

POLICY Quarterly

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Editorial Note

The nine articles in this issue of *Policy Quarterly* cover a range of important contemporary policy problems – national and international, macro and micro.

The first, by Sandra Grey and Charles Sedgwick, examines a significant yet little discussed issue. The article explores the vital contribution of the community and voluntary sector as a voice for the voiceless and as a conduit of information about society's unmet needs. The challenge, however, is that these roles are being severely constrained by the heavy dependence of the voluntary sector on government funding, as well as the particular type of contracting that has become the norm. Supposedly there is an equal contractual relationship between the state and the voluntary sector, but the reality is very different: the relationship is asymmetrical, with the state holding most of the cards. Accordingly, Grey and Sedgwick recommend a complete rethinking of the current contracting model. Without this, the role of the community and voluntary sector in democratic debate will be undermined and its capacity to develop new and innovative responses to changing social needs will be hindered.

Next, Michael Macaulay examines the role and influence of the United Kingdom's Committee for Standards in Public Life (CSPL). It explores why this body was created, the work it has undertaken, the many recommendations it has made, the various criticisms to which it has been subjected, and its possible future role. While Macaulay acknowledges that the CSPL has not, and could not, end the many scandals in British public life, he contends that it has made a significant difference by creating an ethics infrastructure and speaking truth to power. Although New Zealand does not face political scandals of the scale or intensity of the UK, Macaulay suggests that we might nonetheless benefit from having a Committee of a similar nature. The aim would be to ensure that New Zealand not only retains its reputation for a high level of integrity and transparency, but also that new and emerging issues can be addressed in a constructive, positive and expeditious manner.

A different topic is explored in the third article by Gary Taylor, namely the strengths and weakness of environmental policy-making in New Zealand. Taylor examines how major environmental policies have been made in the past and compares this with recent policy-making processes and outcomes. In so doing, he makes a vigorous plea for a more measured and collaborative approach, involving a wide range of stakeholders, in which adequate consideration is given to environmental values and longer-term considerations.

Following this, Michael Pickford examines the changing approach of the New Zealand Transport Agency towards assessing the economic efficiency of state highway projects. He emphasises that since 2003 there has been a gradual shift away from reliance on the benefit-cost ratio (BCR) in favour of 'strategic fit' and 'effectiveness' as favourable project attributes. He argues that this dilution of the BCR under the current approach has resulted in many hundreds of millions of dollars in prospective benefits being wasted annually. On this basis, he suggests significant policy changes.

Next, Tim Hughes considers how the burgeoning fields of cognitive psychology and behavioural economics can contribute to policy advice. While insights from these disciplinary perspectives are already being incorporated into policy design in some areas, he argues that there is scope to apply such perspectives more broadly and systematically. This, of course, will require policy advisors to have a better understanding of the relevant theories and ideas, including their strengths and weaknesses. His article, it must be hoped, will contribute to this process.

Patrick Nolan's contribution evaluates the British government's recent efforts to achieve fiscal consolidation. He contends that since 2010 the Conservative-Liberal coalition has failed to create a fiscal policy framework that holds public expenditure to a lower track. The June 2013 spending round (for the 2015-16 fiscal year) and the recent repositioning of the opposition Labour party indicate that a new approach to fiscal discipline may now be starting to take hold. But the fiscal deficit remains substantial and further policy changes, whether to revenue or expenditure (or both), will be needed if the government is to meet its goals, and in particular its desire to improve the efficiency and quality of public services.

Chris Nixon's article examines the importance of a healthy start to life for New Zealand children. He outlines the approaches being taken by researchers investigating the likely impacts of a healthy start to life from epidemiological, economic and policy standpoints, and then explores new techniques for assessing how additional public value might be generated. He concludes that closer co-operation among researchers is needed to demonstrate the value of a healthy start to life and to enable policy makers to make wise investment decisions.

The penultimate article, by Ken Palmer, Chris Bullen and Janine Paynter, addresses the role of local authorities in tobacco 'end-game' policies. New Zealand aims to be a (broadly defined) 'smoke-free nation' by 2025. To achieve this goal, local authorities – as promoters of public health and regulators of tobacco sales and smoking – have a vital role to play. In particular, they will need to implement robust and reasonable by-laws regulating the sale and public consumption of tobacco, and use their resources to encourage a further change in public attitudes.

In the final paper Sheree Gibb, David Fergusson and Joseph Boden use data from a New Zealand-born birth cohort of 30-year-olds to examine gender differences in the time spent in paid and unpaid employment, as well as the satisfaction with the time used therein. Interestingly, the evidence suggests that achieving a work-life balance, and especially a work-parenting balance, is more problematic for men than for women. In their view, various policies are needed to enable men to participate more fully in childcare and improve their work-life balance. Do we hear the winds of a gender revolution in the making, or is it just another stormy blast in the capital?

Jonathan Boston and Bill Ryan

Sandra Grey and
Charles Sedgwick

The Contract State and Constrained Democracy

the community and voluntary sector under threat

There is a long-standing acknowledgement by the public, government and academics of the essential democratic role of the community and voluntary sector. The sector is acknowledged as a conduit to government of information on society's unmet needs and preferences (Maddison, Denniss and Hamilton, 2004, p.vii). As Salter observes, organisations

'working at the grass-roots or flax-roots level ... become aware of trends and emerging issues earlier than the government. In short it is difficult to argue that such groups are not essential to any modern state' (Salter, 2004, p.9). In New Zealand this role has been acknowledged in law since the mid-19th century (see Tennant, O'Brien and Sanders, 2008; Eichbaum and Shaw, 2006; Mulgan, 2004; Jesson, 1992) and is referred to in a range of recent government documents (see Ministry of Social Development, 2012; Office for the Community and Vountary Sector, 2008; Cabinet Office, 2011). But it is not unchallenged. This article examines how the changing relationship between the state and the community and voluntary sector has resulted in the democratic voice of the sector being heavily constrained.

During 2008 and 2009 we surveyed a purposive sample of community and voluntary sector organisations in New Zealand with the express intention of testing their engagement in democratic decision-making under the Labour-led (1999–2008) and National-led (from 2008) coalition governments. Responses to the survey show clearly that organisations in the sector see themselves as having a major role to play in democratic decision-making. As one of our respondents noted: 'It is vital that the organisations directly

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involved in delivering services play a significant role in the political decision-making in New Zealand' (health service provider). Additionally, our respondents perceive themselves as having a role in the following areas: speaking up for the most marginalised of our society; ensuring policy meets the real needs of New Zealanders; and ensuring a better society. However, the responses from 153 social service and advocacy organisations from around New Zealand also highlighted that the role of the community and voluntary sector in public debate has not been actively welcomed by governments in recent decades (Grey and Sedgwick, 2013). Responding to the core question

Respondents drew our attention clearly to the fact that those who speak for the marginalised have themselves been marginalised.

of the survey – 'what do you think about successive governments' attitudes to public debate?' – 27.6% of our respondents said debate had been silenced, 42.4% said debate was tolerated (i.e. 'None of our members has been arrested yet!'), and 30% said that successive governments had encouraged debate. Added to this direct response on democratic debate, the written responses to the 32 survey questions further confirmed the existence of a democratic deficit in New Zealand between 1999 and 2009: only 87 of the 595 written responses given in the returned survey forms affirmed that debate was encouraged by two successive governments.

The democratic deficit, as defined by Beetham, refers to a 'substantial and systematic failing in relation to international standards of good practice in some important feature of a country's democratic life' (Beetham, 2013, pp.1-2). With regard to New Zealand, Beetham et al. (2002, p.55-6) pointed to a clear discrepancy between 'high levels of citizen participation in elections and civic associations' and strong feelings of disempowerment among the public. This

was shown in surveys in which 85.4% believed they had little control over the actions of politicians; 61.6% believed that they will get nowhere by talking to government officials; and 67.4% felt that government will not respond to public opinion.

So, what is constraining the role of the community and voluntary sector in democratic debate? According to respondents to our survey, it is the very nature of their relationship with the state that has contributed to an environment in which debate is discouraged in some cases and barely tolerated in others. For example:

[Debate is] not encouraged. People who speak out have been verbally attacked – possibly this had led to loss of contract but this is not clear. Government has been less transparent about its intentions, which is a way of restricting debate. (Health provider)

Our experience from about 2006 onwards was that public criticism or challenge was discouraged and responses from some senior Government Ministers was contemptuous. Public servants were very cautious and very reluctant to openly pursue advocacy issues. (Social service provider)

It's difficult to describe without becoming despondent and emotional. Throughout our organisation we are struggling to remain positive [in the face of] rapidity of changes imposed by current government policy which undervalue, undermine and underfund our area of expertise and all without negotiation! (Social service provider)

Respondents drew our attention clearly to the fact that those who speak

for the marginalised have themselves been marginalised. They explained that speaking up on behalf of their communities was frequently interpreted as self-interest, and that their knowledge and expertise was dismissed, distrusted or treated as unsubstantiated anecdote. Added to this, their expressed aim – to give more than they receive – had been heavily constrained by the mandatory need to meet compliance requirements.

Persistent comments from our survey respondents on the constraints on democratic engagement focused our minds on how this had evolved: how could organisations born out of civil societies' needs, generated by voluntary effort and concern for communities and funded by government grants over many decades in New Zealand be redirected and their attentions otherwise focused? The answer, we argue, lies primarily in the 'contract' and the type of relationships contracts generate between government and the community and voluntary sector.

The neo-liberal contract state and society

It has been 18 years since *The State Under Contract* was published, in which John Martin stated that the contract model:

replaces hierarchy and command as the mechanism by which the parts are linked together ... to achieve the purposes of government.

... It has unquestionably assisted the achievement of considerable *efficacy* gains – if for no other reason than to require agencies to attempt to articulate the purpose for which they exist. I do, however question its universal applicability ... and the implications for political accountability. (Martin, 1995, p.37)

The mechanism of the contract, as Martin intimated, now inhabits a myriad of spaces between the individual, civil society and the body politic in New Zealand. These contracts are for the most part classical as opposed to relational (Martin, 1995): that is, they centre on a fee for service arrangement and the functions of provider/purchaser are separated. In these classical contracts the funder specifies the duration, outcomes and sanctions for non-compliance, and

the funder's needs rather than those of the community have a medium for assertion.

The responses from our survey participants show that the mechanism of the contract has the uncanny capacity to generate fear, to focus minds on the survival of the fittest and to sideline public debate, forcing the attention of providers onto meeting the demands of funders.

Services are now 'fighting' for survival which leaves little time or energy for public debate. (Social service provider)

[Governments are] only interested in review and cost-cutting. Only the Māori Party is still entering into community dialogue. (Feminist social service provider)

Under National, Ministers and officials have their own agendas ... and consultations ... appear often to be a waste of time. Other times advice is taken but to further their purpose and not that of the sector. (Advocacy organisation)

Contracts not only mediate relationships between the state and the community and voluntary sector; they determine the structure and outcomes of the relationships. As one of our respondents put it, their organisation has had the ability to negotiate 'within parameters set by Labour Government – the issue re: where the parameter[s] lie are as relevant now as then' (education organisation).

However, there are no guarantees that community needs, once recognised and given policy priority by the state, will remain 'relevant':

[We lost funding due to] change of work; change of government policy. (Social service provider)

They [National] changed priorities and our issues/conditions have been moved down the list. (Mental health provider)

What the survey responses intimate is that the move to contracting has led to a transformation of civil society (against the wishes of the community and voluntary sector) while maintaining a

semblance of democracy. This trajectory is discussed by Milbourne and Cushman (2013, p.489), who note that 'what appears to be trust is a facade for power, meaning is managed, distorted or imposed by the dominant participant', in this case the state. According to Carmel and Harlock (quoting Newman, 2001), this so-called 'partnership' also presents an 'illusory unity' which masks the differences between providers, which are 'profoundly shaped by their particular, and varied social origins' (Carmel and Harlock, 2008, p.159).

What the survey responses intimate is that the move to contracting has led to a transformation of civil society ... while maintaining a semblance of democracy.

Peck, Theodore and Brenner (2012) have described this process as a 'contradictory dialectic' represented by 'roll-back (de-regulatory) and roll-out (re-regulatory)' processes. The former, they say, is rationalised as 'deregulation, devolution, and even democratisation', whereas the latter 'is marked by widespread adoption of "market conforming" regulatory incursion – from the selective empowerment of community organisations and NGOs as (flexible, low cost, non-state) service providers ... to hybrid governance in the form of public-private partnerships' (Peck, Theodore and Benner, 2012, p.23). As is demonstrated in comments by the minister of social development, Paula Bennett, in the 2012 Ministry of Social Development pamphlet *Investing in Services for Outcomes*, the location of responsibility and power in this contract environment is clear:

I will discontinue contracts where providers have continued to not meet Government expectations. This is an example of focused contract management that will support providers to deliver high quality,

effective services. (Ministry of Social Development, 2012)

A classic case is that of Supergrans Christchurch, who were forced to close after 17 years of providing 'in-home mentoring to hundreds of people'. Supergrans, which received 67% of its funding from the ministry, found that the expectations of the ministry did not match the organisation's values. Their manager, Sue Yorke, was quoted as saying that Supergrans was a 'victim of its own success', adding:

The Supergrans way of supporting people requires time to build a relationship and trust, and the move to working with more people for shorter periods of time isn't conducive to helping people make substantive changes in their lives. (Mathewson, 2013)

The mechanism was as simple as replacing the social contract with the competitive contract. To quote Adamson's rendition of Gramsci, the competitive contract now inhabits the space between 'large scale bureaucratic structures of the state and economy on the one hand and the private sphere of family, friendship, personality, intimacy on the other' (Adamson, 1987/88, p.320). For Gramsci, civil society is traditionally occupied by voluntary organisations/associations, interest/pressure groups, mass media and academic institutions, all of which may reproduce a 'common moral language' (Green and Ward, 2004, p.4), and thus influences public opinion and policies or, alternatively, seeks to change them.

If the funder has the contract as the focal point for relations with the community and voluntary sector, then

of necessity the provider must follow their lead. The contract facilitates predetermined terms, conditions and outcomes, outcomes which can be assessed and measured, though hardly, as Durie has observed (2004), represent real gains that reflect the aspirations people have. The survival of community and voluntary organisations in the contract environment is predicated on winning the contract against competition and the corollary of this structure is that blame for failure will inevitably fall on the provider. In *Investing in Services for Outcomes*, mentioned above, the Ministry of Social

participants in Social Impact Bonds¹ through amalgamation which satisfies the provision of multiple services exacerbates the same tendency. In this sense, if one was to envisage a viable rehabilitation programme for ex-inmates, it would require mental health provision, housing, education, legal aid and employment, which could be represented by a group of NGOs and be funded under one contract.

The community and voluntary sector is fully aware of this focus and the imminent threat to their existence; our survey saw respondents readily

think it has lost its mission. Instead of focusing on helping the most needy, including the homeless and youth, the mission had become intent of self-preservation. It has become too risk-averse. There is not enough passion. (Heather, 2013)

And Pat Hanley, in a select committee submission, noted that, based on his first-hand experience in the community and voluntary sector,

These issues are not simply about funding relationships but rather are an expression of a perceived, long term threat to the ability of organisations within the sector to serve our communities and remain viable as not-for-profit, non-governmental, community based and values led organisations.

Furthermore, by ignoring the community the contracting environment

[d]isempowers those intended to benefit [from it] because they are not a party to the contract and have no effective means of affecting the terms of the contract, nor its implementation. (Hanley, 2006, p.63)

The contract, then, is a mechanism that has firmly come between the community and voluntary sector's need for independence (an independence based on being accountable and efficient in terms of community needs) and the demands for accountability, effectiveness and efficiency in the (government) funders' eyes. Even the auditor-general's 2006 report on principles that should guide the government in funding arrangements with the sector was at pains to point to a crucial issue:

Because of the pressure for accountability, public entities have tended to opt for a control approach when managing the risks in their relationship with NGOs. Contracts are seen as the way to achieve this control. (Office of the Auditor-General, 2006, p.15)

As Shaw accurately noted, this split between funder, purchaser and provider 'greatly increased the use of

... Annette King, noted that 'NGOs that are funded by the health system are too scared to speak out because they fear losing their funding' ...

Development's deputy chief executive of family and community services, Murray Edridge, said:

We have a real opportunity to improve how we manage contracts and eliminate some of the existing issues including, gaps and duplication, providers with multiple contracts with both MSD and other government agencies and short-term contracts which leave little stability for the community organisations we fund. (Ministry of Social Development, 2012)

The contract has become a means to increase, on the one hand, competition between NGO providers for an unknown market of funding, and on the other pressure for rationality and joined-up provision of services in the name of broad-based service delivery.

The two tendencies can, of course, realise the same end in the contract environment. Reduced numbers of NGOs able to compete in each successive tendering round produces survival uncertainty for small providers and can lead to monopolistic behaviour. Additionally, the state's desire to deal with either preferred providers or the

and repeatedly acknowledge that the government sets the parameters of the competitive contract:

Particular policy was adopted and implement[ed], but mainly within economic parameters/drivers re: productivity and not necessarily, or as priority, within community/family development agenda. (Education provider)

Need to guard the independence of the 3rd sector and ensure, through contracting, we are not just pseudo-government agencies. (Social service provider)

Similarly, in a recent study of 11 non-profit organisations one respondent commented: 'people don't listen to what you are saying or understand where you are coming from', which effectively results in 'the political feelings of the day or the governments views of the day determin[ing] our approach' (Elliot and Haigh, 2012, p.15). Furthermore, recently-resigned city missioner at the Wellington City Mission, Susan Blaikie, remarked that the organisation

has put self-preservation ahead of caring for the city's poorest. ... I

the contractualist devices as a means of regulating relationships between purchaser and provider organisations' (Shaw, 1999, p.97). This point was confirmed in a 2004 survey looking at the relationships between the Ministry of Health and providers. One community and voluntary sector organisation said their greatest concern was fear of speaking out induced by contract behaviours and the advocacy lobbying issues (Health and Disability Sector NGO Working Group, 2005, p.16). In an April 2013 Radio New Zealand interview, opposition spokesperson for health, Annette King, noted that 'NGOs that are funded by the health system are too scared to speak out because they fear losing their funding' (Radio New Zealand, 2013).

