclaim. Both environmental lobbyists and the pro-development lobbies declared victory and that the new version met their key points. At the same time, the Government responded to the select committee report. It accepted 18 recommendations in full. For another 12 it accepted “the thrust” or “in part” and only rejected five: a very high hit rate in the case of such a critical report.

The environmentalists felt their key concerns had been met. A briefing from the RSPB²⁵ said:

The final NPPF is a dramatically-improved document, and it is clear that the Government has listened seriously to our concerns. The RSPB had three red lines for a successful NPPF, and these have all been met.

The definition of sustainable development is based on the five guiding principles of the UK Sustainable Development Strategy, including living within environmental limits.

objective, principles and policies set out in this National Planning Policy Framework”— encapsulates, in our minds, a clearer, more balanced approach to the presumption in favour of sustainable development.”

²³ Press release: Government response to select committee report on draft National Planning Policy Framework at <http://www.communities.gov.uk/issuesandresponses/newsroom/2056346>, 21 December 2011

²⁴ Press release: DCLG Director General appointed at <http://www.communities.gov.uk/news/corporate/2056180>, 21 December 2011

²⁵ RSPB View: the final *National Planning Policy Framework*, April 2012

The 'presumption in favour of sustainable development' has been reframed to exclude developments that should be refused because of specific restrictive policies such as Natura 2000 sites, SSSIs [sites of special scientific interest], green belt etc, and the damaging phrase "the default answer to development is 'yes'" has been deleted.

Nature conservation policies have been strengthened, with new references to ecosystem services, coherent ecological networks, nature improvement areas, local nature partnerships, and a more explicit policy protecting SSSIs.

But those changes did not deter developer interests from also welcoming the final document. A press notice from the British Property Federation²⁶ quoted their chief executive, Liz Peace, saying:

We believe the NPPF is now a more moderate and sensible document. The changes to the framework do not, however, alter its overall objective of supporting well planned sustainable growth within a streamlined, plan-led system.

Government has made some sensible concessions while still ensuring that local authorities must provide homes and jobs where they are needed.

What's needed now is clarity over how the NPPF is going to be implemented. Urgent questions remain over how local authorities should determine how many homes and jobs they need, and what the guidance that underpins the NPPF should be.

Planning experts welcomed the fact that there were the more explicit transition provisions for which they had argued in the final draft, but were slightly more reserved in their praise. Royal Town Planning Institute President, Colin Haylock, was quoted on the RTPI website saying:

Overall, the Government has listened to the RTPI and others and the NPPF is a significant improvement on the draft. In particular we welcome the strong emphasis on local decision making to achieve the three aspects of environment and social aspects of sustainable development and to do this through up-to-date plans. The challenge for all of us is to make this work with constrained resource.²⁷

Others argued that the real beneficiaries would be the planning lawyers as the vacuum created by the shortening of the document was argued out in the courts. This was a big theme in the opposition attack on the NPPF when it was debated at the end of April in the House of Commons. Roberta Blackman-Woods MP said:

Now for the key question that the Select Committee on Communities and Local Government posed in its excellent report on the NPPF... That question was whether the brevity of the NPPF had created greater clarity. The minister must accept that the

²⁶ NPPF: Property Industry welcomes "sensible" changes to planning framework, 27 March

²⁷ NPPF: RTPI responds accessed 10 May 2012 at <http://www.rtpi.org.uk/item/5247>

answer of planners is a resounding no. A recent survey of town planners revealed that 86% believed the NPPF would lead to more appeals because of the lack of certainty in the planning system and the vagueness of much of its language. No wonder that many are calling it a planning lawyer's dream.²⁸

At this stage it is too early to look beyond the political Houdini trick performed by Greg Clark and DCLG and to speculate on the internal debates – and how much, if at all, the final outcome was affected by poor reception of the Budget. But at a time when the political commentary was dominated by talk of “omnishambles”, the NPPF launch – which might widely have been expected to stir more controversy – seemed to have calmed it down.

Whether the Government really has found a way forward that reconciles all the protagonists will depend on the individual decisions of thousands of developers, councillors and, potentially, judges as the NPPF is implemented.

However, even at this stage, there are some potential lessons to be learned from this experiment in opening up policy making.