The climate of fear and risk-aversion created by a neo-liberal contract state and the relationship this generates with the community and voluntary sector seems to easily nullify repeated and acknowledged ideals of and for the sector (even held by the state), which stands as an accepted and unquestioned contradiction in the funder's mind. In 2005, Brenda Ratcliff, director of the Office for the Community and Voluntary Sector, in a briefing to the incoming minister described the sector as 'an avenue for the expression of diverse voices', providing 'networks', 'relationships' and a 'dialogue' between the government and the community. Further, she stated that the NGO sector can 'develop local solutions to local problems', facilitate an 'early warning system' for problems, and is in the best position to 'innovate' or take 'risks' in finding viable solutions (Office for the Community and Voluntary Sector, 2005, pp.1-3). Three years later, then director Alasdair Finnie, in a similar briefing, maintained a supportive stance, noting that: 'With total revenue exceeding \$8 billion, these organisations offer citizens access to public services outside the state sector. They also provide a voice for many parts of our society, particularly for those who are disadvantaged' (OCVS, 2008, p.ii). Even in the state sector, the 2011 Social Sector Forum² reported in their briefing to the incoming government that:

We want to do more to harness the expertise of communities, non-

government organisations and private sector organisations that provide social services. Communities usually know what services and support they need. ... Local organisations are often best placed to respond to local needs, to join up services, and to try new things to help people succeed. (Social Sector Forum, 2011)

However, responses to our survey showed that government funders do

power differential between provider and funder:

We do not want to draw attention to ourselves in case we lose our funding. (Education and service provider)

We shouldn't be seen to be criticising our partner publicly. (Feminist social service provider)

Creating 'distrust' may jeopardise contract negotiations. (Employment and social service provider)

In all, 35.3% of the organisations who responded had been subject to loss of contracts ... when programmes had been either disestablished or terminated or when funding was re-targeted.

not readily allow 'diverse voices', the 'voice of the community' or public 'dialogue' involving the community and voluntary sector. The mechanism of the contract in some cases explicitly prohibits commentary (15% of our respondents said there were 'gag clauses' in their contracts):

[Our contract states we are] basically not to enter into public debate. (Family centre)

... there is a general expectation of no surprises in relation to public statements that are critical. (Religious social service provider)

In some contracts [it can be] more explicit about not commenting unless agreed with funder, other pressure not to rock the boat is more subtle. (Advocacy organisation)

BUT workers ALWAYS have to get anything going into media or the public realm checked and approved. (Religious social service provider)

Even when there were no overt gag clauses in government contracts, respondents rationalised their caution about public comment or noted the contractual provisions which point to the

While gag clauses might have been few, over half of the 153 community and voluntary sector organisations who responded to our survey felt that speaking out would lead to contract termination. And the fragility and uncertainty of the contract environment is evident in the survey responses. In all, 35.3% of the organisations who responded had been subject to loss of contracts in the last ten years when programmes had been either disestablished or terminated or when funding was re-targeted. Even personnel changes in the funder organisation could mean that a constructive relationship was gone.

Exacerbating the fear and further influencing the relationship in the contract environment is the Charities Act 2005 and the Charities Commission, which have become tools for disciplining the community and voluntary sector. Registration under the act confers charitable status and allows a tax exemption, alongside supposedly encouraging public 'trust and confidence in the charitable sector' (section 10(1)(a)). Over 25,500 charities are registered in New Zealand (Barker and Yesberg, 2011), and since 2007 the commission has received 30,000 applications for charity status, of

which it has declined 1,350, and removed 1,000 organisations (Fowler, 2010).

Controversially, trading operations owned by charities are not subject to income tax, hence the exemption (Barker and Yesberg, 2011, p.41). What qualifies one for charitable status is called, in brief, the four 'heads' of charity: the relief of poverty, the advancement of education, and the advancement of religion or 'any other matter beneficial to the community' (Commissioners for Special Purposes of the Income Tax v Pemsel [1891] AC 531, 583, in Barker and Yesberg, 2011, p.42). According to Barker and Yesberg, the issues of purpose and activities, in addition to the understanding of advocacy, have become the interpretive mechanism by

question on whether funding arrangements prohibited public comment, with many of these groups stating that they did not seek or receive government funding in the first place. For a number of groups it was an explicit choice: 'We do not receive government/contract funding but do this so we can be free to advocate on behalf of community on health and policy issues' (health provider).

Additionally, the contract environment presents a litany of other barriers to the community and voluntary sector's engagement in democratic debate:

Bureaucrats seem to know what is best for all, community doesn't count. (Social service provider)

is given to the sector, and minimal (minimised) contributions are sought on key political/social/economic issues, in processes such as taskforces, ministerial working groups, etc. (Education provider)

Most of our concerns were less about the intent of policy than the manner or detail of implementation. In our experience the Labour-led government had a particular bent for reporting as a substitute for accountability that led to some distortions of process that actively inhibited achievement of stated goals. (Social service provider)

That final comment sets out the high cost of compliance in the new contract environment, something that has also been noted by Jan Dowland of Platform Charitable Trust:

A disproportionate amount of energy is expended on administering a clumsy, highly specified, over engineered system diverting precious resources away from the real work. The dictates of the system have dominated the discussions between DHBs and NGOs, rather than how to improve the lives of people with addiction and mental health issues. (Platform Charitable Trust, 2009, p.4)

The community and voluntary sector, which has for decades provided grass-roots knowledge to help problem-solving in communities, is ignored, dismissed or disputed, leaving the partnership between provider and funder bereft of informed consent.

Conclusion

For many of our community and voluntary sector respondents the contract environment under both Labour- and National-led governments has led to heightened fears surrounding several issues: funding being cut; difficulties in maintaining independence while taking government contract funding; restrictions on what services they can provide to whom, and how these will be provided; and the redirection of their labour to meet the efficiency and accountability demands of government funders. The expectation

The supposed 'equal' relationship is one that in reality focuses attention on meeting the demands of government funders rather than the needs of the communities.

which the act has excluded organisations from charitable status. 'Advocacy is a non-charitable purpose', the act states (section 5(3)), supported by the decision in *Bowman v Secular Society* ([1917] AC 406), the result of which is that, as Barker and Yesberg note, 'Many charities now fear that advocating for their causes risks jeopardising their charitable status' (p.43). Respondents' feelings in our survey are summarised in the following statements:

The Charities Commission has the potential to stifle NGOs from advocating and lobbying. (Advocacy organisation)

There is still a strong fear that groups will lose their charitable status and/or funding from certain quarters if they engage in lobbying or advocacy. (Advocacy organisation)

Some organisations in the community and voluntary sector respond to this situation by choosing not to seek government funding. Forty-three of our 153 respondents did not answer the

Government officials seem to be the biggest barrier to change. They minimise the knowledge and expertise of NGOs at times. (Disabilities social service provider)

Government has been prepared to engage on issues but are often poorly informed as the trust and engagement of officials appear very low. (Advocacy organisation)

Role in policy planning is being made more difficult; very effectively undermine[d]. This government in particular does not value consumer input as a partnership voice (at least in the health sector) and appears to be captured by 'expert professionals' and private sector economic interests for short term political gains. (Feminist health provider)

Insufficient knowledge exists about the economic inputs/outputs and outcomes provided by not-for-profits, particularly those that are community based. As a result insufficient value and recognition

is not that the government will provide funding without any strings attached. However, the contract environment ignores the power differential between provider and funder, reducing it to a relationship of equals supposedly doing 'business' together. The supposed 'equal' relationship is one that in reality focuses attention on meeting the demands of government funders rather than the needs of the communities. This is both an attack on civil society and its democratic role, and will result in community needs, which do not easily fit the outcome measurement criteria set by central government agencies, being left unmet. The community and voluntary sector, as responses to our survey illustrate, is acutely aware of the difficulties being caused by the neo-liberal contract environment, unduly funder-centric and focused on apportioning

risk, accountability obligations and enforcement measures. Recovering the true and full democratic voice of the community and voluntary sector requires a rethinking of the contract environment. This may require the abandonment of the contract and its replacement with a funding regime that enables genuine respect for, and trust of, both the community and its representatives (the community and voluntary sector); a funding system that enables a full democratic role for the community and voluntary sector, allowing them to fulfil their self-defined role of meeting the needs of their communities.

¹ The Office for the Community and Voluntary Sector and the Department of Internal Affairs commissioned a report to 'explore the nature of Social Impact Bonds (SIBs) ... to identify ... policy and market constraints to their extensive use'. Essentially this is a means of introducing money from private or philanthropic investors into 'social programmes without increasing public debt and without the need to decrease existing spending' (Ross Philipson Consulting,

2011). The government repays funds depending on the level of success in achieving the specific social outcomes.

² The Social Sector Forum has been described as a cross-agency vehicle made up of the chief executive officers of the Ministry of Social Development and the Department of Building and Housing, the director-general of health, the secretaries of Justice and Health and senior officials from the SSC, Treasury and the Department of the Prime Minister and Cabinet.

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Date	Title	Speaker	Venue
Thursday 5 September 12.30pm-1.30pm	Climate confusion: why the international climate change negotiations have unravalled, and what, if anything, can be done about it?	Professor Stephen Howes, <i>Australian National University</i>	Railway West Wing, Room 501
Thursday 12 September 12.30pm-1.30pm	The Future of Renewable Energy	Dr Eric Martinot, <i>Institute for Sustainable Energy Policies</i>	Government Building, Lecture Theatre 4
Friday 13 September 12.30pm-1.30pm	Valuing Nature and the Problem of Incommensurable Values	Dr Geoff Bertram, <i>Institute for Governance and Policy Studies</i>	Government Building, Lecture Theatre 2 (Access via Stout Street)
Monday 16 September 5.30pm-7.00pm	Insights on Models of Change: A Global and Pacific Perspective	Duncan Green, <i>Oxfam Great Britain</i> and Barry Coates, <i>Oxfam NZ</i>	Government Building, Lecture Theatre 1 (Access via Stout Street)
Friday 20 September 12.30pm-1.30pm	From Millennium Development Goals to Sustainable Development Goals	Barry Coates, <i>Oxfam NZ</i>	Government Building, Lecture Theatre 2 (Access via Stout Street)

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Michael Macaulay

Looking Back and Looking Forward at the UK Committee for Standards in Public Life: does it offer a model for New Zealand?

Do recent events such as the controversies over Sky City, election funding, ministerial expenses and so on raise questions about the standards of behaviour demanded of New Zealand's public figures? If so, are there lessons that can be drawn from elsewhere about how to monitor and anticipate risks to public integrity? Perhaps one instructional example can be found in the United Kingdom's Committee for Standards in Public Life (CSPL).

In January 2013 the CSPL published *Standards Matter: a review of best practice in promoting good behaviour in public life*, which looked at the difference the CSPL had made to nearly 20 years of British public life. Without question it can point to a number of substantial achievements. Its recommendations have led to new integrity regimes for ministers and MPs, lords and civil servants. It helped to create an entirely new standards framework for local government. The CSPL was instrumental in establishing the Office for the Commissioner for Public Appointments, which oversees recruitment to arm's-length organisations and non-government departmental bodies. Perhaps most impressively, the CSPL can rightly lay claim to having crafted the most substantial reforms of the electoral system and political party funding in living memory.

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Between 2012 and 2013, however, the CSPL was also subject to a review by the Public Administration Select Committee, in which several commentators suggested that perhaps its time had come. Some suggested that there was simply not enough work for it to do, and while it is true to suggest that its output may have dropped somewhat in recent years, such an opinion seems unusual when set against the almost continual political scandals of recent years: party funding;

response to charges of corruption and sleaze against his own government. By the mid-1990s the UK Conservative government was beset by scandals and allegations of corruption, particularly regarding the sex lives of ministers and MPs, and the pursuit of private interests through lobbying, culminating in the 'cash for questions' scandal. Yet even in the years prior to this there had been an increased concern among politicians and political commentators that standards of

of sexual exploits, so that the campaign might perhaps more appropriately have been labelled *Basic Instincts*.

Although such hijinks caught the public imagination, of much greater significance was the simultaneous emergence of a number of high-level financial scandals. The parliamentary private secretaries Graham Riddick and David Tredinnick were suspended in 1994 following allegations that they had been prepared to accept £1,000 to table parliamentary questions. A few months later, in October 1994, Neil Hamilton (minister for corporate affairs) and Tim Smith (minister for Northern Ireland) were alleged to have received payments and other benefits in connection with Mohamed Al-Fayed, the owner of Harrods, directly and through a lobby firm led by Ian Greer. An internal inquiry was undertaken by the cabinet secretary, during which both Greer and Hamilton issued writs. While Hamilton denied the allegations, Smith agreed that he had accepted money and resigned. Hamilton was forced to resign later the same day by the prime minister, who announced within days the establishment of the Committee on Standards in Public Life, to be chaired by Lord Nolan.

The CSPL's original terms of reference were:

to examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and to make any recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life. (CSPL, 1995, p.2)

For the purposes of the CSPL's terms of reference, 'holders of public office' referred to a number of categories, including ministers, civil servants and special advisers; members of Parliament and members of the European Parliament; members and senior officers of non-departmental public bodies and National Health Service bodies; non-ministerial office holders; members and senior officers of other bodies responsible for spending public money; and elected members and

Prime Minister Tony Blair added ... 'to review issues in relation to the funding of political parties, and to make recommendations as to any changes in present arrangements'.

lobbying; and, perhaps most famously, the MPs' expenses scandal. Others suggested that a new system be established, in which 'a college of regulators' could oversee enquiries in a more systematic and synthesised way (Riddell, 2013).

This article will briefly offer an overview of the CSPL, the reason it was created and the work it has achieved. It will then look at some recent criticisms, and will draw on the latest review to look at its possible future role. It will conclude by asking whether or not such a body would be useful to public life in New Zealand, and if so how it could be established.

Foundations and first steps

The CSPL is an advisory non-departmental public body (NDPB) sponsored by the Cabinet Office. It has ten members: one member each is nominated by the Conservative, Labour and Liberal-Democrat parties; the remaining seven members (including the chair) are independent. The CSPL was originally chaired by Lord Nolan, and was subsequently led by Lord Neill, Sir Nigel Wicks, Sir Alistair Graham and (until earlier this year) Sir Christopher Kelly. It was established in 1994 by Prime Minister John Major as a direct

conduct were not what they should be. The parliamentary Select Committee on Standards and Privileges, for example, produced three separate reports in 1991 and 1992 relating to a whole host of issues: MP conflicts of interest; select committee membership; parliamentary lobbying; and the registration and declaration of MPs' financial interests. Tellingly, some of these issues remain as pertinent as ever.

The select committee reports were regarded as of the utmost importance and were produced in order to deflect behaviour away from possibly criminal activities:

the intervention of the criminal law, the police, the law and the courts of law in matters so intimately related to the proceedings of the House would be a serious and in our view regrettable development, and would have profound constitutional implications. (Doig, 1996)

These concerns coincided, of course, with Major's doomed call for a return to family values, known as the 'Back to Basics' campaign, launched to considerable fanfare in October 1993. Almost immediately a number of (predominantly Conservative) MPs and junior ministers were exposed in a variety

senior officers of local authorities. On the appointment of its new chair, Lord Neil, in November 1997, Prime Minister Tony Blair added the following terms of reference: ‘to review issues in relation to the funding of political parties, and to make recommendations as to any changes in present arrangements’. It should be noted that, as with Major before him, Blair’s terms of reference were a direct response to the first scandal of his prime ministership: the alleviation of a ban on tobacco sponsorship for Formula One racing which had coincided with a £1 million donation from Bernie Ecclestone, the president and chief executive officer of Formula One Management, to New Labour prior to the 1997 election.

Since its inception, then, the CSPL has had powers to make recommendations for change, but it has never had powers of enforcement. It is, however, free to open an inquiry into any area within its terms of reference, but this must be agreed with the prime minister. The extent to which this may place a restriction on the CSPL’s independence is a matter that will be discussed below.

The work of the CSPL

Perhaps the most famous, and lasting, contribution of the committee remains the seven principles of public life (still commonly referred to as the Nolan principles after its first chair). These principles are still in use throughout the UK and consist of: selflessness; integrity; objectivity; accountability; openness; honesty; and leadership. In 2013 the descriptors for these values were slightly altered to refresh people’s understanding of the principles (see Table 1).

Concern remains, however, not least within the committee itself, that these principles, though widely understood, have still not been properly integrated into many public organisations. As the latest CSPL report suggests:

Ethical standards should be deeply embedded in governance and other organisational processes so that they become an integral part of ‘the way things are done around here’ and so that individual behaviour which does not meet those standards is challenged. (CSPL, 2013, p.8)

Table 1: The principles of public life 1995–2013

The 1995 principles of public life	The 2013 principles of public life
Selflessness – Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.	Selflessness – Holders of public office should act solely in terms of the public interest.
Integrity – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.	Integrity – Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
Objectivity – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.	Objectivity – Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
Accountability – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.	Accountability – Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
Openness – Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.	Openness – Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
Honesty – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.	Honesty – Holders of public office should be truthful.
Leadership – Holders of public office should promote and support these principles by leadership and example.	Leadership – Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

The committee has held 13 public inquiries (see Table 2), and has also conducted three public trust surveys, and provided numerous responses to other issues as and when they have arisen.

Without question, recommendations from the initial reports led to substantial reforms. From the 55 recommendations in the first report, for example, arose codes of conduct for ministers and MPs and the

creation of the offices of Parliamentary Commissioner for Standards and Privileges and Commissioner for Public Appointments, and the Select Committee on Standards in Public Life.

In terms of ministerial rules and procedures, the report made 20 recommendations which largely became enshrined in a new ministerial code of conduct. Until the code came into

Table 2: CSPL reports 1995–2013

Date	No	Title
May 1995	1	Standards in Public Life
May 1996	2	Local Public Spending Bodies
July 1997	3	Standards of Conduct of Local Government in England, Scotland and Wales
Nov 1997	4	Standards of Conduct in Executive NDPBs, NHS Trusts and Local Public Spending Bodies
Oct 1998	5	The Funding of Political Parties in the United Kingdom
Jan 2000	6	Reinforcing Standards: a review of the first report of the Committee on Standards in Public Life
Nov 2000	7	Standards of Conduct in the House of Lords
Nov 2002	8	Standards of Conduct in the House of Commons
Apr 2003	9	Defining the Boundaries within the Executive: ministers, special advisers and the permanent civil service
Jan 2005	10	Getting the Balance Right: implementing standards of conduct in public life
Jan 2007	11	Review of the Electoral Commission
Nov 2009	12	MPs' Expenses and Allowances: supporting Parliament, safeguarding the taxpayer
Jan 2013	13	Standards Matter: a review of best practice in promoting high standards of behaviour in public life

force in 1997, rules regarding ministers' conduct had been developed on an ad hoc basis over a 40-year period. The new code also established rules on conflicts of interest, gifts and hospitality, and post-ministerial business appointments, including establishing that ministers must now consult the Advisory Committee on Business Appointments if they wish to take up a paid business appointment within two years of leaving office. All of these rules and regulations were revisited in CSPL's sixth report, which amended the wording of the code to strengthen individual ministerial responsibility, even after a minister has accepted the advice of his or her permanent secretary.

The committee's first report also made 11 principal recommendations (alongside numerous sub-recommendations) regarding the standards of conduct of members of Parliament, including establishing a

code of conduct (which was adopted in July 1995); strengthening the registers of interest that were established in 1975; passing a resolution to prevent MPs acting as paid lobbyists; and, perhaps most significantly, setting up a new independent office to oversee parliamentary standards, the Parliamentary Commissioner.

One of the most significant of the CSPL's recommendations was the creation of an oversight and scrutiny body for non-departmental public bodies, the Office of Commissioner for Public Appointments (OCPA), which was formally established on 23 November 1995. The OCPA is independent of government, and is responsible for regulating, monitoring and reporting appointments of Ministers to public bodies. The 1995 CSPL report also recommended that non-departmental public bodies should keep a register of members' interests.