2.7 Lessons from the NPPF on more open policy making

A potentially valuable new approach...

The debate about the value or otherwise in the process has been overwhelmed by the controversy attached to the substance. But, taken on its own, our verdict is that this was a valuable innovation in policy making – which holds out real promise for the future – but that the effectiveness in this case would have been enhanced if DCLG had been more open about the experiment they were conducting and had had more faith in it.

The clear benefit of the process was that the PAG managed to do what many people had thought was impossible: condense the thousands of pages of planning statements into an accessible and succinct 50-page document. Some people at the launch of the PAG thought they had not been radical enough: that they could have adopted a wholly new approach which would not have been so wedded to the existing structure of planning policy statements. The RSPB itself wanted a different sort of document – a spatial plan along the lines of those in the Netherlands.

By asking the four PAG members to write a document, rather than produce a review, they were forced to come to compromises and resolve the tensions which are normally left to government. The four members made it clear that they each had to give some ground, while also finding new ways forward. John Rhodes emphasised that having four people (the same number that DCLG had used on the fire review) there had to be compromises rather than voting. One advantage of the lack of transparency was that the PAG could do their work without being subject to intense lobbying through the process.

²⁸ Hansard col 1180., 26 April 2012.

The success of the draft lay in the fact that it so clearly formed the basis of the later government draft, produced by the DCLG team working in parallel to the PAG – showing the degree of support it had from ministers, though this itself fuelled some confusion about the status of the PAG draft when published.

This also reflected the input into the PAG process from DCLG officials. The practitioner input led to a stronger drive for clarity and brevity than would have been achieved by officials on their own. It also succeeded in cutting through the inertia of the current drafts in a way that would have been hard for the officials who owned them to do.

Although Simon Marsh thought the draft was improved by the government write-round process he also thought that it was “significantly better” because of the PAG playing an active role which meant some policy areas were addressed that might otherwise not be. However it is clear that the PAG feel that many of the changes upset the balance of what they constructed. Simon Marsh wrote an article in *The Telegraph* headlined ‘This isn’t the planning policy that I drew up’.²⁹

...but which could potentially be improved in the future by greater transparency and clarity

However, other interests which had been excluded from the process had a less positive view. They felt that their representations in response to Greg Clark’s first call for evidence had been largely ignored. They also believed that as they were not told of the big role the PAG draft would play in informing the Government draft, they did not react to it as they might have done. However, the Government had always had the option of rejecting the PAG draft.

These criticisms (and others) reflect a number of problems with the beginning and end of the process, which the Government should consider if it attempts to open up policy making in this way again:

- The set-up was bedevilled by a lack of transparency in establishing the PAG. This took a variety of forms including:
 - the members were not clear on what basis they had been recruited
 - there was no public announcement of the process
 - the relationship to the department and the department’s own process was never clear
 - there were clear expectations from ministers about some of the parameters of the draft – but these were never brought into the open
 - the unclear recruitment mechanism opened the Government up to accusations that they had handed drafting over to their cronies in the development lobby.

²⁹ Simon Marsh, ‘This isn’t the Planning Policy that I Drew Up’, *The Telegraph* (15 September 2011); available at: <http://www.telegraph.co.uk/earth/hands-off-our-land/8765316/Hands-off-our-land-This-isnt-the-planning-policy-that-i-drew-up.html>

- The very time-consuming process required a big commitment – and participants were unpaid. This means that participation was confined to people whose employers were happy to regard this as part of their day job.
- There were concerns among groups left outside the process, in particular the lack of access to the official advice provided by DCLG to the PAG, which was not shared. This was the subject of an FOI request.
- The lack of clarity over status of the PAG and its draft meant there was little opportunity for others to input:
 - Other interested parties were assured that the draft NPPF was being produced by DCLG, not the PAG and did not have the opportunity to input into the process.
 - There was a low level of engagement with departments so DCLG monopolised most of the inputs. And what engagement there was came at the end rather than the beginning.
 - The launch arrangements compounded confusion over the status of the PAG draft.
 - DCLG's assertion that this was just one input of many into the process was completely undermined when it formed the basis for the government draft.
 - Ministers may have been misled by the initial positive reactions to the PAG draft.
- The format of the report, as a proposed draft, meant that the thinking behind choices was not clarified:
 - Because the PAG produced a draft document rather than a report, there was no chance to articulate the thinking behind specific choices or to explore options they had considered and discarded.
 - Some of the drafting was clearly ambiguous.
 - An opportunity to have a discussion on the wider issues affecting the planning system was missed.
 - There was no accompanying analysis or evidence base for the proposals produced.
 - People were unclear on whether policy changes were intended or were the result of ambiguous drafting.
 - These problems bedevilled the government draft as well – with a lack of clarity on whether the draft was streamlining or changing policy.
- The reluctance of the Government to acknowledge the relevance of the PAG draft:
 - Since the government draft was so close to the PAG version, it would have been much neater to either publish the PAG draft with a commentary from government about the areas where it had concerns – or to publish a government version with changes highlighted.

- The PAG was also unsure of its role post publication of the Government's draft. And the Government lost the opportunity to use them as potential advocates for the new approach.
- The impact of the intra-Whitehall process was mixed:
 - PAG members saw some clear improvements through the process of interdepartmental scrutiny.
 - But in other places the impact was to muddy the water.
 - Some of the Whitehall additions (in particular on the default presumption) have inflamed the debate – without clarity on whether they change the substance or are rhetorical flourishes.
 - But comparing and contrasting the two documents has contributed to the view that the Treasury got at the PAG draft to tilt it toward growth.

The concerns above also suggest that the Government would have benefited if it had had more confidence in the process it set up – and a greater willingness to experiment in public. That would have allowed it to:

- set out the process in more detail from the start
- give the process more official status
- make clear to others inside and outside government how they could be involved
- show a clearer line of thinking between the outsiders' draft and the Government version.

And then, if the process had failed, as many seemed to think it might, ministers could have distanced themselves from it. An even more radical vision would have been to open up the process even more. Ministers could have invited consortia of interests to come up with their own frameworks – within parameters of what the Government wanted to achieve – allow them all access to DCLG briefings and then compare the versions produced.

At the heart of most of these problems is the uneasy relationship between the PAG and the department – and it is easy to understand why. Ministers appeared to see the PAG process as a way of challenging the department to do something differently. They brought in an outsider to serve as secretary. And by questioning the need for reams of planning guidance, they were also challenging the value of many civil service roles in a department moving fast to implement some of the most dramatic cuts in Whitehall. Although there clearly was effective co-operation in many ways, the awkwardness over both the establishment of the PAG and the final status of the document shows some of the problems ministers potentially face if they make policy outside the department.

There is a more general underlying issue which would have been resolved by a clearer remit at the start. Ministers were absolutely clear that they wanted to streamline existing planning policy. What was less clear is the extent to which they also wanted to change existing planning policy to tilt it in favour of economic growth – with contradictory answers being given at different times, depending on the audience. This may have been because departmental views differ (and the priority may have changed as the performance of the economy deteriorated). This is an issue where a white paper which was clearer on ministers' objectives – or an initial public remit to the PAG that clarified intent – would have helped promote a better public debate.

This suggests that when policy making is opened out, there needs to be a clear 'commissioning process'. This would clarify:

- what the 'open' part of the process is intended to achieve
- how other parties can engage with it
- how the outputs will be dealt with when they are taken back into government.

3. Alternative models of opening up

The NPPF Practitioners' Advisory Group model shows one way of opening up the policy process. In this section we look at some other models which have been implemented or are under consideration, and look at the risks and benefits compared to the NPPF.

It is possible to see opening out as good per se. It is important for engagement in the policy process and for promoting better understanding of government. And it increases the likelihood of final proposals being accepted. But we suggest that the real test is whether a more open policy process leads to better policy decisions and policies which have better outcomes.

As the examples below show, there are a variety of different ways the policy process can be opened out – and the choice of method depends on the objective of opening out.³⁰ One important factor in all of them is the need for the Government to be acting sincerely in asking others to get involved in policy development. If the process of opening out is seen as cynical window-dressing and the Government is not prepared to engage, it will be counter-productive.