The third report, on local government, made 39 recommendations, almost all of which were included in the Local Government Act 2000. The report was conducted on the back of increased concern regarding local government by the late 1990s, after public confidence had been undermined by a small number of particularly high profile cases. A police investigation into Doncaster Metropolitan Council, for example, yielded 35 prosecutions in a number of key areas: expense/subsistence claim payments; tendering and contracts; planning (land deals and planning permission/bribery and corruption); and council partnerships with large building developers. The CSPL report found that although such cases were very severe, they were not widespread, and in general it concluded that local government had good standards of conduct. Its recommendations included the adoption of a statutory code of conduct (a voluntary code had been established by the Local Government Act 1974); the strengthening and increased transparency of local registers of interest; and the creation of local standards committees in every local authority, which were statutorily obliged to include non-elected members of the public on the committee. The Localism Act 2011, however, regrettably reversed almost the entire infrastructure, leading to an outcry within local government (Macaulay et al., 2012).

The CSPL's fifth report followed on from Tony Blair's expanded terms of reference and looked at the funding of political parties. As a result the report addressed wider issues than simply conduct. The report made 100 recommendations, which led to the Political Parties, Elections and Referendums Act 2000 and the creation of the Electoral Commission, established in November 2000. The Electoral Commission is independent of the executive and any political party, and is accountable directly to Parliament. Under the Political Parties, Elections and Referendums Act, donations of more than £200 made to a political party or candidate can only be accepted from a 'permissible donor'.¹ No ceiling was placed on the amount that can be donated, although

all political parties must publicly declare all donations of £5,000 or more accepted by party headquarters. Parties must also report any donations made to branches of £1,000 or more. The act effectively bans overseas donations, and anonymous donations, which used to be acceptable, must now be returned or placed in a central fund. It is a criminal offence to accept impermissible donations.

The seventh report looked at the House of Lords and made 23 recommendations, which led directly to the adoption of a House of Lords code of conduct in July 2001, to come into effect on 31 March 2002. The code of conduct enforces the 'no paid advocacy' rule. A member must not accept any financial reward for influence in the House of Lords; this includes voting on bills, voting on motions, asking questions (whether in the House or in a committee), or promotion of any other matter.

In many if not all sectors, therefore, the CSPL has proved invaluable in establishing an integrity infrastructure throughout the UK. Yet it has not, of course, put an end to ethical problems in public life; far from it. It could be reasonably argued that in the course of the last four years the UK has been hit by a succession of scandals that has outweighed anything since the days of sleaze. This situation begs a number of questions: why have such scandals continued, and in terms of magnitude perhaps even increased? And to what extent can the CSPL be held responsible?

More pain than gain?

The MPs' expenses scandal, the Levenson inquiry, the continuing issues over a lobbyists' register, numerous corruption allegations (both historical and recent) against the police, and the reluctance to deal with political party funding have all seemed to appear anew on the horizon since 2009. Yet the truth is that they had never gone away.

Mixed in with the CSPL's early successes were numerous setbacks. In its 2003 report on non-departmental public bodies, for example, the Public Administration Select Committee found that 15% of central government bodies were not yet regulated by the OCPA. The

select committee report also found that, contrary to the CSPL recommendations, many public bodies do not keep a register, and that existing registers were not easily available to the public. Finally, the parliamentary report demonstrated that appointments to over a hundred independent bodies were made directly by the prime minister, or at least made by the Queen on the prime minister's recommendations, which clearly called the independence of such bodies into question.

Party funding has been repeatedly on the agenda, most infamously in the party loans scandal of 2005, in which each of the

that the Parliamentary Commissioner for Standards has not proven to be an easy role: there have been substantial clashes between highly visible MPs and the commissioner ever since the role was introduced, not least of them being the vituperative exchange between Labour's Keith Vaz and the then commissioner Elizabeth Filkin.

Yet it has been the scandals since 2009 that have really rocked the ethical equilibrium of the UK, and to an extent may have dwarfed the work of the CSPL. The MPs' expenses scandal, which led to a number of MPs and lords being sent to prison, created a huge public outcry. The

The MPs' expenses scandal, the Levenson inquiry, the continuing issues over a lobbyists' register, numerous corruption allegations ... against the police, and the reluctance to deal with political party funding ... had never gone away.

three major political parties had exploited a loophole in the Political Parties, Elections and Referendums Act to allow anonymous donors to provide millions of pounds on the basis that the money was not a donation but a 'commercial loan'. By common acknowledgement this was a clear breach of the spirit (if not the letter) of the law, and each party apologised and promised to pay the money back after publicly identifying the lenders. The scandal led to the arrest of a number of people, including Lord Levy, and also resulted in Blair being questioned several times by the Metropolitan Police (although never under caution or arrest). No criminal charges were ever brought against anybody in connection with the matter.

Conflicts of interest continued to dog MPs and ministers from all parties, stretching from the nepotism of Conservative Derek Conway to the illicit donations garnered by Labour's Peter Hain. It has long been evident

Levenson inquiry has almost certainly garnered more media coverage than the entire work of the CSPL put together. The recent review of the committee, conducted by Peter Riddell for the Public Administration Select Committee, took some of these issues into account and looked for possible alternatives to it, including its abolition and replacement with a variety of possible reforms. The report concluded that, on the whole, the committee remains a valuable institution:

There is a continuing need for an ethics monitor/reviewer. The CSPL should remain as a non-departmental public body – the other models for delivering the role of an ethics monitor/reviewer that I examined as part of this review are not appropriate. But a fresh start is needed to make the committee more effective and to give it greater impact. (Riddell, 2013)

Among the recommendations the review made were to enhance the independence of the committee even further by strengthening its recruitment processes; that it become more strategic; and, perhaps most interestingly of all, that it behave more proactively: 'The Committee should be bolder in picking topics, looking ahead to emerging problems, rather than reacting to scandals and allegations of ethical abuses which have already emerged' (Riddell, 2013). Long-time observers of public life in the UK must be delighted to see such a view stated so plainly. It is hard to disagree that the CSPL's most significant reforms have come

It is of little surprise, then, that recent criticisms of the CSPL included the scope of its work: as Table 2 shows, there has been a tendency to revise previous reports rather than branching out into new areas. Moreover, the CSPL's output under the current coalition government has notably slowed further, and it is perhaps telling that this government is the first to significantly repeal reforms the committee had helped make, with the abolition of the local government standards framework under the Localism Act 2011 (Macaulay et al., 2012).

Where political will has been sluggish – such as over the move towards more

Elections and Referendums Act and the Electoral Commission. These are significant advances which should not be underestimated.

Yet a more long-term view is needed. The reactive culture of the political class in the UK is somewhat dispiriting, and it will be extremely beneficial in terms of public awareness and frank debate to be able to allow the CSPL to pick off higher-hanging fruit, rather than just the windfall that has already dropped to the ground.

Whether or not such an institution is required in New Zealand is, of course, open for debate. Without question the scale and intensity of political scandals here does not compare with that in the UK, and New Zealand has a justifiably famous reputation in terms of good governance and anti-corruption. But this does not mean that New Zealand lacks challenges. There are currently continuing concerns over what appears some to be deal-making with Sky City, and there has been a rising concern over the reduction in the public service's ability to provide 'free and frank advice' (Martin, 2012). Debates over a lobbyists' register are ongoing. The occasional eruptions inevitably lead to uncomfortable questions about whether there might be complacency about standards in public life and a shortage of independent bodies to monitor and anticipate.

Perhaps, also, it is propitious timing for considering the merits of a New Zealand version of the CSPL. Transparency International New Zealand is currently looking at the 'national integrity system' of the country, and there could be a good case to be made for the government to establishing a committee to look at strengthening the integrity of New Zealand using Transparency International's findings as a launch pad. Of course there is no reason to simply try and replicate the CSPL model, but at the very least it would be beneficial to take into account Peter Riddell's recommendations for a more forward-looking and independent body. Nevertheless, history shows that integrity and ethics do not stand still: the acceptable level of high standards of conduct at one point can doubtless deteriorate and corrode.

There are currently continuing concerns over what appears to be some to be deal-making with Sky City, and there has been a rising concern over the reduction in the public service's ability to provide 'free and frank advice' ...

about when it has reacted to a specific scandal. The CSPL's recommendations have undoubtedly had a significant impact on public life in terms of creating an ethics and integrity infrastructure, but its most far-reaching successes appear to have arisen from a melding of political will and public outrage, with the latter fuelling the former.

The CSPL was, of course, only created as a direct result of the public backlash against sleaze; Blair's expansion of the terms of reference is unlikely to have come about so soon had he not suffered the first big blow of his prime ministerial rein. It is interesting to note that when his successor, Gordon Brown, was facing open hostility through the expenses scandal he chose not to wait for the CSPL at all and put through the Parliamentary Standards Act 2009 in a matter of three to four weeks. In this case the CSPL was a full six months behind the legislation, and thus had already lost significant momentum in the debate.

substantial party funding reforms, which in July 2013 were postponed once again until after the 2015 elections – there has appeared to be little the CSPL can do other than note its disappointment. Yet perhaps this is in itself a crucial task; the simple existence of an independent body to remind both the public and political leaders that there is an ethos underpinning public service which is vital to its existence. More importantly, a more far-sighted, strategic outlook would undoubtedly strengthen the CSPL's hand even further.

A CSPL for New Zealand?

The CSPL has not, and could not, end scandals in British public life. Yet it has made a significant difference in creating an ethics infrastructure, and also by speaking truth to power. Arguably, it has even been helpful that many more recent scandals can be framed in light of previous CSPL recommendations: illicit donations, for example, are now always discussed in reference to the rules of Political Parties,

If a body such as the CSPL is needed, it is surely in this future-proofing capacity, to help stimulate debate and provide recommendations for action on issues before they become too problematic: to frame the ethics and integrity agenda instead of reacting to the most significant scandal. In its latest report the CSPL clearly sets out its concerns for the future in the UK. Some are old (party funding, lobbying); others are new (concerns over

the Localism Act). Many are broader and require a strategic view: the shifting governance arrangements and forms of service delivery that require ever more nuanced integrity management (CSPL, 2013). If New Zealand was to open a debate about the merits of such an institution, it should not be regarded as a reaction to current scandals but as a means by which the integrity agenda can evolve in a constructive and positive manner.

For New Zealand to continue to be seen as an international leader in this field – which it undoubtedly is – it may be time to grasp some emergent political nettles before their sting is felt too keenly.

¹ Permissible donors include any UK individual registered on an electoral register; a registered party; a company; a trade union; a building society; a limited liability partnership; a friendly, industrial or provident society; and an unincorporated association.

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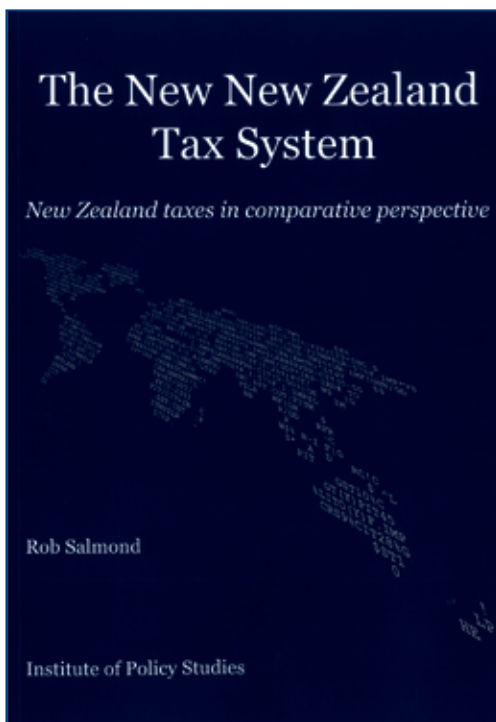
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Environmental Policy-Making in New Zealand, 1978-2013

This article examines the ways in which key environmental policies have been made in the past, and reflects on the present state of play with respect to these policies. The article draws on my experience with the Environmental Defence Society (EDS) since 1978 and the reflections are personal ones. The issues covered are: government agencies; climate change; oceans; freshwater; and resource management law. The objective of this discussion is to see if the past illuminates the present in any useful way.

Government agencies: then

In 1984 a Labour government was elected with a policy of restructuring the public service to create a Ministry for the Environment. The spokesperson on the environment for Labour, Michael Cullen, said in June 1983:

The time has arrived for the creation of a Ministry for the Environment,

a full-fledged Department of State. Such a Ministry would be responsible for advice and the co-ordination and implementation of environmental policy. It would incorporate within it a number of existing divisions of other departments most notably those relating to wildlife, water and soil conservation, native forests, national parks and reserves, other

forms of reserves and environmental health. (Cullen, 1983)

The environmental movement had joined together – not for the last time – and contended that we needed a focused ministry as an alternative to the ‘scattered green blobs’ approach whereby each government agency had its own environmental capacity. In *Environmental Administration in New Zealand: an alternative discussion paper*, released by six environmental groups in January 1985, it was noted that an era of ‘confrontation politics ... in which the formidable machinery of the State was used for single-minded promotion of natural resource exploitation’ had come to an end (Royal Forest and Bird Protection Society et al., 1985). The expectation was that a reorganised public service would promote the concept of sustainability as an alternative to the then discredited ‘Think Big’ era of the earlier 1980s.

What eventuated was that instead of a single large entity which had both policy and operational functions, the Labour government created a more tightly focused Ministry for the Environment, with operational functions largely delegated to territorial councils. At the time it was

Gary Taylor is the chairman of the Environmental Defence Society, with which he has been involved since the late 1970s. He is an environmental policy analyst and has had extensive governance experience as a director of public sector entities in Auckland.

described as being to the environment what Treasury is to the economy: a so-called control agency.

Labour also created a separate Department of Conservation to run the new protected lands, responsibility for which had been assimilated from the old Forest Service and Lands and Survey Department. The Wildlife Service was also folded into the department. The enabling act gave it special functions for the management of public resources: freshwater and the coastal environment. It was also given the role of being an advocate for nature on private land.

The department had a troubled start. During its first three years of life it had three different ministers and three directors-general. It went through a major restructuring in 1989, only two years after its establishment, as a result of which 188 staff were made redundant, a management tier was removed, and regional conservators now reported directly to the director-general. A minor review during 1993 and 1994 led to a further 38 staff being made redundant to save costs. Funding was so tight that by 1995 'vehicles were put up on blocks owing to lack of funds for running them' (Eriksen et al., 2004).

A defining point in the department's history was the Cave Creek disaster in April 1995, when a viewing platform in the Paparoa National Park collapsed, killing 14 people. The political fallout was significant, absorbing much management and staff attention, and the department went through another restructuring a year later. This reduced the number of conservancies from 14 to 13 and established three regional offices. Restructuring has been a regular feature of the department's life since.

The administrative reforms that created the Ministry for the Environment and the Department of Conservation in the late 1980s were the result of some effective lobbying by civil society. There were town hall meetings, the presence of environmental lobbyists in the corridors of Parliament, the production of discussion papers and pamphlets and the expending of a lot of energy. A groundswell of public support in the early 1980s led to Labour making reform commitments

prior to its election; though it was very much a reforming government. It is fair to say that, although it has been tinkered with over the years, the environmental framework that was created has remained intact: it has stood the test of time. To the best of my knowledge no credible political party is advocating fundamental structural change to either the Ministry for the Environment or the Department of Conservation.

government entity in direct competition with not-for-profit environmental NGOs. At the same time, the department has been progressively reducing its statutory advocacy role with respect to nature on private land. This also puts more pressure on the thin green line of environmental NGOs, and Fish and Game, to take up the slack, while also being asked to continue and even extend voluntary effort. So it is a double strike more competition for scarce sponsorship dollars while at the

A defining point in the [Department of Conservation's] history was the Cave Creek disaster in April 1995, when a viewing platform in the Paparoa National Park collapsed, killing 14 people.

Government agencies: now

Recently, however, further restructuring of the Department of Conservation has created two new divisions, an operating division (Conservation Services) and a partnerships division (Conservation Partnerships) (Department of Conservation, 2013). The partnerships division seems based on the assumption that there is a lot of voluntary and sponsorship support for the department in the corporate and non-government sectors, and that the department needs to be divided to best appropriate that support.

This has been a very difficult reform to understand. One can imagine that the department might have piloted such a scheme on a smaller scale; to embark on such an experiment seems risky when there are no guarantees that the expected level of sponsor and volunteer interest will manifest itself. It is also hard to say how the collapse of many conservancies into a less-devolved structure will work.

It means, too, that the department is now competing for sponsorship funding, as a government entity funded by tax revenues, with the third sector: groups such as EDS, WWF-New Zealand and Forest and Bird. Funding for the third sector is very limited too, and it seems unfair to have this hugely-resourced

same time more work is being pushed our way.

In contrast to the process that created the Department of Conservation, there was no external consultation about these changes. It was an initiative led by the director-general and conducted entirely in-house. Restructuring is, of course, a chief executive's prerogative. However, in this case it has serious implications for other parties, is a major restructuring which could have benefited from some external input, and relates to the conservation estate which the department manages with assistance from many NGOs. The department is now a different creature; and the new director-general may have his own views on further change. While change has been a part of the department since its creation, and refreshing the way things are done is valid, too much change is debilitating and inevitably sees a loss of knowledge and experience. The department needs a period of stability, but I question whether it has the right platform in place.

Climate change: then

Here I want to traverse the creation of New Zealand's policy responses to climate change, clearly the biggest environmental issue facing the planet today.

The Kyoto Protocol was negotiated in 1997, and the minister for the environment, Simon Upton, signed New Zealand up to it in 1998. It was ratified by the Helen Clark-led Labour government in December 2002. Ratification brought with it legally-binding obligations to reduce greenhouse gas emissions. During the first commitment period, 2008–12, New Zealand was required to reduce emissions to 1990 levels, or to top up any shortfall by way of the appropriate emission units.

While New Zealand was committing itself to being part of the international effort to address anthropogenic climate change, intensive work was going on within government to create an appropriate domestic policy response.

Internationally, we have clearly taken a significant reputational hit with our decision not to ratify Kyoto 2, the second phase of the Kyoto Protocol.

This focused on creating what was described as a fiscally-neutral carbon tax, aimed at putting an effective price signal into the economy that would stimulate carbon reductions. Some complementary policies would sit alongside that. In terms of the wider context of this work, it proved to be perhaps the most divisive environmental debate of our time. We saw extraordinarily venomous tirades from the far right, from climate change deniers, from contrarians and from normally reasonable newspaper leader writers. We even saw a tractor being driven up the steps of Parliament by a National MP, with Federated Farmers as a cheerleader.

In the end, the carbon tax proposal failed when the government changed in 2005 and the support parties of the new, Labour-led government rejected it. The new government then looked at an emissions trading scheme. The Labour minister for climate change issues, David Parker, set up a Climate Leaders Forum (which in many respects operated analogously to the later Land and Water Forum). This sought to give the minister

advice on domestic price signals for climate change in our economy from an eclectic range of stakeholders. The Labour government passed the Climate Change Response (Emissions Trading) Amendment Act 2008 into law just before it went out of office. The subsequent National-led government amended it, but kept the structure largely intact.