3.1 Contracting out policy development

a) Ad hoc reviews

The Government has for some time used reviews as a way of opening up different policy issues particularly on difficult terrain. This Government has commissioned a number of reviews or received the results of ones set up by the previous government, notably the Dilnot Commission on social care, set up in July 2010 and the Independent Commission on Banking under Sir John Vickers. The Institute for Government has studied the Turner Commission on pensions which is considered a model for this approach.³¹

There are some clear similarities with the PAG: notably the emphasis on having a few people who can speak about but not be 'representative' of key interests, and who can work together – with civil service support – to tackle a problem which has traditionally been in the too difficult box.

The big differences with these reviews are:

³⁰ There are more examples of collaborative design and delivery in *Collaborative Working* by Emily Miles and William Trott, Institute for Government Inside Out, October 2011

³¹ *The "S" Factors*, Rutter, Marshall and Sims (institute for Government), January 2012

- their formality – with official announcements and clear terms of reference
- their duration
- the extent of their public engagement.

And although they shape public debate through their analysis and recommendations, there is a clear and explicit process of handing back into government and this determines how to take their recommendations forward.

In no case have these sorts of reviews produced a draft bill – which is the equivalent of what the PAG was asked to do. As such they represent a much less significant challenge to departmental policy makers (and indeed open up the opportunity to look at more radical options than departments can do internally).

What has distinguished these reviews which make an impact is the quality of the analysis which has underpinned their work. That is not necessarily a feature of all reviews. Most recently the Beecroft Review on Employment Law was widely criticised for the lack of evidence it contained. The Government’s response was to issue a call for evidence on some of its key recommendations.

For benchmarking purposes, we assess the more formally established reviews.

b) A standing arm’s-length review capacity: the Australian Productivity Commission

A variant on ad hoc reviews is the Australian government’s Productivity Commission,³² a model now being replicated in New Zealand.

This is an agency of the Australian Treasury – but it has a standing capacity to undertake independent reviews on issues commissioned by the Government. It has a standard methodology – involving both analysis and engagement – a board of 11 commissioners, who are assigned to individual projects and a permanent staff of just over 100, who are mainly economists.

They have recently been asked to report to the Australian government on issues such as:

- disability care and support
- emission reduction policies and carbon pricing
- business regulation benchmarking
- export credit arrangements
- early childhood development.

The Treasury is obliged to publish their reports within 25 days of receipt – but not necessarily to respond to them.

³² For more details on the Productivity Commission, see their website <http://www.pc.gov.au/>

3.2 Bringing outsiders in: The Defra Animal Health and Welfare Board

A very different – and very radical – model of opening up the policy process is the Defra Animal Health and Welfare Board for England (AHWBE). This was announced by James Paice, minister of state for Agriculture and Food, in April 2011. The creation of the AHWBE was one of the recommendations of the group chaired by Rosemary Ratcliffe, which looked at responsibility and cost sharing. It builds on the experience of the Bluetongue Core Group – a group of officials and industry stakeholders who worked together on developing and implementing policy for dealing with the bluetongue outbreak in 2007.

The AHWBE is the principal source of departmental advice to ministers on all strategic animal health and welfare policy relating to kept animals in England. The board's role is to set the broad strategic policy framework as the basis for day-to-day advice to ministers and operational activities. The board's responsibilities include:

- setting the strategic and budget priorities within the available budget envelope
- developing key policies and working out how they should be funded
- assessing risk from animal diseases
- determining research and surveillance priorities
- evaluating the effectiveness of the regulatory framework
- approving delivery bodies' operational plans
- reviewing disease contingency plans.

The structure of the AHWBE is a mix of Defra officials and non-departmental experts. It is currently made up of seven external experts (non-executive members). This includes the chair, and two senior responsible owners (SROs), who hold executive authority over animal health and welfare policy and its delivery (executive members). The chief executive of the Animal Health and Veterinary Laboratories Agency and the chief veterinary officer also attend board meetings as 'ex officio' executive members. The non-executive members are expected to commit four days a month – an average of eight and a half days a month in the case of the chair. The board has met monthly to date.

The non-executive members of the AHWBE have been appointed by Defra ministers in an individual capacity rather than as representatives of any organisation or sector, but it is clearly important that they command the confidence of stakeholders by demonstrating "knowledge and experience of the relevant businesses, customers and wider interests in animal health and welfare".³³ One of the selection criteria was the extent to which they could command support across sectors. Some concerns were raised about the confused status of the non-executive members, since they are not civil servants but are performing a role similar to civil servants. This is one aspect that will be looked at in the review scheduled for 2013 (two years after the board first met).