As noted earlier, climate change policy was an example of extreme polarisation of interests. But in the end Parliament at least agreed on a framework for a domestic carbon price, although there remain profound differences about how deeply that pricing signal should bite and who should pay. Interestingly, the environmental movement was somewhat divided on the relative merits of a carbon

tax versus an emissions trading scheme. That remains the case to the present.

Climate change: now

We have now moved out of the intensive conflict phase into one where the issue has become something of a ‘sleeper’. Federated Farmers has become more progressive and less climate-denying, which has contributed to the tonal shift in the domestic debate. And, of course, the science keeps moving on and the sceptics keep moving out. But at the same time – and I think this is partly because of a lack of effective communication from the scientific community in New Zealand, at least until recently – the climate change issue has virtually slipped from public view, notwithstanding that the northern hemisphere has tipped over the critical 400ppm CO₂ mark, and that New Zealand is expected to do so in the next few years (Ministry for the Environment et al., 2009).

One reason for the policy slumber is that the government is not particularly interested in adding what it sees as a burden to an already struggling economy.

Indeed, it is heading in exactly the opposite direction, promoting the expansion of oil, gas and coal production as a core part of its economic strategy. Rather than reducing our use of fossil fuels, we are increasing it. In addition, the climate change minister has been preoccupied with other matters. Trade interests and New Zealand’s United Nations ambitions trump climate change in our international positioning, and it is hard to see a minister who appears to be out of the country more than he is in it, and with such a big workload, taking a keen and active interest in pushing domestic policy along in a progressive way.

Internationally, we have clearly taken a significant reputational hit with our decision not to ratify Kyoto 2, the second phase of the Kyoto Protocol. Instead we have adopted a Clayton’s position, where we are going to set a target and abide by the Kyoto 2 rules but not join it. The minister states that this is because there is a need to bring developing countries into a new framework, a point with which those countries that have signed up to Kyoto 2 would agree. We seem to have taken a perverse stance which is destroying a lot of the goodwill New Zealand built up in the international negotiations over many years.

Domestically, the carbon price is still extremely weak and the emissions trading scheme is not working as envisaged. Key emitters continue to be shielded, and there are large investments in dairy conversions supported by government subsidies and investment support for irrigation. The Ministry for Primary Industries wants to double the value of primary sector exports by 2025. Foresters are giving up and potential carbon sinks are being converted to emissions-intensive dairying. So there is no effective price signal that is going to change behaviour, and any moral authority that New Zealand may have had internationally is gone.

Why did this happen? Part of the reason is that climate change is a long-lived, extraordinarily difficult and complex policy issue, and it takes a lot of resources to maintain effective engagement. While some in the environmental movement are actively involved in climate change work, for others it takes a back seat to what are

seen as more pressing and immediate matters. It is time, in fact, to hit the refresh key on this issue, and, to this end, in October leading environmental NGOs will be getting together to see how we can re-energise the climate change debate.

Oceans policy: then

I next want to look at oceans policy and the current interest in offshore oil, gas and mining.

Modern ocean policy had its inception in 1999, when officials were directed to investigate current arrangements for the management of New Zealand's marine environment. Shortly thereafter, the parliamentary commissioner for the environment released a report entitled *Setting Course for a Sustainable Future: the management of New Zealand's marine environment*, which identified a number of problems with the current system for managing New Zealand's oceans, and recommended the establishment of a Coastal and Oceans Task Force to develop a strategy for future sustainable management (Parliamentary Commissioner for the Environment, 1999). In July 2000 Cabinet endorsed a proposal to prepare an oceans policy for New Zealand, and in March 2001 a ministerial advisory committee was appointed to manage and lead the process of 'identifying the shared vision, goals and objectives of New Zealanders for managing New Zealand's oceans'.

Between June and August 2001 the committee undertook an extensive consultation process. A stocktake of legislation having an impact on oceans was completed in December 2002 and identified a number of weaknesses in the overall oceans management system. These included the absence of an overriding goal; inconsistent decision-making structures; opportunities for participation and management of like activities; ecologically arbitrary spatial management units; and a general lack of integrated management (Willis, Gunn and Hill, 2002).

The process came to a halt in July 2003 as a result of the controversy over Māori ownership of the foreshore and seabed. However, a work stream continued to focus on achieving better management

of the environmental effects of activities within the exclusive economic zone (EEZ). In June 2005 the Ministry for the Environment released a report, *Offshore Options*, which canvassed alternatives (Ministry for the Environment, 2005). It recommended that a voluntary approach be adopted in the short term, but that overlay regulation, modelled on Australia's Environmental Protection and Biodiversity Conservation Act 1999, be prepared in the longer term.

In August 2007 the ministry released a more substantial discussion paper on the issue which took a different approach (Ministry for the Environment, 2007). This ultimately resulted in Cabinet approval of proposals for an Exclusive Economic Zone (Environmental Effects) Act (EEZ

Act). Drafting of the bill commenced in 2008; however, this work was also put on hold when the government changed after the November 2008 general election.

The BP Deepwater Horizon disaster in the Gulf of Mexico in April 2010 brought to the fore the dangers of New Zealand's lax environmental regulation within its exclusive economic zone. When announcing the expansion of the newly-established Environmental Protection Authority (EPA) in May 2010, the minister for the environment indicated that the EPA could potentially undertake a consenting role under proposed EEZ legislation.

Oceans policy: now

The ocean is the last frontier. It has been, until quite recently, the wild west in terms of environmental regulation: there has been no effective environmental control over activities in our seas. New Zealand's ocean territory is the fourth largest in the world, which is extraordinary for a country of our size and population. While

there is a lot of interest in resources out there, how real that interest proves to be remains to be seen. Some mining proposals are advancing through the consenting process: for example, an application by Chatham Rise Phosphate is expected to be notified shortly. And, of course, there is a considerable interest in oil and gas exploration.

EDS saw some years ago that there was growing pressure on our oceans resource and that someone needed to be doing some serious thinking about it. It has therefore been the focus of a substantial portion of our policy work. Initially we looked at the need for an environmental protection authority. We saw that an EPA could evolve into an oceans regulator, and produced a paper that looked at such

The BP Deepwater Horizon disaster in the Gulf of Mexico in April 2010 brought to the fore the dangers of New Zealand's lax environmental regulation within its exclusive economic zone.

authorities around the world. It was, I think, influential in the overall outcome, particularly in the establishment of the EPA as an independent Crown entity.

The EPA is now the oceans regulator under the EEZ Act. The Act saw some spirited domestic debate about what it should contain and what its purpose and principles should be. Getting the early, unacceptable draft fixed took considerable effort from the environmental NGO community. Ultimately the act was passed in a reasonably acceptable form. There remains, however, an issue regarding the way the EPA boards of inquiry are appointed: it is a political process and is therefore open to stacking of panels with people with an axe to grind or with political affiliations, rather than people selected purely on the basis of their expertise and objectivity. This is in stark contrast to the Environment Court, with its independent status and expertise.

The Act and associated regulations came into force on 28 June 2013. The regulations identify which activities have

‘permitted activity’ status under the act and the conditions for undertaking those activities without a marine consent. Generally, the regulations set out requirements for pre-activity notification, consultation with Māori and post-activity reporting to the EPA. The regulations also require operators wishing to carry out certain activities to undertake environmental assessments, and to have in place contingency plans in case something goes wrong.

The minister has been extensively lobbied by the petroleum sector, which is seeking to gain short-term advantage from having a government supportive of resource exploitation, over achieving longer-term stability and policy certainty. A second round of consultation is to

the decision-making process, is of real concern. It is an issue that will burgeon into a much bigger and more public one in the second half of this year.

Marine reserves: then

New Zealand was one of the first countries to consider the development of legislation that would provide for the spatial protection of the marine environment. In 1965 Professor Chapman, chairman of the University of Auckland’s Leigh Marine Laboratory Committee, wrote to the government Marine Department to suggest that a no-take marine reserve in front of the laboratory be established. He argued that this would enable the area to be restored to its natural state, thus improving the effectiveness of scientific

Government and Environment Select Committee. The bill aimed to resolve what were seen as the key problems with the Marine Reserves Act 1971, and which rendered it inconsistent with current government policy, in particular the government’s biodiversity strategy. The act also only applied to the territorial sea. Progress of the bill through Parliament then stalled for a decade, however, and the creation of new marine reserves slowed to a trickle.

Marine reserves: now

Earlier this year the minister of conservation created a new marine reserve in Akaroa Harbour after more than a decade in process. There the obstacle was a difference of opinion between local iwi and fishers, and the Akaroa Harbour Marine Protection Society. Initially the minister declined the application. EDS provided legal assistance to the society, and the decision was overturned in the High Court. This was an instance where litigation played a critical role in policy-making. It demonstrates the importance of having appeal and judicial review entitlements to keep errant ministers in check. It was also a poor process, as this application and many others before it were mired in conflict and controversy. It was the last application of its kind in the pipeline.

The difficulties with implementing marine reserves led the government to announce that it would reform the Marine Reserves Act by broadening its purpose and modernising its community consultation processes. More recently the minister has indicated to us that he will be putting that review of the Marine Reserves Act on hold. Instead, Minister Nick Smith intends to have a wider look at protected marine areas across our oceans resource extending beyond the 12-nautical-mile limits.

I believe that is the right way forward. Tinkering with a 1971 piece of legislation will be inadequate to meet the needs of the 21st century. The 2002 bill is too limited as well as dated, and was discharged from Parliament earlier this year. We now need a process that looks at some of the exciting conservation opportunities on offer in our exclusive economic zone and

The [Marine Reserves Act] was brought about by intensive lobbying from the scientific community, rather than as a result of government having a specific desire to implement measures for marine protection ...

commence shortly, with the minister, Amy Adams, having indicated that she is going to amend the EEZ Act to create a new category called ‘non-notified discretionary’ for oil and gas exploration drilling. That effectively means that the EPA will process consents for exploration wells in-house with no formal public comment. When one considers that the Deepwater Horizons well in the Gulf of Mexico was an exploration well, and the extent of damage that can occur if something goes wrong, it seems an extraordinary proposition to exclude the public, minimise transparency, and give an industry group operating in our deep oceans a pass-through process in which there is no rigour, no ability to cross-examine applicants as to their reputation and experience, and no opportunity for the calling of expert evidence to discuss the environmental effects of what is proposed on marine mammals or other valued oceans ecosystems. All of that, coupled with politicisation of

study there (Ballantine, 1991). Six years later, in 1971, the Marine Department released a draft bill, and the Marine Reserves Act was subsequently passed. The University of Auckland then made an application for the establishment of a marine reserve in front of the Leigh Laboratory. This first application was rejected, another submitted in 1973, and finally accepted in 1975, making the Cape Rodney–Okakari Point marine reserve the first to be established in New Zealand. It was also one of the first no-take marine reserves to be established under specially-designed legislation anywhere in the world. The act was brought about by intensive lobbying from the scientific community, rather than as a result of government having a specific desire to implement measures for marine protection (Mulcahy and Peart, 2010).

More recently the Marine Reserves Bill was introduced into Parliament on 7 June 2002, passed its first reading in October that year and was referred to the Local

extended continental shelf. This exercise should be part of a wider national conversation about oceans reform. The successful approach on freshwater policy offers a useful indication of how getting competing interests into a room can work. I believe that such a conversation needs to look across the entire marine field, including aquaculture, fishing, recreation, minerals, shipping, conservation and pollution. EDS is scoping out such an exercise with both government and within civil society.

The Auckland and Waikato councils have approved a marine spatial planning exercise for the Hauraki Gulf, the most intensively used part of our marine environment. This will follow a collaborative approach and will be a useful pilot for a wider national exercise.

Freshwater: then

In 1980 leaders of the environmental movement of the time felt that there was a need to be able to take a conservation initiative to protect rivers, instead of being limited to reacting to development proposals, especially for hydro generation, irrigation and aluminium smelters. The idea was to amend the Water and Soil Conservation Act 1967 to enable water conservation orders to be created to protect 'wild and scenic rivers'. The proposal had strong backing from the minister for the environment, Ian Shearer, and some other National MPs, including Paul East, Doug Kidd and Ian McLean. Ultimately it also had support from Energy Minister Bill Birch and Prime Minister Rob Muldoon.

I remember Bryce Johnson, from the acclimatisation societies, Guy Salmon and others actively lobbying around the Beehive for the creation of this new initiative. Some of us used the minister for the environment's office as an informal campaign headquarters for weeks on end and lobbied across the House to get the support that was required to bring that bill to fruition. (How things have changed!)

The Water and Soil Amendment Act 1981 was passed and the first water conservation order, for the Motu River, was approved early in that decade. Those amendments were carried over into the Resource Management Act in 1991, and

remain there. Today there are 15 water conservation orders, most of them as a result of acclimatisation societies and Fish and Game initiatives.

The wild and scenic rivers law was enacted after some old-fashioned lobbying, gaining support of key parliamentarians, and a supportive public campaign which garnered widespread popular endorsement. It is a conservation initiative that has stood the test of time.

Freshwater: now

The broader issue of freshwater management has been a challenge for policy-makers for some years. A Sustainable Water Programme of Action led by the Ministry for the Environment between 2003 and 2008 failed. Then, in 2008 at

green side thinking that we had been shafted. But we got over ourselves.

The 156 Land and Water Forum recommendations have now been passed on to the government with a strict caveat, supported by all, that it should not 'cherry pick'. What is required is that the government adopts the Land and Water Forum recommendations as a package. In its announcement of the first stages of reform it appeared that some cherry-picking was, in fact, in prospect. In more recent times wiser heads are prevailing and the government has come back more directly to the forum's recommendations. Crucially, the government's discussion paper postulated a weakening of water conservation orders. There has since been some retreat from that position,

The Land and Water Forum brought all stakeholders who had an interest in freshwater, including, crucially, iwi leaders, into the room.

EDS's annual conference, a group of diverse interests together decided that we had had enough of litigating our differences in the Environment Court. Parties as diverse as Fish and Game, Forest and Bird, EDS, Federated Farmers and Fonterra signed a communiqué which led to the creation of what was initially called the Sustainable Land Use Forum. This initiative secured the National-led government's support and the Land and Water Forum was established.

The Land and Water Forum brought all stakeholders who had an interest in freshwater, including, crucially, iwi leaders, into the room. After three years of an interesting, challenging and dynamic process, it had arrived at an agreed set of recommendations for freshwater reform, contained in three successive reports. Challenges during the process included the government creating a national policy statement on freshwater management which was a considerably weakened version of that recommended by its board of inquiry. That threatened to destroy the forum, with many on the

with 'ambiguity' in the document being cited. Cabinet minutes show, however, that in the longer term the prospect of weakening water conservation orders remains. Given the history I have outlined and the fact that those orders are the only way we can take conservation initiatives for freshwater, any weakening will lead to very robust debate.

The Land and Water Forum was a collaborative process. Collaboration means getting everybody to change their minds. It necessarily involves the creation of a consensus, which means everybody's position or opening gambit has to shift and that occurs through a process of dialogue, through understanding the background science more thoroughly, through understanding the competing pressures on the resource, and the need to be practical but at the same time have a trajectory that is going the right way. But having arrived in a relatively good place itself, the forum is now dependent on government for implementation, and that will take some years. The first tranche of decisions has been announced and is acceptable. There is still the risk,

though, that government will depart from the forum consensus, invoke a weak national objectives framework or make fundamental changes to the underlying legislation.

Resource management law: then

The second major environmental reform that occurred during the late 1980s was the creation of the Resource Management Act 1991 (RMA). This collapsed 78 existing statutes and regulations into a single omnibus piece of legislation governing the use of all air, land and water in New Zealand. It was then and is now world-leading law.

It is worth first reflecting on a precursor to the act, the National Development Act 1979. That act allowed

- (iii) The major expansion of exports or of import substitution; or
- (iv) The development of significant opportunities for employment; and
- (b) That it is essential a decision be made promptly as to whether or not the consents sought should be granted. (Section 3(3))

The Act required an environmental impact report to be prepared and audited. Strict time constraints were placed on the process. After the report was received, public notice was given of the inquiry and a wide range of parties were able to be heard. Under section 9 the Planning Tribunal had to consider the same matters and give these the same weight as a consent authority if the

over the process. He set up an advisory group whose members included Tony Randerson, now a judge in the Court of Appeal, and Guy Salmon: the group was, if you like, the equivalent of what we would call a technical advisory group today. The review panel recommended some changes, which were largely adopted by the government. In his third reading speech to the House, Simon Upton made the following observations:

The Bill provides us with a framework to establish objectives with a biophysical bottom line that must not be compromised. Provided that those objectives are met, what people get up to is their affair. As such, the Bill provides a more liberal regime for developers. On the other hand, activities will have to be compatible with hard environmental standards and society will set those standards. Clause 4 sets out the biophysical bottom line. Clauses 5 and 6 set out further specific matters that expand on the issues. The Bill has a clear and rigorous procedure for the setting of environmental standards – and the debate will be concentrating on just where we set those standards. (Upton, 1991)

The act was passed with bipartisan support from both National and Labour and came into force in 1991.

The Resource Management Act came about through a fairly conventional process. Environmental groups had been active in lobbying for its creation, and it was an idea that had merit and whose time had come. It reflected modern international thinking about sustainability and embodied the environmental values emerging then in the wider community. It also embraced a move away from centralised, override planning, most noticeably evident in the National Development Act. It reached across the political spectrum and got bipartisan support in our pre-MMP Parliament. It has retained that support until very recently.

Resource management law: now

The poor old RMA has gone through reform after reform, and I must say, as a user of it, that it is difficult to navigate

The Resource Management Act ... got bipartisan support in our pre-MMP Parliament. It has retained that support until recently.

for the bypassing of planning procedures under the Town and Country Planning Act 1977. The long title of the National Development Act read:

An Act to provide for the prompt consideration of proposed works of national importance by the direct referral of the proposals to the Planning Tribunal for an inquiry and report and by providing for such works to receive the necessary consents.

The Act applied to works which were considered by the Governor-General in Council to be 'a major work that was likely to be in the national interest', and where it was considered:

- (a) That the work is essential for the purposes of –
 - (i) The orderly production, development, or utilisation of New Zealand's resources; or
 - (ii) The development of New Zealand's self sufficiency in energy (other than atomic energy as defined in section 2 of the Atomic Energy Act 1945); or

applicant had applied for consents in the normal way. After the Planning Tribunal conducted the public inquiry and released its recommendations, the Governor-General in Council could declare work to be of national importance and grant consents (with or without conditions). The governor-general in council only had to take into account the report and recommendation of the Planning Tribunal. There were restrictions on appeal rights – they had to be taken in the Court of Appeal and there was no appeal available from that decision.

The National Development Act, which was repealed by the Labour government in 1986, sought to fast-track major energy-related projects. It has obvious parallels today.

The Resource Management Act was initially the brainchild of the 1987 Labour government's minister for the environment, Geoffrey Palmer. He produced a 314-page bill which was introduced into Parliament in 1988. When the government changed in 1990, the new minister for the environment in the National government, Simon Upton, took

and is hardly a model of statutory drafting. But it does not deserve all the bad press it gets, which is often based on exaggeration, self-serving commentary and misrepresentation.

There are four current reforms that I want to address.

Resource Management Reform Bill

The government introduced the Resource Management Reform Bill in 2012. This bill, among a number of other changes, creates a fast-track process for the Auckland Unitary Plan, makes changes to section 32 of the RMA, and seeks to further restrict the ability of councils to protect trees in urban areas by overriding a 2011 Environment Court decision. At the time of writing the select committee has reported on the bill and it is awaiting its committee stages in the Parliament. Few changes were made and there was no agreement between parties on the controversial elements. The restrictions on tree protection are particularly controversial. The amendments mean that protected trees must be identified in a schedule listing the land they are located on and describing the tree or group of trees. The amendments appear to be intended to make tree protection more difficult so as to discourage councils from tree protection. It is creating bureaucratic obstacles rather than simplifying processes.

Technical advisory group on sections 6 and 7

The next round of RMA reforms began with the minister for the environment appointing a technical advisory group in October 2011 to review sections 6 and 7 of the RMA. The group's terms of reference were to:

provide independent advice to the Minister for the Environment on any changes needed to sections 6 and 7 of the RMA to improve the functioning of the RMA relative to: 20 years' practical experience of its operation; the Government's environmental and economic objectives; and the broader second phase of resource management reforms. (Minister for the Environment's Resource Management Act 1991 Principles Technical Advisory Group, 2012)

The technical advisory group report was released July 2012 and made a number of controversial recommendations. The key recommendations were:

1. combining sections 6 and 7 and removing the existing hierarchy between the two sets of principles;
2. removing directive terms such as 'protect' and 'maintain';
3. removing a number of existing principles, including 'maintaining and enhancing amenity values';
4. adding a number of principles relating to the benefits to be derived from the use and development of resources, infrastructure, and the built environment and urban expansion;
5. adding a new section addressing

matters of 'process', including a requirement for decision-makers to 'achieve an appropriate balance between public and private interests in the use of land'. (Ibid.)

Prior to the release of the government's technical advisory group report, EDS convened its own advisory group, which included a more experienced multi-disciplinary team of resource management professionals, including a former High Court Judge, with the same terms of reference as the minister's. The EDS technical advisory group came to substantially different conclusions. It considered that providing for economic or social outcomes in section 6 was undesirable because it would increase the likelihood of conflict between section 6 matters, introduce uncertainty and lead to more litigation. It would also run counter to the approach of focusing on the effects of activities on the environment, rather than attempting to direct or provide for certain economic or

social outcomes (Environmental Defence Society Technical Advisory Group, 2012).

The government released its proposals for the stage two RMA reforms in its discussion document *Improving Our Resource Management System* in February this year (Ministry for the Environment, 2013). It received about 14,000 submissions. There are a number of proposals in the discussion document which are likely to improve our resource management system, including a national template for resource management plans, standard definitions, and more mandatory timelines for processing resource consents. However, some of the proposals are deeply troubling and if implemented are likely to lower environmental standards across New Zealand. Of most concern are:

There are a number of proposals in the discussion document which are likely to improve our resource management system, including ... more mandatory timelines for processing resource consents.

- The proposed changes to the principles of the RMA (contained in sections 6 and 7), including:
 - (a) removing the hierarchy between section 6 (matters of national importance) and section 7 (other matters);
 - (b) deleting core environmental principles, including the 'maintenance and enhancement of amenity values', 'intrinsic values of ecosystems' and 'the ethic of stewardship';
 - (c) adding new development principles, including 'the efficient provision of infrastructure'.
- Proposals to increase the powers of ministers while reducing the rights of communities and the role of the Environment Court, including:
 - (a) granting ministers greater powers to intervene in plan-making processes, including powers to specify the outcome of a plan-making process and directly amend an operative plan through regulations;

- (b) introducing limitations on the scope of submissions and appeal rights;
- (c) reducing the role of the Environment Court by:
 - changing appeals from *de novo* (considered afresh) to a rehearing (considered on the basis of evidence presented at the council hearing);
 - removing merit appeal rights where a single resource management plan is produced.

Consultation on the RMA discussion document has now closed. A summary report is anticipated imminently and we expect a bill to be released in the coming months.

The RMA reforms ... are examples that demonstrate that the government is becoming more radical and is willing to ride rough-shod over due process.

The Housing Accords and Special Housing Areas Bill

Along with the troubling RMA reforms, we also have a proposed RMA override bill. The Housing Accords and Special Housing Areas Bill was introduced largely in response to the perceived housing crisis in Auckland. The purpose of this bill is 'to enhance housing affordability by facilitating an increase in land and housing supply in certain regions or districts ... identified as having housing supply and affordability issues'. It provides for the government to enter into a housing accord with councils and then to establish special housing areas in which planning provisions will be weakened to enable resource consents to be obtained.

We have real concerns with this:

- Once a special housing area is identified, there will be an expectation that development will be allowed; however, the bill does not put in place any requirements to consider environmental effects (or social or economic effects) during the identification of special housing areas.

- When a resource consent is considered in a special housing area, the bill does not require application of the RMA or plans. Instead, the decision-maker only has to have regard to these matters, and can disregard them in the name of affordable housing. Public participation is highly restricted. This can only lead to poor social and environmental outcomes – or slums. In addition, the bill allows the government to create special housing areas and undertake resource consenting on its own where it cannot reach a housing accord with a council. The bill also limits appeal rights considerably.

The New Zealand Public Health and Disability Amendment Act 2013

I want now to step outside environmental law for a moment to highlight where the trend might be going with respect to public access to the law. The New Zealand Public Health and Disability Amendment Act 2013 amends the New Zealand Public Health and Disability Act 2000, which provides for the public funding and provision of health services and disability support services. The amendment is a response to a Court of Appeal decision that the policy of not paying family carers to provide support services to disabled family members constituted unjustifiable discrimination on the basis of family status. This legislation was rushed through Parliament: it was passed the day it was introduced. There was no select committee process for the public to participate in, which completely ignored proper process in a situation where there was no need for such extreme haste.

Significantly, the legislation contains provisions which limit the rights of people to seek redress when they believe that certain rights set out in the Human Rights Act 1993 and the Bill of Rights Act

1990 (freedom from discrimination on the basis of marital status, disability, age or family status) have been breached by the act or decisions made under it.

In respect of such allegations, 'no complaint based in whole or in part on a specified allegation may be made to the Human Rights Commission, and no proceedings based in whole or in part on a specified allegation may be commenced or continued in any court or tribunal' (section 70(E)(2) as amended). This is an *ouster* clause, which restricts the ability of persons to test the legality of decisions in the courts, including by judicial review. It is constitutionally obnoxious and the Legislation Advisory Committee has emphasised that such clauses should be used only in exceptional cases (Legislation Advisory Committee, 2001, chapter 13).

The overall trend with RMA and related reforms is one of weakening the core legislation, fast-tracking consenting and plan-making, limiting rights of public participation and legal standing, reducing the role of the Environment Court, replacing it with politically-appointed commissioners in many instances, limiting rights of appeal, and picking winners (mostly from the resources sectors). If this sounds like the national development era revisited by stealth, then it is. We are slowly seeing a usurpation of decision-making powers by ministers, a commensurate reduction in the role of the courts, a reversing of the doctrine of subsidiarity and an overall lowering of environmental standards.

The RMA reforms, including the Housing Accord Bill (and the Public Health and Disability Amendment Act) are examples that demonstrate that the government is becoming more radical and is willing to ride rough-shod over due process. All this has big environmental implications. It is absolutely true that in the resource management world we are seeing a revisiting of the 'Think Big' era, with the same emphasis on resource extraction and fast-tracking approval processes in constitutionally questionable, if not obnoxious, ways.

Conclusions

There is a wide range of ways in which environmental policy and law has been made

over the past 30 years. They include bipartisan agreements between political parties (these days we would say multi-partisan agreements); old-fashioned lobbying with town hall meetings, pamphlets and pressuring individual MPs towards a point of view; working creatively with like-minded parliamentarians within the parliamentary precinct to build agreement with their colleagues on initiatives they are prepared to support; preparing, well in advance of the issue becoming contemporary, well-thought-out policy papers that influence the way that policy and law is made; strategic litigation; and using advisory groups to assist ministers with advice on how to proceed.

There is another way to make good policy: through collaboration. This concept is relatively new to New Zealand, having been imported from Scandinavia by Guy Salmon. It had its first run in the Land and Water Forum, but has morphed into wider use: the Mackenzie Country Shared Vision Forum; Auckland Council's Transport Funding Group; and the proposed Hauraki Gulf Marine Spatial Planning Forum. In collaborative processes, if all the stakeholders agree on

a reform prescription they are much more likely to get cross-party support, which is what has largely happened with freshwater. Policy is also likely to be more enduring over time. This is the opposite of short-term opportunistic policy gaming. The oil and gas sector is engaging in that. It is trying to get the easiest set of regulations it can to enable its activities over the next few years. The upshot will be a massive lurch in the opposite direction when the government changes, as they do.

We will also see a swift and determined change of direction on climate change when the government changes. Sleeping on something that important is not a durable position for a country to take. If ministers are going to insist on changes to part 2 of the RMA, which many experts, including Sir Geoffrey Palmer, say will lower environmental standards, then there will be a repeal of those provisions when the government changes. But constant change is destabilising and creates investment uncertainty. It is not good to have extreme policy lurches.

So what about a collaborative approach towards RMA reform? What about a collaborative approach around

the oil and gas regulations, where we actually get to sit down with the sector and the government and its advisors and talk about what can work and what does not work for everybody, rather than proceeding on a deep suspicion that multinationals are calling the shots for short-term advantage? What about a collaborative process around the really big environmental policy issue which is still before us – namely, oceans management?

My contention is that some of these big environmental policy decisions are too big to play politics with; that it is time for civil society to undertake more of the kind of collaborative processes that we have seen emerging. We should take more of the initiative around our precious environment away from direct government control and initiate civil society-led reform. We should see government as a servant rather than a master and initiate more Land and Water Forum-type exercises. In the meantime, the government needs to moderate its extremist incursions on the environment.

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Michael Pickford

State Highway Investment in New Zealand the decline and fall of economic efficiency

A decade ago, the benefit-cost ratio (BCR) – the economic measure of efficiency in investment spending – was the most important criterion used by the predecessors of the New Zealand Transport Agency (NZTA) to determine which land transport projects to fund. However, from 2003 there was a gradual shift away from a reliance on the BCR, and since 2009 it has been only one of three criteria used. In this article I examine how this change has come about, and demonstrate that it has resulted in the funding of a mix of state highway projects that is far from being economically efficient. Average BCRs have dropped so much that the estimated benefit from the allocated funding is far smaller than it would have been had the reliance on the BCR been retained.

This issue is an important one. The NZTA is responsible for spending about \$3 billion each year on land transport projects. Recently, about half of the funding has been allocated for the maintenance, improvement and building of state highways.¹ Over the next ten years the funding is projected to increase,² with a substantial proportion of this larger amount to be devoted to the government's roads of national significance programme. The NZTA's approach to project selection is therefore of great importance, both in determining the economic efficiency of its funding of road infrastructure investments, and for the impact on the wider economy.

The article is organised as follows. The first section looks briefly at the institutional and statutory background. This is followed by a brief description of how social cost-benefit analysis is used to evaluate investments in road improvement projects. Section three reviews the recent pattern of spending of the NZTA on state highway projects, and shows that the average BCR generated has declined sharply. Section four shows that changes in the NZTA's decision criteria are responsible. The impact of

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these changes on economic efficiency is then considered. The final section considers the implications for the NZTA's investment in the roads of national significance programme.

Institutional and statutory background

There were two principal forerunners of the NZTA: Transfund New Zealand, which funded land transport infrastructure services; and Transit New Zealand, which provided these services. This separation aimed to avoid the potential for a conflict of interest from having both roles performed by a single organisation.

Transfund's objective was to 'allocate resources to achieve a safe and efficient roading system' (Heggie, 1999, pp.5-7). The government set the charges that determined the inflow of funds to the road fund, but only Transfund could determine how the funds were spent. The National Roding Programme was built up from bids submitted by Transit New Zealand for state highways and by local territorial authorities for local roads. The bids were subjected to checks on the reasonableness of their supporting BCR calculations, and then projects were ranked. Maintenance projects were given the highest priority, with other projects being ranked in order until the available funds were exhausted. Given limits in the funding relative to project demand, a cut-off BCR of four was set by Transfund for projects to be accepted.

Recent changes in the approach started with the introduction of the Land Transport Management Act 2003 (LTMA). This act widened the range of objectives to be considered in assessing a proposed land transport project for funding. The aim was to achieve an affordable, integrated, safe, responsive and sustainable land transport system.³ In 2004 this led the NZTA to add two additional criteria to the 'economic efficiency' factor, namely 'seriousness and urgency' and 'effectiveness', a change which was justified as follows:

Before the current assessment framework was introduced in 2004, the government's transport funding agency used economic efficiency measures as the primary tool for

prioritising projects. The addition of the two other assessment factors was designed to gain more information about an activity and to reflect the multiple objectives for transport investment introduced with the LTMA 2003. (Ministry of Transport/ NZTA/Local Government New Zealand, 2008, p.56)

Later, the 2008 amendment to the LTMA merged the former 'funder' and 'provider' agencies to form the NZTA,⁴ and introduced the requirement that the NZTA must ensure that the National Land Transport Programme 'gives effect

costs of a road project typically include design, property acquisition, construction, and annual operating and maintenance. Some other social costs, such as possible adverse impacts on noise and pollution levels, are typically not included, although in principle they should be. The benefits from road investment projects usually include travel time savings, travel time reliability, vehicle operating cost savings, avoidance of accident costs and savings in vehicle emissions. Travel time savings usually make up around three-quarters of the benefits. An 8% real rate (a relatively high rate by international standards), as prescribed by the Treasury (2008, p.3) for

Under the NZTA's internal procedures, a minimum requirement for a project to be funded is that it has a [benefit-cost ratio] of at least one.

to the GPS', the new government policy statement on land transport. The GPS, to be issued every three years, is intended to 'guide the Agency and land transport sector on the outcomes and objectives, and the short- to medium-term impacts, that the Crown wishes to achieve'. Since 2009 the government, through the minister of transport, has had a strong influence over the NZTA's activities by setting high-level funding and investment priorities.

Cost-benefit analysis of road projects

Like its counterparts overseas, the NZTA uses social cost-benefit analysis (SCBA) to assess the impact on economic efficiency of investment projects. It has developed an *Economic Evaluation Manual* (EEM) (NZTA, 2010), and requires that projects to be funded from the national land transport fund and costing more than \$250,000 must be subject to an SCBA using the framework in the EEM.

In brief, an SCBA estimates the annual streams of future costs and benefits that would flow from a road improvement (or other land transport) investment project, compared to a 'do-minimum' counterfactual of what would happen without the project, thereby allowing an assessment of its economic efficiency. The

infrastructure projects, is used to discount costs and benefits to their present values (PVs).

The BCR is the efficiency criterion used by the NZTA to assist it in determining which land transport projects to undertake, and which to delay or discard (NZTA, 2010, p.1.2). The BCR is the ratio of the present values of the benefits to the costs. The use of the BCR (rather than alternative measures, such as the net present value (NPV)) reflects the funding constraint under which the NZTA operates. Maximising economic efficiency means extracting the maximum benefit from the limited budget, and this, basically, is accomplished by ranking projects according to their BCRs and accepting those with the highest BCRs until the funding is exhausted.⁵

Under the NZTA's internal procedures, a minimum requirement for a project to be funded is that it has a BCR of at least one. However, this stance should be (but in practice is not) subject to the qualification concerning opportunity cost. If an agency like the NZTA is capital-constrained, so that alternative uses of the funds exist, and the agency seeks to maximise economic efficiency (as arguably it should), then a BCR exceeding

Table 1: Breakdown of costs of approved state highway projects by BCR

1(a)

BCR	2005/06	2006/07	2007/08	2008/09	2009/10
High	\$88,037,900	\$273,010,700	\$507,159,600	\$94,495,300	\$21,248,200
Medium	\$78,682,200	\$205,620,700	\$49,155,000	\$841,507,200	\$206,089,468
Low	\$0	\$37,169,100	\$104,221,800	\$391,738,000	\$484,421,500
TOTAL	\$166,720,100	\$515,800,500	\$660,536,400	\$1,327,740,500	\$711,759,168

1(b)

BCR	2005/06	2006/07	2007/08	2008/09	2009/10
High	53%	53%	77%	7%	3%
Medium	47%	40%	7%	63%	29%
Low	0%	7%	16%	30%	68%
TOTAL	100%	100%	100%	100%	100%

1(c)

	2005/06	2006/07	2007/08	2008/09	2009/10
Weighted average BCRs	4.06	3.96	4.30	2.69	2.04
		4.14		2.46	

one is a necessary, but not a sufficient, condition for the acceptance of a project on economic efficiency grounds. I return to this important point later.

Recent patterns of spending on state highways

The BCRs achieved on state highway projects funded by the NZTA are presented in Table 1.⁶ Table 1(a) shows the total spending, and Table 1(b) its percentage breakdown, for the years 2005/06 to 2009/10, between the NZTA's three BCR size classes: 'low', 'medium' and 'high'. 'Low' is 1 to less than 2; 'medium' is 2 to less than 4; and 'high' is 4 or more (NZTA, [2012], p.14). Table 1(b) indicates that over the period, the proportion of spending on projects with low BCRs has increased sharply, with a corresponding fall in projects with medium and high BCRs.

The weighted average BCR for each year is shown in Table 1(c), assuming that the weighted average BCRs in each of the size classes were the midpoint values of 1.5 and 3 for the low and medium classes respectively, and 5 for the open-ended high size class. The weighted average BCR for 2005/06 was 4.06, indicating that each dollar approved for spending in that year was anticipated to generate \$4.06 in benefits (in present value terms). Similar weighted average BCRs were achieved in 2006/07 (3.96) and 2007/08 (4.30). The weighted average for this three-year period

was 4.14. However, in the subsequent two years the weighted average BCRs declined sharply to 2.69 in 2008/09, and to 2.04 in 2009/10, as the proportion of spending on low BCR projects increased. In the latter two years the return per dollar of spending almost halved.

NZTA'S project selection criteria

The shift towards favouring projects with low BCRs was not a random event, but reflected a change in the NZTA's project selection criteria. When one of its senior managers was asked, 'Please explain why the proportion of "low" BCR spending has increased so greatly in recent years', he responded:

The passing of the Land Transport Management Act (LTMA) in 2003 signalled a change to the way land transport projects could be assessed and prioritised for funding. As this change evolved, the benefit to cost ratio (BCR) ceased to be the NZTA's sole method of assessment and prioritisation, but became a contributor to an assessment methodology, which now includes 'strategic fit' and 'effectiveness' as project attributes contributing to project prioritisation. Hence the composition of the BCR graph has changed in recent years to reflect the approval of projects with these other attributes.⁷

The NZTA's new approach to project selection, in which 'strategic fit' and 'effectiveness' were added to the traditional 'efficiency' criterion based on the BCR, came into effect in July 2009 with its first Investment and Revenue Strategy (IRS).⁸ The IRS provides 'the tool we use to ensure our investment decisions give effect to the GPS 2012' (NZTA, [2012], p.2). Every proposed project is rated on each criterion as being either 'high' (H), 'medium' (M) or 'low' (L). These ratings are combined to form an 'assessment profile' which is used to prioritise the project. For example, a project having high 'strategic fit', high 'effectiveness' and low 'efficiency' would be H, H, L, giving it the third-highest ranking out of 11 (H, H, H being the highest and L, L, L being the lowest).⁹

Under the new assessment profile approach, a project rated low on efficiency can be preferred over another with a high efficiency rating if it rates more highly on strategic fit and/or effectiveness. As a consequence, the selected portfolio of projects can generate an aggregate economic efficiency improvement (a weighted-average BCR) that falls well short of the optimal level, as Table 1 shows. An important question, then, is what benefits are produced by strategic fit and effectiveness, such that these can trump efficiency.