³³ ToR, p. 4.

Part of the role requires the non-executive members to engage with and communicate with interest groups. As such, each external member has a portfolio of internal and external stakeholders which goes beyond any direct interest. The board calls on advice from a range of stakeholders and advisory groups. People from different departments can be brought in to assist and the board can co-opt members if necessary.

The board is envisaged as a partnership that will seek out consensus. To this end, members have no voting rights so that they are forced to reach agreement about advice. If this is not possible, the board can present a range of options. It is an innovative strategy to put in place an advisory model that does not have some form of mediation between the group's recommendations and the minister. Furthermore, if ministers do not agree with advice, they must publicly state why:

*Ministers expect to accept advice offered by the board where that advice is the agreed view of all the board members. If, in exceptional circumstances, ministers decide not to do so, they will make public the reasons for taking a different view.*³⁴

However, guarantees have been provided to make sure the status of the accounting officer is protected. Although the board will propose plans for future spending within the available budget envelope, the accounting officer will retain ultimate responsibility to Parliament for ensuring that "policies and programmes are delivered as economically, efficiently and effectively as possible".³⁵ In practice this means the accounting officer can offer independent advice to ministers.

The board has been in place now for over six months³⁶ and met seven times. Defra officials take the view that it has got off to a good start with executive and non-executive members working well together. Good working relationships between the chair and department have ensured a focus on strategic issues while enabling the board to keep up-to-date on more operational issues. It remains the case that for the board to be seen as success, it must produce tangible results and encourage the industry to take more responsibility for both policy making and delivery.

3.3 Creating safe spaces for innovation: Sitra and MindLab

Both Finland and Denmark have built dedicated innovation capacity which can help government design policy better. In Finland, this is provided by Sitra which was initially established as an independent endowment in the 1950s with a venture capital fund to improve Finnish competitiveness. It has developed in three distinct phases. Its original research and development function was taken over. In the 1980s it created the Finnish venture capital market – so successfully that it has moved from providing 100% of venture capital funding to now providing only five to 10%. So in the early 2000s, Sitra changed again to focus on solving deep-seated societal problems that didn't have a readily identifiable solution – and adopted three strategic objectives:

³⁴ ToR, p. 2.

³⁵ ToR, p. 3.

³⁶ May 2012

- redefining the meaning of wellbeing
- promoting a human-centric service economy
- supporting sustainable development.

They changed the way they worked as well, moving well beyond the normal policy-making community. This meant a change in whom they employed away from an analyst-dominated model to bringing in designers and 'change-makers' – people who could work to co-produce solutions with other people.

One way Sitra works is to have a week-long immersion in a complex issue that's facing Finnish society. To explore an issue it pulls in an expert team from all over the world – and then bombards them with information and experiences to allow them to draw their conclusions on future options. They then present their results back to decision makers. To work, this process has to be carefully constructed. Sitra employs a team, itself highly international, both to draw up the initial briefing and to design the exploration process itself. In some cases Sitra takes an even more hands-on approach. To explore the reality of sustainable urban design, it has constructed its own demonstration building to understand where the barriers really lie.

Sitra has secure funding – an annual budget of 50m to 70m euros – and cross-party governance. This gives it an independent base from which it can act both as think-tank and venture capitalist, which is allowed both to experiment and fail. Its strength lies in its ability to bring together senior decision-makers, command political clout and to attract talent. A stint in Sitra is regarded as a badge of distinction. This, combined with the size of Finland, means that it is able to wield substantial influence.

Denmark's MindLab operates on a rather different model. It was set up in 2002 as part of the Ministry of Economic and Business Affairs with a remit to serve as a place for brainstorming. It expanded to cover more ministries and offer them help with creative problem-solving. But in 2007 it started to look outwards – to find ways of integrating customer insights and ethnographic understanding into policy making.