The three criteria are defined in the IRS. Firstly, to receive a high rating for strategic fit a project must:

- be a 'road of national significance'; and/or
- have the 'potential for a nationally significant contribution to economic growth and productivity ... through significant improvements in *one or more* of: journey time reliability; easing of severe congestion in major urban areas; relieving capacity constraints; more efficient freight

- supply chains; or a secure and resilient transport network'; and/or
- have the 'potential to significantly reduce the actual crash risk involving deaths and serious injuries in accordance with the Safer Journeys strategy'. (NZTA, [2012], p.6) ¹⁰

The wording suggests that the satisfaction of any one of these attributes can be sufficient for a high strategic fit rating. For example, a project being part of a 'road of national significance' would appear to be sufficient, even though this GPS-based designation seems to reflect no more than a government decision to give priority to a certain road. Similarly, the judgement that a project would significantly improve journey time reliability would seem to guarantee a high rating, yet this factor is typically a small component of the benefits of a road project, usually amounting to only about 5% of the travel time savings.

In short, the attributes listed above appear largely to restate, and hence to double-count, certain benefits that are already included in the BCR. More insidiously, the criteria allow one benefit to give rise to a high strategic fit rating, even when the sum of all of the costs and benefits, as encapsulated in the BCR, may lead to a low efficiency rating. In effect, strategic fit means whatever the NZTA wants it to mean, however economically irrational it might be.

The IRS defines 'effectiveness' as follows: 'The effectiveness assessment considers how the proposed solution helps achieve the potential identified in the strategic fit assessment, and the purpose and objectives of the LTMA. Higher ratings are provided for those proposals that provide long-term, integrated and enduring solutions' (NZTA, [2012], p.13). A high rating requires the satisfaction of numerous, and generally vaguely defined, conditions: for example, 'is a key component of an NZTA supported strategy, endorsed package, programme or plan'; 'is significantly effective (delivers a measurable impact or outcome) in achieving the potential impact or outcome identified in the strategic fit assessment'; 'provides a solution that significantly contributes to multiple GPS impacts, where appropriate to the

activity'; 'provides a long term solution with enduring benefits appropriate to the scale of the solution'; and 'is an affordable solution with a funding plan.'

Some of these refer to meeting strategic fit expectations, and others to promoting desired outcomes, which, for investment projects, might be better assessed by the traditional SCBA. For example, a new road is long-lived, and if properly scaled will tend by its nature to satisfy the requirement that it 'provides a long term solution with enduring benefits appropriate to the scale of the solution'. The EEM requires the measurement of a project's impact over a 30-year period – long enough to incorporate enduring benefits – and the scale is measured by the costs. Both factors are combined in the project's BCR.

data in Table 1 and with the statements of NZTA senior managers.

Implications for economic efficiency

The impact of the triple-criteria approach on economic efficiency at the macro funding level can be estimated using the Table 1 data. Approved spending on new state highway projects in 2008/09 and 2009/10 was \$1,327,740,500 and \$711,759,168 respectively, and this spending had estimated weighted average BCRs of 2.69 and 2.04 respectively. If these sums had been invested to realise the estimated BCR of 4.14 that had applied over the previous three years, the total benefits generated (in present value terms) would have been larger by \$1.925 billion and \$1.495 billion respectively.¹¹ The replacement of the efficiency approach by the triple-criteria

Under the new assessment profile approach, a project rated low on efficiency can be preferred over another with a high efficiency rating if it rates more highly on strategic fit and/or effectiveness.

The efficiency criterion as described in the IRS has been downgraded to measuring 'how well the proposed solution maximises the value of what is produced from the resources used'. It is no longer *the basis* for measuring a project's impact on economic efficiency. Note that 'efficiency' under SCBA analysis should include broader costs and benefits, such as environmental effects, although it rarely does, perhaps because they are regarded as being difficult to quantify.

To sum up, the new strategic fit and effectiveness criteria appear to add little new or relevant information to project evaluation and ranking, apart from incorporating the government's priorities expressed in the GPS. Rather, they are based mainly on stressing certain components of the efficiency analysis, which have already been given their due weight. Hence, it is not surprising that the projects chosen using this triple-criteria approach often have low BCRs. This finding is consistent both with the

approach reduced the prospective benefits from state highway spending in those two years alone by over a third and over half respectively. Furthermore, these losses do not include those likely from similar project selection criteria being applied to local roads, where investment spending is also large.

For a micro level illustration, I use the Kapiti Expressway project, which is one section of the proposed Wellington Northern Corridor road of national significance. Table 2 (row 1) shows that the present values of costs and benefits were \$452.5 million and \$429.2 million respectively, giving a BCR of 0.95 and an NPV of minus \$23.3 million.¹² The negative NPV indicates that acceptance of the project immediately imposes a loss of \$23.3 million on the economy in PV terms. However, this figure greatly understates the true loss, because it does not allow for the opportunity cost of the funds used.

Table 2: The gain from switching spending from the Kapiti Expressway to alternative state highway projects

Opportunity cost	BCR	PV cost	PV benefit	NPV	Overall change in NPV
BCR = 1.00	0.95	\$452.5m	\$429.2m	-\$23.3m	–
BCR = 1.50	1.50	\$452.5m	\$678.8m	\$226.3m	\$249.6m
BCR = 3.00	3.00	\$452.5m	\$1,357.5m	\$905.0m	\$928.3m

Efficient resource allocation requires that a project's costs are measured by the value of those resources in their best alternative use. As the NZTA is capital-constrained, the next best projects have BCRs substantially above one. It is the value of these benefits foregone that should be used to value those resources, not their monetary cost as conventionally measured.¹³

To calculate the economic ('opportunity') cost of the project, an assumption is required about the BCRs of the projects that would be displaced by the project's funding. The economically rational approach would entail the NZTA displacing projects with the lowest BCRs, all else being equal. Table 1 shows that in 2005/06 the displaced projects would have come from the medium BCR category, with BCRs averaging perhaps 3.00. By 2009/10 a large proportion of projects had low BCRs, suggesting that displaced projects would come from the low BCR category, with BCRs averaging 1.5. I use both as alternative measures of opportunity cost.¹⁴

The second and third rows in Table 2 show the net benefits (in present value terms) if the \$452.5 million of Kapiti Expressway project costs were diverted to state highway projects that have weighted average BCRs of 1.5 and 3 respectively. The opportunity cost BCR of 1.5 would generate benefits of \$678.8 million, giving a NPV of \$226.3 million,¹⁵ plus the avoidance of the loss of \$23.3 million, giving an overall net benefit of \$249.6 million. On this basis, the economy would sacrifice net benefits of \$249.6 million from the decision to invest in the Kapiti Expressway project rather than in the other, higher-BCR projects available.

Alternatively, using the average BCR of 3 would generate an NPV of \$905 million from the diversion of the spending, plus the \$23.3 million, giving a total opportunity cost of \$928.3 million. Again, this is a measure of the outright loss to the economy from the sub-optimal

Table 3: BCRs of the roads of national significance, 2011

Project	BCR	BCR plus WEBs*
1. Puhoi to Wellsford	0.8	1.1
2. Auckland Western Ring route	2.1	2.7
3. Victoria Park Tunnel	3.2	n/a
4. Waikato Expressway	1.4	1.8
5. Tauranga Eastern Link	1.4	1.8
6. Wellington Northern Corridor	1.1	1.4
7. Christchurch Motorways	2.0	2.4
Simple average (all)	1.7	n/a
Simple average (all except 3.)	1.5	1.9

* wider economic benefits

investment in the Kapiti Expressway. The correct BCR for the Kapiti Expressway project, based on these opportunity costs, would be 0.63 (at an opportunity cost BCR of 1.5) and 0.32 (at an opportunity cost BCR of 3.0).¹⁶

The roads of national significance

Over the next decade the NZTA plans to use a substantial proportion of land transport funding to build the roads of national significance. The political decision to spend (what then was) over \$10 billion on these roads was made in March 2009 before the BCRs were calculated by SAHA consultants.¹⁷ The BCRs are listed in Table 3.¹⁸ Four of the seven roads of national significance have standard BCRs of less than 2. The unweighted average is 1.7, or 1.5 excluding the Victoria Park Tunnel project, which has been completed and has a relatively high BCR.¹⁹

The 2009 GPS stated that the roads of national significance were 'national road development priorities', and set out how investment in this programme was expected to 'contribute to economic growth and productivity', citing factors similar to those used to assess 'strategic fit' (NZ Government, 2009, p.11). As noted, these factors are already incorporated in the measure of benefits that underpin the BCR. However, a significant feature of the economic evaluation of the roads of national significance projects is the

inclusion of 'agglomeration' and 'wider economic' benefits in their BCRs.

Agglomeration economies are thought to be generated both from the localisation of an industry (i.e., the concentration of firms in a particular locality) and from the urbanisation of economic activity (i.e., its concentration in large cities). Businesses may become more productive because they benefit from economies external to themselves, but internal to the locality and city respectively. These may arise from the facilitation of knowledge transfers between businesses, access to deep or specialised labour markets, and the development of specialised input suppliers. Although improvements to transport infrastructure are thought unlikely to create the clusters of activity that generate agglomeration economies, they could encourage the further development of a cluster by reducing travel times and improving connectivity, either by extending its reach or by reducing congestion within it (see Department for Transport, 2002).

The improvement of business productivity via enhanced agglomeration economies provides the rationale for including agglomeration benefits in transport SCBA. In essence, agglomeration elasticities, which measure the extent to which average firm productivity is higher when the effective density in a locality (as measured by employment) is higher, are estimated econometrically. An NZTA-

sponsored study by Maré and Graham produced a weighted average elasticity across one-digit industry sectors of 0.065, suggesting that a 10% increase in effective density increases firm productivity by 0.65% (Maré and Graham, 2009, p.26).

The elasticities by industry sector are provided in the EEM as the basis for calculating agglomeration benefits (NZTA, 2010, pp. A10-3, A10.5). Thus, a transport infrastructure project, by reducing travel times, inevitably leads to some increase in effective density in the district affected, and this in turn, through the application of the relevant weighted average agglomeration elasticity, leads to an increase in local labour productivity and hence output. The increase in output is the measure of the agglomeration benefit.

The NZTA was quick to embrace the concept of agglomeration benefits, yet their evaluation is far from being settled or free of controversy. SAHA (2009, pp.13, 41) noted that the measurement of wider economic benefits (which included agglomeration benefits) was relatively new and untested internationally, and urged caution as there were few precedents for their inclusion in project evaluations. Indeed, Maré and Graham (2009) expressed reservations about the use of their estimated elasticities to calculate agglomeration benefits:

It is clear that denser areas are more productive but this may reflect other factors that are positively associated with both density and productivity. It is more difficult to establish that an increase in density would necessarily lead to an increase in productivity. The challenge is even greater for studies that analyse the relationship between public infrastructure, such as transport infrastructure, and productivity ... In this case, there is the confounding issue that infrastructure investments may be deliberately directed towards high-productivity areas, meaning that simple correlations between investments and performance may further overestimate the productivity impacts of infrastructure. (Maré and Graham, 2009, p.11)

In addition, there is a debate over whether standard SCBA already captures agglomeration benefits. To the extent that it does, the separate calculation of these benefits would lead to double-counting. A major study sponsored by the UK government, which looked at transport's role in promoting productivity and competitiveness, considered the nature and significance of agglomeration economies (Eddington Transport Study, 2006). It found that where 'journey time savings are of work time, i.e. savings mainly to business and freight, there is

at the territorial local authority level, using employment figures from the 2006 census. The predicted changes in employment were valued at the 2006 average GDP per worker (increased to 2008 prices) for the region in which the jobs were forecast to be created.

Apart from the arbitrariness of the assumptions used, the assumption of a positive economic growth potential of the roads of national significance conflicts with the evidence from overseas economic impact studies, which suggest that significant local employment effects

For the roads of national significance, the wider economic benefits comprised the agglomeration and employment benefits.

an equivalent gain in GDP' (para 2.17, p.23), and that these time savings capture the 'majority of the productivity benefits from agglomeration' (Figure 2.5, p.26).

Similarly, Australia's Bureau of Transport Economics (1999, pp.13-17) argued that the indirect effects of transport infrastructure investments are often captured by SCBA through the inclusion of induced and diverted transport demand effects. Wallis, of Booz and Company (NZ), in a report for the NZTA, examined the question of the 'missing benefits' and concluded that 'claims that SCBA is dramatically underestimating the quantum of benefits flowing from transport investment should be viewed with considerable scepticism' (Wallis, 2009, p.58).

For the roads of national significance, the wider economic benefits comprised the agglomeration and employment benefits.²⁰ Estimates of the latter were based on two UK case studies, for the M62 motorway and the Severn Bridge. These estimated increases in employment in their respective potential 'areas of influence' of 0.4% and 4.0% respectively. The figure of 0.4% was chosen conservatively as the basis for the assessment of the roads of national significance, although slightly lower figures were mostly used, and the impact was assumed to take ten years to emerge fully. The analysis was undertaken

are unlikely. Professor Crompton, an expert in this area, is highly critical of the methodologies commonly used by such studies in the United States. In 2006 he wrote:

The available evidence suggests that not only is the substitution effect likely to result in no net economic gain when the impact of construction projects in a community is measured but, often, there will be no net economic gain even within the construction sector of the local economy. An economic gain would occur within that sector only if those workers employed on the capital projects would not have been otherwise employed. (Crompton, 2006, p.70)

Further, the NZTA's projects are evaluated against a counterfactual of the 'do minimum', whereas the practical reality is that in the alternative, the funding available for the project would be released for other state highway projects. To the extent that roading investments do generate new jobs, these other projects could also do so, thereby reducing or eliminating any net job creation associated with the project in question.

Table 3 shows the BCRs with wider economic benefits added for six of the seven roads of national significance.

TABLE 4: BCRs for the Wellington roads of national significance

Project	2009 BCRs	Updated BCRs
	(1)	(2)
1. Airport to Mt Victoria	0.4	0.4
2. Basin Reserve	2.7	2.7
3. Terrace tunnel	0.5	0.5
4. Aotea Quay to Ngauranga Gorge	3.2	3.2
5. Ngauranga to Linden	1.8	–
6. Transmission Gully	0.6	0.8
7. MacKays to Peka Peka	1.2	0.9
8. Peka Peka to Otaki	0.8	0.5
9. Otaki to Levin	2.2	–
(A) Weighted average	1.0	0.8
(B) (A) + agglomeration benefits	1.2	1.0
(C) (B) + wider economic benefits	1.4	1.2

The wider economic benefits increase the unweighted average BCR for the six from 1.5 to 1.9, or by 26.7%. This suggests that the wider economic benefits, even if accepted despite the caveats discussed above, are not particularly significant. This is perhaps not surprising, as the agglomeration component must ultimately be related to the time savings benefits, which in developed countries like New Zealand are apt not to be large:

many of the projects ... are modest additions to an already well-developed transport network. Such projects reduce the cost of transport by only a small proportion. The increase in transport demand will also be marginal, unless demand is highly cost-sensitive. (Bureau of Transport Economics, 1999, pp.16-17; see also Wallis, 2009, p.58)

Further concerns about the efficiency of the roads of national significance arise when the BCRs for the component projects are considered. In November 2009 the NZTA estimated a BCR of 1.1 for the Wellington Northern Corridor, and 1.2 with agglomeration benefits added. Table 4 lists the component projects; their BCRs are shown in column 1.²¹

The NZTA asserts that the Wellington roads of national significance must be viewed as a whole because the agglomeration and wider benefits accrue to the entire road. It is probably true that any such benefits would tend to increase with the length of the road. However, merging the component projects means

that the low BCRs on some are disguised by the higher BCRs on others. This allows the low BCR projects to survive the screening process, even though normally they would be rejected.

Furthermore, the specification of the roads of national significance is arbitrary. In 2009 it was defined as the expressway from Wellington airport to Levin, yet the Otaki–Levin section was abandoned recently because of lower traffic forecasts. Rightly, there is no justification for pursuing a low BCR project simply to gain an uncertain, and at best small, increment in wider benefits. Table 4 suggests that four other projects with BCRs of less than 1 fall into this category.

The 2009 BCRs can be updated by incorporating recent developments – see column 2 of Table 4. The NZTA's resource consent applications have cited new BCRs for projects 6, 7 and 8, and the discarded projects 5 and 9 can be removed. These changes cause the conventional BCR to decline from 1 to 0.8, and the BCR with agglomeration benefit from 1.2 to 1.²² Only two of the seven projects now have conventional BCRs exceeding 1, and the impact of the agglomeration and wider economic benefits – the measure of the government's desired growth benefits – barely raises the overall BCR above 1.

On this evidence, economic support for the Wellington roads of national significance as presently conceived is weak, especially given the opportunity cost of funding discussed above.²³

Conclusions

In this article I have shown that there has been a seismic shift in the approach used by the New Zealand Transport Agency in determining how it spends around \$3 billion annually on land transport projects, over half of which is devoted to state highways. The role of the BCR efficiency criterion has been watered down by adding new, nebulous 'strategic fit' and 'effectiveness' decision criteria, with the result that there has been a loss of prospective benefits of many hundreds of millions of dollars. This change reflects the NZTA's response both to an amendment in its governing legislation, and to the government's new ability under this legislation to influence the NZTA's spending decisions through the GPS process.

Yet the inaugural GPS of 2009 on land transport was strongly supportive of economic efficiency:

There will be an increased focus on economic efficiency. The NZTA's evaluation processes will be adjusted to give projects with high benefit cost ratios (BCR) higher funding and programming priority and to give projects with low BCRs more scrutiny (high BCR is greater than four; low BCR is less than two). (NZ Government, 2009, para 55, p.16)

Three and a half years later, in November 2012, when the minister of transport, Gerry Brownlee, was asked to comment on a leaked NZTA report of December 2011 that the Kapiti Expressway's BCR had fallen from 0.95 to 0.23 (BECA Infrastructure Ltd, 2011), he said that the BCR is only one factor considered. He suggested that if BCRs had been available in Julius Vogel's day, Vogel 'would not have bothered getting out of bed', implying that the development projects that Vogel had championed in the 1870s would never have been approved if their BCRs had been known.²⁴ A few months earlier he had said that the roads of national significance would 'cost what they cost', and that falling traffic volumes did not warrant a reconsideration of the projects because 'if we build it, they will come'.