To overcome the nervousness of policy makers, MindLab provides a safe space for developing and testing out new ideas – to allow safe "fast failure". Its staff is much smaller than Sitra – only 13 full time, who are experts in either qualitative research, design or public management, but have an interest in the other disciplines. Successful projects have included:

- looking at the National Industrial Injury Board – whose processes, designed to help people, were making people's lives more not less difficult
- looking at why young people engaged so little with the online tax filing system
- redesigning the way Danish regional growth centres interacted with small to medium enterprises (SMEs).

What these models have in common is they both offer a different place and way of looking at policy problems – and a real opportunity to get other insights into the heart of the policy process – not just as an afterthought through consultation on a pre-specified blueprint. Both (though in particular Sitra) have used 'strategic design' as a new approach to deal with seemingly intractable problems. This moves from a linear problem-solving approach to a more iterative one, constantly assessing the problem, developing solutions and then testing and adjusting

those solutions. This involves viewing policy as a continuous process, rather than as a series of discrete one-off projects with a beginning, middle and end.

3.4 Crowdsourcing policy: The Red Tape Challenge

There has been a clear commitment from the Coalition government to reduce the amount of regulation and the Red Tape Challenge (RTC) has been set up to help achieve this goal. By 'crowdsourcing' suggestions online for regulations that should be scrapped, the programme encourages another of the Government's ambitions, greater citizen involvement in decision-making. In an area where Whitehall has a history of limited success, the RTC is trying to go over the heads of the usual suspects and engage with the public who experience these regulations day to day.

Launched in April 2011, the Red Tape Challenge is a Whitehall-wide scheme led by the Cabinet Office and BIS. It takes a fast-paced approach with only three months from website consultation phase to ministerial clearance. The RTC has adopted a thematic approach with a dedicated website to collect submissions, as well as targeted links on other websites (e.g. Mumsnet) that are related to the current area under review, to engage potentially interested groups. So far, eight themes have been under review, and deregulations relating to both retail and hospitality have gone through to the decision-making stage.

Government has decided on a default position that regulations should go unless they can be defended. A 'star chamber' of senior ministers and the cabinet secretary acts as final arbiter and helps create cross-government strategy. Departments are fully briefed before a ministerial 'star chamber' meeting, so they feel fully engaged and the process is transparent. In some cases – i.e. unnecessary applications for poison licenses and the mandatory reporting of grey squirrels – departments weren't even aware of these regulations. The RTC therefore has the potential to provide a powerful counterweight to the inherent silo-ism of Whitehall and promote collaboration across government.

In one of his departing interviews, then cabinet secretary, Sir Gus O'Donnell claimed considerable success for the Red Tape Challenge:

*The Red Tape Challenge, an initiative set up by the prime minister to do away with unnecessary regulations, is my favourite case study. This is of interest to everybody, but of critical importance to SMEs, which are disproportionately affected by new rules and red tape. Topic by topic, we have been through the book of regulations to ask whether each one is really needed and whether it still serves the purpose originally intended. Civil servants have proved themselves to be good at this: of the more than 1,200 regulations looked at so far, we have recommended scrapping over half of them.*³⁷

³⁷ At <http://www.telegraph.co.uk/news/politics/8971893/Its-risks-not-rules-that-must-point-the-way.html> 21 December 2011

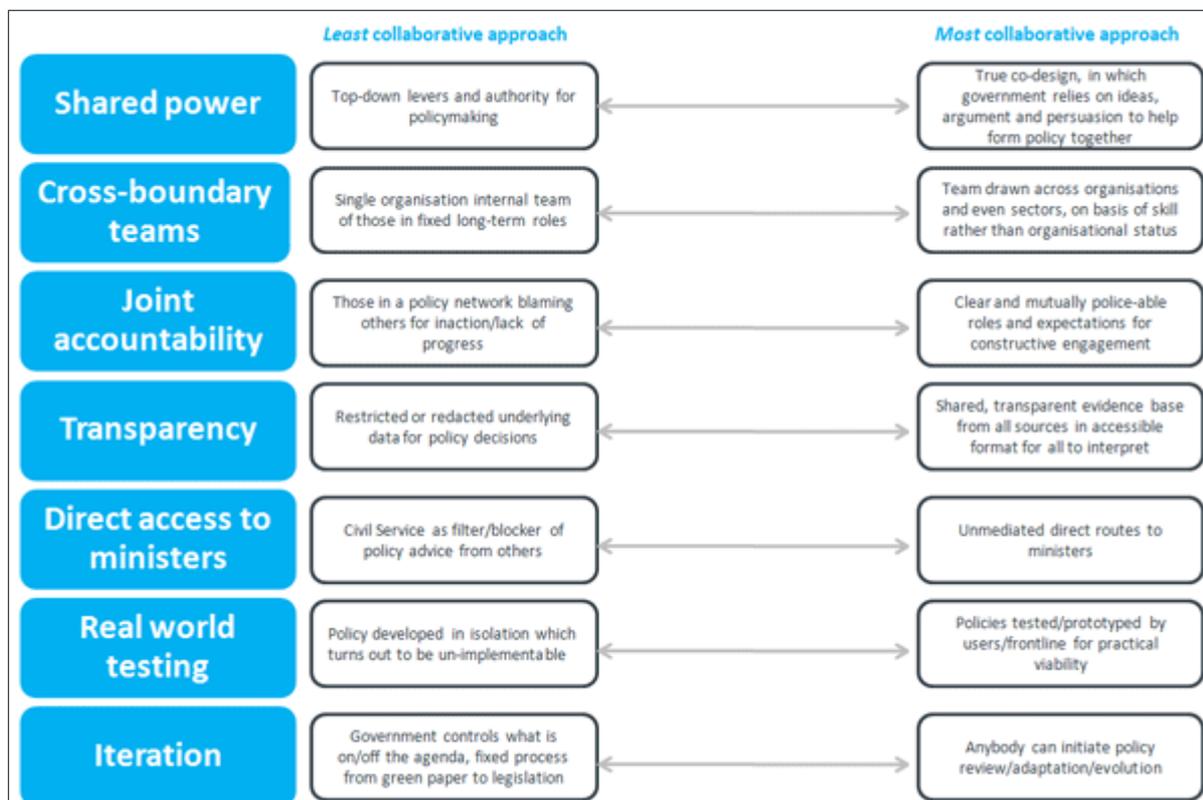
The acid test of the RTC is whether it is more than a useful exercise in decluttering out-of-date, no-longer-applied measures – and whether it really does make a difference to burdens on business, while not exposing the public to disproportionate risk.

3.5 Comparing different models of opening up

More open and collaborative policy making is an area of increasing interest to the Civil Service. It emerged as one of the key strands identified by the civil service leadership in work the Institute for Government facilitated in 2011 on the future of the Civil Service. That work, which has now been reflected in the Civil Service Reform Plan, identified a number of different ways of assessing which aspects of the policy-making process had been opened up, including:

- more crowdsourcing
- the creation of 'policy labs' on the MindLab model
- involving delivery experts earlier in the policy process.

The choice of process design needs to take account of which elements are to be opened up and also understand why that should lead to better policy making. The end result needs to be more effective policy with opening up seen as a means, not an end in itself.



As the table below shows, the various methods of opening up that we have looked at allow access to different aspects of the policy process. An assessment of them is contained in the table below. The assessment is inevitably subjective but what it reveals is that a consistent strength of opening up is in creating cross-boundary teams. This is an important feature when one of the regular charges against policy making within Whitehall is that it is too siloed. More open policy making is not necessarily more transparent to the public. While there can be greater sharing of power and joint accountability, the norm in these cases has been for privileged outsiders to be engaged in policy making and able to input into the policy process. Final decisions have been made by ministers and civil servants operating behind closed doors. Thus, for example, while the public is invited to submit ideas to the Red Tape Challenge and those that are posted on the website are available for other people to comment on (and see some feedback from the RTC team), the second stage of the process is for ideas to be fed back to departments whose RTC plans are then discussed in a ministerial 'star chamber'.