These comments raise serious doubts about the rationality of the decision-making process. It is ironic that a

government that places economic growth and efficiency at centre stage is, through its approach to the evaluation of state highway projects, undermining the very process needed to advance those goals. The inconvenient truth is that the current approach to the ranking and selection of state highway projects, including the roads of national significance, under which the role of economic efficiency has been greatly diluted, has resulted in many hundreds of millions of dollars of benefits annually being squandered in pursuit of the empty goals of 'strategic fit' and 'effectiveness'.

- 1 Indicative funding for NZTA for the period 2009/10–2011/12 shows that of the total projected amount of \$8.668 billion, over half (52.9%) or \$4.585 billion is allocated to spending on state highways (NZ Government, 2009, p.14).
- 2 Taking the midpoints of ranges for the 2021/22 projections, total funding is expected to increase by 25.7% on the 2011/12 figure, with the spending on state highways to increase by 34.1%, from \$1.538 billion to \$2.063 billion, over this period. Hence, it is anticipated that the proportion of the total funding spent on state highways may increase from 53.8% to 57.4% over the period (NZ Government, 2011, Table 2, p.14).
- 3 'Affordable' was added in a 2008 amendment.
- 4 In 2004 Transfund had been merged with the Land Transport Safety Authority to form Land Transport New Zealand. It was Land Transport NZ that was merged with Transit NZ to become the NZTA in 2008.
- 5 The NPV is defined as the present value (PV) of the benefits minus the PV of the costs. A project, because of its sheer size, can have an absolutely large NPV, but a low BCR. When funding is constrained, total benefit generated is maximised when projects with the largest BCRs are selected. Note that since the initial costs of projects are lumpy and can extend over more than one year, and there may be interrelationships between projects, the process of choosing the best mix of projects over time can involve complex programming procedures.
- 6 The original source was Ministry of Transport, 2011, Figure

- 10, p.22. The underlying data were obtained from the NZTA by letter from Dave Brash (general manager, planning and investment, NZTA), dated 24 September 2012. In what follows I assume that the NZTA's BCR estimates are accurate, although they are in practice subject to error because they involve projections of uncertain costs and benefits many years into the future.
- 7 Letter from Dave Brash (general manager, planning and investment, NZTA), 24 September 2012. In a follow-up email exchange with Murray Riley (NLTP delivery manager, NZTA), Riley ruled out the possibility that increasing expenditure had resulted in a diminishing returns effect: i.e., that as expenditure increased, only low BCR projects were left to be invested in.
- 8 As stated in a letter dated 20 June 2012 from Ernst Zöllner (group manager, strategy and performance, NZTA).
- 9 The process is explained in NZTA (2008), chapter G1. The IRS shows that the ratings for the 'efficiency' component of the assessment profile are determined by the project's BCR, using the size classes defined above in connection with Table 1.
- 10 Italics as in the original. Different criteria are used to assess 'activity classes' other than state highways.
- 11 2008/09: \$1,327,740,500 (4.14 – 2.69) = \$1,925,223,725; and 2009/10: \$711,759,168 (4.14 – 2.04) = \$1,494,694,253.
- 12 Source: NZTA (2012), appendix A. This information was augmented by detailed spreadsheets obtained by Official Information Act request. The BCR of 0.95 had fallen slightly by November 2012 because of an increase in the estimated costs.
- 13 If the NZTA were not capital-constrained, it would be able to invest in all projects having BCRs even slightly above one. In this case, the resources used in a project would generate a BCR of one in their alternative use, in which case the costs of the resources would accurately measure the benefits that they would generate in that use. Here, the minimum requirement for a project to be acceptable on economic efficiency grounds – that the BCR is greater than one – would apply.
- 14 The BCR of 1.5 is arguably conservative, as it reflects an environment in which many low BCR projects were favoured over those with high BCRs, meaning that the opportunity cost of the Kapiti Expressway project is being assessed against what arguably is an economically irrational approach to project selection.
- 15 Benefit = \$452.5m x 1.5 = \$678.8m; NPV = \$678.8m – \$452.5m = \$226.3m.
- 16 BCR = \$429.2m/\$678.8m = 0.63 (for BCR of 1.5); and BCR = \$429.2m/\$1,357.5m = 0.32 (for BCR of 3.0).
- 17 See also NZ Government (2009), p.9; and SAHA (2009), later replaced by SAHA (2010).
- 18 Source: letter from Stephen Joyce, then minister of transport, 30 March 2011.
- 19 Note that large-scale, one-off public investment projects are

- prone to have their benefits overestimated and their costs underestimated, a phenomenon called 'optimism bias'. See NZ Treasury (2005), p.36; HM Treasury, 'Supplementary Green Book Guidance – optimism bias', 2003; and UK Department for Transport, 'Procedures for Dealing with Optimism Bias in Transport Planning: guidance document', June 2004.
- 20 Both were evaluated by Richard Paling Consulting (2009). The EEM includes a section on estimating agglomeration benefits, but provides no guidance on how the employment benefits are to be evaluated.
- 21 Source: NZTA (2009), Table 6.13, p.49. A check of the calculations reveals that the conventional BCR is actually 1 (or 1.035 to 3 d.p.), not 1.1.
- 22 The 2009 component project BCRs were inflated through an extension beyond the prescribed 30-year period over which benefits were assessed. The analysis period for all projects was set to end at year 30 of the last-completed project (ibid., p.44). I assumed that the 2009 agglomeration and wider benefits remained changed with the amendments.
- 23 As this article was going to press, I learned that the BCRs of the Wellington roads of national significance were being revised, in part to take account of the following changes to the EEM agreed by the NZTA Board on 5 July: reduction of the discount rate from 8% to 6%; extension of the analysis period from 30 to 40 years; and incorporation of the WEBS as standard. These changes will increase the BCRs for these roads, but also increase their opportunity cost, as the BCRs for alternative state highway projects will also rise.
- 24 Campbell Live interview, TV3, 29 November 2012. Brownlee was presumably implying that the Vogel projects would have had low BCRs but were implemented anyway, and had obviously brought substantial benefits (all of which are unknowns), and using this to justify prospective road investments having low BCRs.

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Tim Hughes

Applying Cognitive Perspectives on Decision-Making to the Policy Advice Process: a practitioner's view

Behavioural economics and the related fields of cognitive and social psychology are now very much in the mainstream, as the highly visible success of the Behavioural Insights Unit in the United Kingdom attests. A robust and diverse range of findings about the limits of human thinking challenges policy practitioners to reconsider how they both design and advise on policies. This challenge is particularly relevant given that the training and background of policy advisors typically does not include these fields, with political science, law and conventional economics much more common.

A range of recent books have popularised many concepts from these fields and are leading an increasing number of people outside academia to revisit the way we conceive of thinking and decision-making. For example, *The Wisdom of Crowds* (Surowiecki, 2004), *Blink* (Gladwell, 2005), *The Black Swan* (Taleb, 2007), *Predictably Irrational* (Ariely, 2008), *Nudge* (Thaler and Sunstein, 2008), *Thinking Fast and Slow* (Kahneman, 2011) and *The Signal and the Noise* (Silver, 2012) all underline the limitations of rational accounts of thinking and decision-making.

Perhaps reflecting the new public popularity of these fields, it has become fashionable in certain circles to consider ways to incorporate the findings of cognitive psychology and behavioural economics into the design of policies (e.g. Ministry of Economic Development, 2006; Dolan et al., 2010), often under the label libertarian paternalism or choice architecture (Thaler, Sunstein and Balz, 2010). The argument is often that small changes in the design of policies can nudge choices in a desired direction

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without the need for compulsion. Perhaps the best known example is the design of KiwiSaver, where the default option is automatic enrolment, with people required to opt out instead of opt in.

Cognitive science has also influenced the academic analysis of policy, particularly of the way cognitive biases can affect the agenda-setting process and the public communication of policies (Araral et al., 2013).

In this article I take a practitioner's perspective on how the insights of cognitive psychology and behavioural economics also have important implications for the nuts and bolts of policy advice. I focus particularly on the implications of the biases and heuristics literature for the way we structure choices and provide information to decision-makers. I argue that this literature provides a formal language and a toolkit to help policy advisors better understand the implications of the advisory choices they make.

The biases and heuristics tradition

Neoclassical economics typically relies on assumptions of rationality in agents in a strict sense. The rational actor paradigm has influenced a range of fields, including political science and organisational decision-making (Jones, Boushey and Workman, 2006). At the same time, there is a long tradition of treating the decision-making process as descriptively or normatively quasi-rational, or boundedly rational. For example, Herbert Simon (1956) observed that decision-makers often settle for a good enough option, or satisfice, rather than seeking an optimal solution among all possible alternatives.

The biases and heuristics tradition has built further evidence to counter the assumptions of the rational decision model. Led initially by Daniel Kahneman and Amos Tversky in the 1970s, there is now a wide range of findings showing experimentally where judgements differ descriptively from those normatively prescribed by the rational actor paradigm. Researchers have identified a range of heuristics, or thinking shortcuts, that we commonly use, and which can lead to judgemental biases in many circumstances.

The biases and heuristics tradition has now been incorporated into a general set of dual process theories in psychology. It is now understood that there are essentially two quite different thinking systems we use, including to make decisions (Chaikain and Trope, 1999).

System 1 is the fast system of *Thinking Fast and Slow*, and which operates automatically to produce an ongoing stream of unconscious judgements using the brain's basic associative machinery. System 2 is the slow, deliberate, conscious type of reasoning that more closely adheres to the type of thinking prescribed by a rational choice model. In general we use the rapid processes of system 1 wherever possible, as system 2 is effortful to use.

One classic example of the difference between the two systems is the following problem from the Cognitive Reflection Test (Toplak et al., 2011):

A bat and a ball cost \$1.10 in total.
The bat costs \$1 more than the ball.
How much does the ball cost?

System 1 will typically generate an obvious and intuitive heuristic answer unbidden: 10 cents. When asked this question, most subjects will in fact give that answer and express confidence that it is the right answer, including large proportions of highly select university students at MIT, Princeton and Harvard (Frederick, 2005). But only a small amount of thought with system 2 is enough to convince oneself that the correct answer is actually 5 cents. The difficulty is that to arrive at the right answer system 1 needs to be deliberately overridden, and often isn't.¹

Our minds use many heuristics to generate what Gerd Gigerenzer calls 'fast and frugal' responses to the world, and this strategy is largely adaptive. In some

cases, however, reliance on heuristics can lead to biased or inaccurate thinking. If our minds can be fooled by such a simple task as the bat and ball problem, it seems reasonable to ask whether similar errors of judgement can be made in more complex, policy-relevant domains, by both advisors and decision-makers.

Application to policy advisors and decision-makers

We are not in a position where we can definitively say that policy analysts and political decision-makers are riddled with thinking biases and judgemental errors. Some of the biases and heuristics literature has been criticised as narrow and artificial, with many results relying largely on American undergraduates and

... decision-makers can take different decisions based on exactly the same information depending on how that information is presented.

relatively few studies conducted in real-life conditions (Klein, 1998; Swoyer, 2002). Others have suggested that the language of bias is a misleading way to describe the phenomena revealed by the literature (e.g. Gigerenzer, Hoffrage and Kleinbolting, 1991).

However, several phenomena have been demonstrated across multiple populations, and there is robust evidence of several phenomena that should be concerning regardless of whether we use the language of 'bias'. For example, we should be concerned by findings that decision-makers can take different decisions based on exactly the same information depending on how that information is presented.

We might also wonder whether the high levels of cognitive ability that are typically present among policy advisors and decision-makers protect against biases. In recent years, researchers have focused on establishing boundary conditions and individual differences in many of the most important biases, to see whether certain individuals or situations

reduce biases. Indeed, not all biases appear to be universal. But Stanovich and West (2008) and others have found that several biases are uncorrelated with cognitive ability, and that cognitive ability does not always eliminate other biases even where it reduces them.

There is also evidence that people tend to think they are less subject to cognitive biases than they are, and that if anything this 'bias blind spot' may be larger for more intelligent people (West, Meserve and Stanovich, 2012). It seems reasonable to assume that the intelligence of policy advisors and decision makers is not sufficient to protect against all thinking biases or the bias blind spot.

Even if intelligence is not protective against all thinking biases, one could

Shanteau (1992) has offered a general framework for when expert intuition is likely to lead to effective judgements. In general, he argues, experts with demonstrably good performance, such as weather forecasters, chess masters and physicists, tend to work in high-validity environments with repetitive tasks, often related to physical processes, where feedback on judgement performance is readily available. In contrast, experts with observed poor performance, such as clinical psychologists and stockbrokers, often work in situations where tasks are unique and are related to human behaviour, and where feedback on results is rare, limited, or long-separated from the judgement itself.

According to these criteria, public

search for the best options in a problem space.

To the extent that advice is given or decisions are taken quickly, on partial information, on gut feel or the strength of the narrative case for change, they are likely to be subject to system 1 judgements that are known to be subject to many important biases. It then becomes important for advisors and decision-makers to consider how these biases might be affecting decision-making.

Framing bias and preference reversals

Over two dozen separate cognitive biases have been identified, too many to list here. But to demonstrate the relevance of the literature to policy practice, I will discuss briefly one of the most robust areas of the literature: framing bias and preference reversals.

One of the most important general findings for policy practitioners to consider from the biases and heuristics tradition is that decision-makers' preferences are typically not fixed, and vary depending on how they are elicited (Lichtenstein and Slovic, 2006). A wide range of different studies has shown that two or more options, faced with one's choice of option can change systematically depending on how the options are communicated, even when the content of the options is unchanged. This suggests that an important part of the policy advisor's role is to support decision-makers to construct their preferences, rather than just to generate options for appraisal against a fixed master list of values.

Policy advisors are familiar with the language of framing, but many are perhaps not aware that it is possible to make formal predictions about how certain types of frame will affect decision-making. The classic example of framing effects in cognitive psychology is the Asian disease problem, first introduced by Tversky and Kahneman (1981) and subsequently demonstrated in numerous experiments. In this experiment, subjects are provided identical information and asked to choose between two policy options. Half the participants are randomly assigned to a condition where the outcome information is presented

Policy advisors are familiar with the language of framing, but many are perhaps not aware that we are able to make formal predictions about how certain types of frame will affect decision-making.

argue that expertise or experience is sufficient to protect us. Klein (1998) argues the development of expertise leads to effective intuitive judgement in most cases. Klein has shown that in naturalistic settings, decision-making is typically dominated by intuitive, system 1 judgements, particularly under time pressure, and that in many situations this naturalistic decision-making provides good results, as seen among firefighters, nurses and military commanders.

Against this, judgemental biases have also been observed in certain domain-specific areas of knowledge, suggesting that specialist knowledge does not necessarily protect against thinking biases. For example, doctors have been shown to be subject to framing effects when considering the risks of different treatment options (McNeil et al., 1982), and researchers with advanced statistical training have been found to display errors of mental prediction that conflict with basic statistical rules (Tversky and Kahneman, 1971).

policy would seem to be an environment where expert intuition is unlikely to produce good judgements on its own, on the part of either advisors or decision-makers, except perhaps in more technical areas such as construction policy. Even if it were possible to develop effective intuitive judgement in the low-validity environments common to public policy, this is unlikely to work in practice because many decision-makers and advisors will be exposed to a specific policy environment only briefly, will work on relatively few policy decisions each year, and will often not be sure what effect a policy has had, particularly where there is no follow-up evaluation. This is somewhat concerning, since most policy decisions can be characterised as taken on at least a semi-intuitive, narrative basis. Since ministers typically take decisions on a greatly reduced or simplified set of information – a ten-page limit, or about 3-4,000 words, is common for policy advice – it is hard to argue that decision-makers make a comprehensive, rational

either in terms of deaths incurred or lives saved:

Introductory information (both conditions)

Imagine that the US is preparing for the outbreak of an unusual Asian disease, which is expected to kill 600 people. Two alternative programmes to combat the disease have been proposed. Assume that the exact scientific estimates of the consequences of the programmes are as follows

First condition (frame)

Programme A: If programme A is adopted, 200 people will be saved.

Programme B: If programme B is adopted, there is a 1/3 probability that 600 people will be saved, and 2/3 probability that no people will be saved.

Second condition (frame)

Programme A: If programme A is adopted 400 people will die.

Programme B: If programme B is adopted there is a 1/3 probability that nobody will die, and 2/3 probability that 600 people will die.

Under the first condition, the majority of subjects typically prefer programme A (are risk-averse), whereas under the second condition the majority typically prefer programme B (are risk-seeking). This particular type of framing bias is recognised as a result of prospect theory, according to which people are more sensitive to losses than to gains, and are typically risk-averse in the domain of gains and risk-seeking in the domain of losses (Kahneman and Tversky, 1979; Tversky and Kahneman, 1992). Prospect theory helps to explain status quo bias, whereby people are more sensitive to the losses associated with change than they are to the potential gains – typically twice as sensitive (Samuelson and Zeckhauser, 1998).

Status quo bias occurs when the status quo is implicitly or explicitly used as the reference point against which changes are measured. In some cases, reference points other than the status quo may be

appropriate to consider. For example, as Sunstein (2002) observes:

In environmental regulation, it is possible to manipulate the reference point by insisting that policymakers are trying to restore water or air quality to its state at time X; the restoration time matters a great deal to people's choices. (Sunstein, 2002, p.221)

It is not at all clear in this example or any other whether the status quo reference point or the alternative reference point is normatively superior in any objective sense. The key thing for non-partisan civil servants to observe is that the choice of reference point can affect choices, and

Our inborn tendency is to generalise that something is good or bad, rather than a complex mixture of the two.

so the selection of a reference point has an ethical component.

Prospect theory also provides a useful perspective on trial initiatives, as a way of shifting the perceived status quo (or reference point) in increments, of blunting the psychological impact of potential losses by allowing for the possibility that they can be reversed.

The area of risk is one that appears particularly sensitive to framing effects. Because of the way the associative machinery of system 1 operates, it is difficult for us to maintain conflicting ideas about a policy or anything else. Our inborn tendency is to generalise that something is good or bad, rather than a complex mixture of the two. In practice, this means that it is cognitively difficult to fully accept the risks associated with a favoured policy. Stanovich and West (2008) described this as the non-separability of risk and benefit judgements. In a different context this phenomenon is also known as the halo effect.

Along these same lines, Shafir (1993) found that the way people are asked to evaluate options can affect how they evaluate them and can lead to preference

reversals. Where people are asked to choose from a set of options they typically think about the positive features of the options. Where people are asked to *reject* options, they focus on the negative features of the options. So, an option with strong positive and negative features can be both preferred and rejected over a more average option depending on how the choice is made.

The precise way risk is communicated also appears to be important. For example, Slovic et al. (2000) and Dieckmann, Slovic and Peters (2009) have documented how any expression of risk in terms of relative frequencies (such as framing a risk of cancer in terms of one person in a million) can raise the perceived risk

by inducing affect-laden images of one or more people suffering, particularly for less numerate people. Expressing the same risk as a probability (.000001) leads to a lower perceived risk. Further, less numerate people appear more likely to rely on the narrative evidence accompanying a numerical estimate of likelihood, and are more likely generally to interpret risk as high, even when the objective probability is very low.