Example	Shared power	Cross-boundary teams	Joint accountability	Transparency	Direct access to ministers	Real world testing	Iteration
National Planning Policy Framework		★			★		
Ad hoc reviews e.g. Turner Commission		★		★	★		
Productivity Commission		★		★	★		
Animal Health and Welfare Board	★	★	★		★		★
Sitra and MindLab		★				★	★
The Red Tape Challenge	★			★			

4. Conclusions: how to open out policy making

Government is still in the experimental stage of opening out policy making. Traditional royal commissions in which an array of the great and the good deliberated for years to come up with magisterial solutions were replaced under the last government by the celebrity review – where a big name was asked to do a quickfire study at the behest of ministers.³⁸ In some cases, the name discovered that s/he was there simply to lend their name to ideas which had been well incubated within government. In others, for example, Lord Turner’s commission on pensions, they had more time and were able to change the terms of the debate. The last government also pioneered more deliberative techniques in government (for example, the nationwide ‘Your Health, Your Care, Your Say’ process run by Opinion Leader Research for the Department of Health in autumn 2005).³⁹

The Coalition has made a number of different attempts to open up policy making. Some – the Red Tape Challenge and the Spending Challenge – have invited the public to offer views into the machine. But they have left final decisions to opaque internal processes with a rather low conversion rate of input to output.⁴⁰ Neither of these allowed any real public discussion of the trade-offs faced by government. And in some elements of the Red Tape Challenge opinions appeared to polarise rather than coalesce.

Inviting the Practitioners’ Advisory Group to prepare a first draft of the NPPF was a brave move. To ask outsiders who would have to make the final draft work was a very bold move towards more innovative policy making. It stands alongside Defra’s Animal Health and Welfare Board as a step change in breaking the civil service-ministerial monopoly on policy formation. Despite the subsequent furore over the NPPF, the approach of asking four knowledgeable and interested outsiders to thrash out issues and prepare a straw man was worth doing – and is worth repeating.

But the Government needs to address the particular concerns raised by the PAG process. In short it needs to:

³⁸ Many of the reviews commissioned by Gordon Brown as Chancellor fell into this category. The Treasury held the pen. Examples include the Taylor review of welfare and the Hampton review of regulators

³⁹ Report available at

http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4127462.pdf

⁴⁰ The Spending Review 2010 listed nine specific ideas taken from the spending challenge alongside four more general themes (prevention; tackling fraud); Box 1.3, p.21 at http://cdn.hm-treasury.gov.uk/sr2010_complereport.pdf. Over 100,000 ideas were submitted in total.

- be transparent in the establishment of external groups – both on their remit from government and the selection process
- be clear on the status of any draft and its relationship to the internal process going forward
- allow other departments to engage properly with the process
- encourage the group to share the rationale for their choices and thinking alongside their draft
- address concerns of those who are left outside the process – not least by publishing the official advice given to the group and potentially challenging others to produce their own advice consortia.

Some of these requirements are simply a plea for the application of the sort of commissioning skills being developed in other areas to contract out policy. In particular, that means clarity on objectives remit, selection process and status of final output. But they also suggest that partial opening up can cause problems – better to err on the side of more, rather than less, transparency.

Our analysis of other methods of joining up suggest that more robust processes can be better at developing an agreed way forward on issues where views are very divided by providing space for new bargains to be developed.

All these new approaches require different skills from civil servants – who need to be prepared to be enablers and expert process designers rather than trying to monopolise the policy making input behind closed doors. They also require ministers to be clear about areas that are off limits, but also to be prepared to engage with a much more open mind on issues that are in play.

One of the clear conclusions from this report is that different ways of opening up have different benefits and problems. The idea that there is ‘one model’, which will work for the range of issues government deals with, is misguided. Better instead to have an appreciation of the range of options – and understand what works best for which issues and when.

We have said that the Government needs to evaluate and be prepared to learn lessons much more systematically. That applies to innovation in the policy process as much as to innovation in policy itself. It needs to learn the benefits, and problems, opening up can bring in order to decide whether and how to open up the policy process. This brief study is intended to be a contribution to that learning.

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- We carry out research, look into the big governance challenges of the day and find ways to help government improve, re-think and sometimes see things differently.
- We offer unique insights and advice from experienced people who know what it's like to be inside government both in the UK and overseas.
- We provide inspirational learning and development for very senior policy makers.

We do this through seminars, workshops, talks or interesting connections that invigorate and provide fresh ideas.

We are placed where senior members of all parties and the Civil Service can discuss the challenges of making government work, and where they can seek and exchange practical insights from the leading thinkers, practitioners, public servants, academics and opinion formers.

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