Another form of framing effect comes from the inclusion of decoy options into a choice set. Ariely and Wallsten (1995) showed that where two options are quite dissimilar, introducing a decoy option that is similar to one of the options but clearly inferior to it biases decisions towards the option that is linked to the decoy. Similarly, Sunstein (2002) has observed a general tendency to extremeness aversion. With two options, say a small and a medium option, introducing a third, 'large' option can bias decisions towards the medium option.

The way in which options are considered also seems to be important. Hsee et al. (1999) review a range of findings where choices can differ

systematically depending on whether an option is considered in isolation, in series with another option, or side by side with the alternative. Hsee et al. offer an evaluability hypothesis, whereby preference reversals across evaluation mode are particularly likely where an important criterion is difficult to evaluate in isolation. They quote, for example, Desvovages et al. (1992), who find that when options are considered in isolation, subjects show no greater willingness to pay to protect 20,000 endangered birds over 2,000 or even 200 endangered birds.

It also appears important whether an option is considered from within its own domain of value or in a wider context. Kahneman and Ritov (1994) quizzed members of the public and

Implications of framing bias and preference reversals for policy advice

There are several important implications here, most of which are likely to be immediately apparent to practitioners. Perhaps the most important is to remember that advisors' own thinking and preferences are likely to be biased in many situations, and as professionals we have a duty to guard against them and practice cognitive humility.

Another important implication is that most ways of presenting information to decision-makers have the potential to subtly bias decision-making one way or another, and often in predictable ways. In one's own work or in offering second opinion advice or peer review, knowledge of these effects will help advisors

... it appears important that advisors are careful in the way they communicate risk, to ensure the risks are well understood without leading to their cognitive exaggeration.

found preference reversals among a series of comparisons between environmental outcomes and human outcomes, such as protecting spotted owls versus improving earthquake safety. Under single evaluation, subjects tended to state a higher willingness to pay for the environmental outcome, but when choosing between the two in joint evaluation they tended to prefer the human outcome.

A related type of preference reversal is known as the 'less is more' bias. Slovic et al. (2002) and Stanovich and West (2008) found that subjects, considering options in isolation, rated more highly an option that would save 98% of 150 lives than an option that saved 150 lives. This is partly explained by the affect heuristic, whereby 98% of a good thing sounds good and in itself creates positive affect that can bias decision-making. It is also another illustration of the evaluability hypothesis, and the difficulty of independently assessing the value of '150 lives' without any kind of comparator.

understand the influence of one's advisory choices, and to acknowledge one's ethical role in the co-production of government policy.

There is clearly the potential for these phenomena to be used to push a particular agenda. Indeed, it is possible to argue that all advice is intrinsically biased in one way or another, consciously or unconsciously. But we do not necessarily need to yield to full relativism.

Payne, Bettman and Schkade (2006) suggest that an effective decision analyst will support decision-makers to construct preferences that are robust to manipulation, by explicitly offering multiple perspectives and different frames wherever possible.

More generally, it appears that the benchmark or standard chosen for comparison of policy proposals is very important. For example, decisions are likely to be influenced by how and whether policy advisors:

- compare options to the status quo or a different reference point;

- provide qualitative or quantitative assessment of trade-offs;
- provide alternative options to the proposal, including more positive options;
- compare the policy proposal to others in different domains of public value.

A final direct implication is about the importance of clearly communicating risks or downsides of policy options to support sound decision-making. There appears to be an underlying cognitive bias, for both advisor and decision-maker, towards overlooking or downplaying the downsides of an option that is favoured. One option to deal with this problem may be to follow a strategy that leads to the rejection, rather than selection, of options, as per Shafir's (1993) findings that this can lead to a greater focus on downsides. At the same time, it appears important that advisors be careful in the way they communicate risk, to ensure the risks are well understood without leading to their cognitive exaggeration.

Further applications of cognitive psychology to the policy process

In this article I have illustrated only some of the most obvious applications of cognitive psychology to policy practice. Other applications could include:

- The importance of the availability bias (overemphasising salient events and issues in analysis) and affect bias (over-reliance on emotive affect) for agenda setting and strategy, such as through the briefing to the incoming minister process.
- Drawing upon a wider range of formal tools for systematically evaluating options, such as:
 - elimination by aspects (Tversky, 1972) – an approach to choosing between options whereby options are eliminated if they fall below a threshold on the most important attribute, then on the second-most important attribute, and so on;
 - the Delphi method – a structured system for collating individual forecasts or predictions into a group consensus forecast;
 - prediction markets (Surowiecki, 2004) – markets where people

trade 'shares' that pay out if a given outcome comes true, for example www.ipredict.co.nz.

- The importance of training in basic analytical concepts where misunderstanding can lead to analytical biases – such as regression to the mean and the rules of conjunctive probability, both of which have been shown to be poorly understood by many people. (Kahneman, 2011)

Within the traditional eightfold path of policy making (Bardach, 2000), the 'tell your story' phase is perhaps the most important part of the process to consider from the perspective of biases and heuristics, because it entails a simplification and perhaps a shift to faster, system 1 thinking, with greater risk of bias. Even the most rational, exhaustive analysis will not necessarily lead to rational decision-making if distilled to the simplicity of an elevator conversation, as is commonly required of policy advisors.

Overall, the major general lesson for public policy from the biases and heuristics tradition may be the finding that we are all hardwired to respond well to simple causal stories because of the way system 1 operates. The problem with this is that simple, convincing stories can be misleading: 'Paradoxically, it is easier to construct a coherent story when you know little, when there are fewer pieces to fit into the puzzle' (Kahneman, 2011, p.201). The cognitive seductiveness of a simple story should give practitioners pause when we consider the recent proliferation of advice offered orally or via one-page briefings. So too should the common practice of providing only one option for consideration by Cabinet, or one full option with one or two thinly-described straw man alternatives, particularly where there is no regulatory impact statement in support, or when the Cabinet paper is used as a communications tool, either explicitly or implicitly, in anticipation of release under the Official Information Act.

There is a tension between advice that is considered good because it tells a simple, compelling story and advice that is good by some other criteria because it adequately communicates all

complicating and difficult information to decision-makers. Simple advice is appealing for many reasons, but is perhaps more likely to activate system 1 judgements and is, I would argue, more susceptible to cognitive biases. Advice that is robust to framing and other biases is likely to be substantially more complex and place greater demands on decision-makers, with more emphasis on effortful use of system 2.

We also need to acknowledge that this will not always be possible. Research into management styles (Tetlock, 2000) reminds us that some decision-makers are not very concerned by potential biases: Tetlock found that many organisational managers defend simple, heuristic-based errors and prefer simple, decisive leadership styles that reduce the

relying on individuals to tend to their own biases is unlikely to be an effective strategy. The procedures used during the policy development and advice process are likely to be important in either exaggerating or mitigating thinking biases.

The greatest risk of biased analysis and advice is perhaps when the development and advice process occurs with a particular policy in mind. In this case, the confirmation bias can trigger a range of other thinking biases, leading analysts to unconsciously focus on evidence that supports the intended policy, to frame the problem in a way that supports the change, to communicate the policy in a favourable way, to oversimplify the policy, and to underplay risks or trade-offs. Social norms and group dynamics can be particularly powerful impediments to

But the language and concepts of cognitive science are not often encountered explicitly, and are not typically part of the formal training and development of advisors.

information load on top management and avoid unnecessary argumentation.

Where constraints of time or space mean advisors are denied the luxury of offering advice from a range of frames or perspectives, perhaps the lesson is to acknowledge the risk of bias and communicate that clearly, and to ensure that the analysis and lower-level discussion and debate that underpins the final advice has been sufficiently robust that the agency offering the advice has a good understanding of its limitations and potential biases. Related to this is the need to carefully examine the language used to summarise concepts, as certain word choices have strong connotations.

Procedural approaches to considering cognitive biases

Awareness of cognitive biases may be insufficient to address them. As West, Meserve and Stanovich (2012) note, people tend to be much better at identifying biases in others than in themselves, so

overcoming individual-level biases where confirmation bias is at work.

A policy development and advice process that is robust to thinking biases would ideally focus on trying to disconfirm proposed options, in the same way science proceeds by generating hypotheses then seeking ways to disprove them. By deliberately considering ways in which a proposed policy might fail or generate adverse effects, we will be more likely to identify flaws in design, recognise how framing effects might be leading to inflated expectations of success, and gain an accurate understanding of risks.

Procedural options to support a disconfirming strategy include:

- the pre-mortem, a deliberate group task which asks decision-makers or advisors to imagine that a policy decision has been implemented and has failed, and to write down all the reasons why failure might have occurred (Klein, 1998);

- wider collaboration and consultation with individuals with a different point of view, including those who are likely to oppose a proposed policy and who have an incentive to identify flaws in the argument for it (for example, the external panel used by Treasury in the development of its long-term fiscal statement);
- quality assurance processes containing a checklist of some of the most important biases: Gawande (2010) has recently made an eloquent case for the importance of simple checklists to improve the performance of even highly-skilled professionals such as surgeons, and checklists have been used to great effect in aviation to improve the performance of pilots.

Procedural checks are perhaps most important for reactive, time-pressured policy, where biases are more likely. Where rapid or reactive advice is needed, a simple procedural check to alert decision-

makers to potential biases could be a signed statement by the author, covering how extensively they have examined any relevant literature, how many options have been fully developed, and so forth. This could provide reason to pause for decision-makers, perhaps buying time for more considered policy advice with less risk of biased analysis.

Conclusion

Effective practitioners will already intuitively understand much of what I have discussed in this article. But the language and concepts of cognitive science are not often encountered explicitly, and are not typically part of the formal training and development of advisors. For some advisors and decision-makers, the first reaction to the biases and heuristics literature may be that it is important for the design of policies, but has less relevance for the thinking processes of advisors and decision-makers. But the evidence to date suggests that policy makers may be just as

subject to biases in their thinking as policy takers.

Overall, it appears that much of the cognitive psychology literatures are developed and widely accepted enough now that formal training and a new language could usefully be included in practitioners' toolkits, and that as a professional community policy advisors, public officers and decision-makers would do well to reflect on the way we practice our craft in light of these findings.

¹ This could be seen as an example of the attribute substitution heuristic, whereby the mind substitutes an easy problem ($\$1.10 - \1) for a somewhat harder problem ($x + y = \$1.10, y - x = \1 , solve for x).

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Patrick Nolan

Fiscal Consolidation and Transforming Government in the United Kingdom

In August 2010 the *Economist* magazine featured on its front cover a mocked-up photo of the United Kingdom's new prime minister, David Cameron, sporting a punk rock-style Union Jack mohawk. This reflected the promise of a new, radical approach to fiscal policy. As the *Economist* (2010) noted: 'Britain has embarked on a great gamble. Sooner or later, many other rich-world countries will have to take it too.'

This article looks at the United Kingdom's recent experiment with fiscal consolidation. It puts this consolidation into its historical and international context and assesses its strengths and weaknesses. It shows that over its first three years the Coalition government failed to create a fiscal policy framework that holds spending on a lower track. However, the June 2013 spending review (for the 2015–16

fiscal year) and recent positioning of the opposition Labour Party indicate that a new approach to fiscal discipline may now be starting to take hold.

The context for fiscal consolidation

In May 2010 the United Kingdom formed its first coalition government since the Second World War. This government made rescuing the public finances its

most important goal, with the coalition agreement giving deficit reduction precedence over all other measures. As the chief secretary to the Treasury, Danny Alexander, argued: 'we made the decision to cut our cloth to reflect our means, and prove that we could be trusted to restore health to the public finances. Building that trust had two elements: firstly establishing numbers that people believed. And secondly coming up with a credible plan that we could deliver on' (Alexander, 2012).

The Coalition's plan for fiscal consolidation has been widely debated. Yet many of these debates fail to put this fiscal policy into its international and historical context. This is important as data from the International Monetary Fund (IMF) (2013a) show that when they entered power in 2010 the Coalition faced real problems. The build-up of debt was especially significant and reflected both the global financial crisis and the pre-existing tendency of governments to run structural deficits, with governments

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running deficits and public debt increasing every year since 2001–02.¹ The challenge is that, as Corrie, Nolan and Zuccollo showed, ‘the large majority of the current stock of debt is structural and so will not reduce with economic growth. Indeed, less than £45 billion of the total £1 trillion of public debt is purely cyclical. The remainder constitutes debt that will not be offset by the automatic stabilisers once growth returns’ (Corrie, Nolan and Zuccollo, 2013).

Data from the IMF’s *Fiscal Monitor* also show that the Coalition’s plans for deficit reduction to 2015 – a 5.6 percentage point reduction in the cyclically-adjusted primary deficit – are similar to the United States and just above the level of Australia and New Zealand. What stands out is the balance between expenditure cuts and revenue measures, with 75.2% of the consolidation occurring on the expenditure side. This is above the IMF average for developed countries of 51.7%, but is similar to that of Germany and below that of countries like Canada, Spain and New Zealand. Further, as the cyclically-adjusted deficit is expected to persist until 2016–17, gross debt will grow by a further 20.2 percentage points (reaching 99.7% of GDP) between 2010 and 2015.

In historical terms, the consolidation means that by 2014–15 spending will be just above the level of 2008–09 spending in real terms. But this should be seen in the context of the increase in spending prior to 2010. Public expenditure statistical analysis data released by HM Treasury show that between 2002–03 and 2010–11 the government’s total managed expenditure increased in real terms from £521 billion to £704 billion. This was equivalent to a real increase of 35.0%, or an average annual increase of 3.8%. Even with the planned fiscal consolidation, by 2014–15 total spending will be 33.2% higher, transfers will be 55.1% higher and departmental spending will be 16.8% higher than in 2002–03. This is equivalent to average annual increases of 2.4%, 3.7% and 1.3% respectively.

The Coalition’s approach

The first stage of the Coalition’s consolidation was the release of an

Table 1: Fiscal challenges facing the Coalition (share of GDP)

	2006 (%)	2010 (%)
Tax revenue	37.7	36.6
Expenditure	40.5	46.7
Cyclically-adjusted primary balance (excluding debt repayments)	–3.1	–6.0
Cyclically-adjusted overall balance	–4.7	–8.6
Gross debt	43.0	79.4

Source: IMF (2013a)

Table 2: Fiscal consolidation in selected countries, 2010–15

	Change in revenue, 2010–15	Change in expenditure, 2010–15	Change in cyclically-adjusted primary balance, 2010–15	Change in gross debt, 2010–15	Share of consolidation through expenditure reductions (%)
United Kingdom	1.1	–3.4	5.6	20.2	75.2
New Zealand	0.1	–5.3	5.0	4.7	97.6
Australia	2.8	–2.2	5.0	4.6	44.2
Canada	0.6	–2.9	2.9	0.0	82.0
France	3.2	–1.3	3.9	11.8	29.7
Germany	1.1	–3.0	3.3	–6.8	73.1
Spain	0.0	–3.0	5.2	40.3	98.5
United States	3.8	–3.2	5.6	10.2	46.1
Developed-country average	2.3	–2.5	4.2	7.2	51.7

Source: IMF (2013a)

emergency budget in early 2010. This included a fiscal mandate to achieve a cyclically-adjusted current balance by the end of a rolling, five-year forecast period, and for public sector net debt as a percentage of GDP to be falling by 2015–16. Overall fiscal aggregates to achieve this fiscal mandate were then set. These aggregates were based on a target (which was not met) for 80% of consolidation to take place through spending cuts and were mostly based on those proposed by the previous Labour administration.² Following this, overall departmental expenditure limits were established and an independent Office for Budget Responsibility (OBR) was created to assess the government’s performance against its fiscal mandate and targets.

Later that year the government completed a spending review for 2010–11 to 2014–15. This translated overall

departmental expenditure limits into individual departmental settlements. Yet not all departments faced a reduction in their budgets and the National Health Service (NHS), Overseas Development Assistance (ODA) and school budgets were protected. As well as these departmental budgets, the basic state pension was uprated in a more generous manner (a triple guarantee of earnings, prices or 2.5%) and the prime minister, David Cameron, ruled out cuts to a number of universal pensioner benefits. This contrasted with the treatment of other groups, with students and younger families losing support (including the significant decision to means-test the child benefit) (Nolan, 2011a).

In June 2013 the Coalition completed a further spending review for the 2015–16 year, which will come into effect one month before the next general election.

As with the previous spending review, the budgets for the NHS, ODA and schools were protected. However, a larger share of the NHS budget was made available to local authorities (thus breaking the ring fence in practice if not in principle) and efforts were made to reduce the cost of pensioner benefits. In particular, it was proposed to restrict access to the winter fuel payment (to reduce take-up by expatriate pensioners in European countries outside the United Kingdom), and pensioner benefits excluding the state pension were included in a budgetary cap on transfer spending.

OBR data show that in cash terms the Coalition kept its spending plans broadly on track (Corrie, Nolan and Zuccollo, 2013). Yet, while there was little deviation from the overall cash path, lower than expected economic growth meant that the Coalition failed to satisfy its fiscal rules. In this respect the Coalition has not been unusual, as this has very much been the pattern of successive governments. As Zuccollo (2012) noted, for the past decade governments have been living by the idiom that ‘rules are made to be broken.’³ There was also a significant change in the composition of the planned consolidation, with higher than expected spending on transfers (annually managed expenditure) being offset by deeper cuts in departmental budgets (departmental expenditure limits). This increased spending on transfers reflected both higher debt servicing costs and higher welfare spending, although much of this increase in welfare spending was structural (e.g., increasing spending on pensions) and cannot be attributed to the economic cycle (Corrie, Nolan and Zuccollo, 2013).

The austerity debates

The Coalition’s fiscal consolidation has (unsurprisingly) been the topic of intense debate (Nolan, 2012). Supporters of the Coalition’s plans have argued that these changes were necessary to signal fiscal discipline, allow the government’s costs of borrowing to fall, and support growth through allowing interest rates to remain low (Lilico, Holmes and Sameen, 2009). They have also (more recently) argued that any easing of fiscal policy may lead

Many supporters of short-term stimulus spending also failed to consider how its economic impact depends on the type and not just level of spending.

to monetary authorities beginning to tighten sooner, thus increasing interest rates. Indeed, it has been suggested that to support further growth the Bank of England’s monetary policy mandate requires review rather than easing of fiscal policy (Osborne, 2013).⁴

Critics have, in contrast, argued that reduced government spending has weakened private demand, and that this is especially concerning given the weakness of the eurozone (the United Kingdom’s most important trading partner). It has also been argued that if one-off policy changes (such as the increase in the standard rate of the value added tax (VAT)) and non-tradeables are stripped out of the figures, then underlying inflationary pressures are weak and so the likelihood of monetary policy offsetting an easing of fiscal policy is low. Finally, it has been claimed that with the low cost of government borrowing (possibly due to non-conventional monetary policy and a weak outlook for growth), debt-financed short-term stimulus could come at a relatively low cost and may help to circumvent blockages in the financial system (Nolan, 2012).

Yet the differences between these two camps should not be overstated. Both sides agree on the need for a plan to reduce borrowing to avoid losing the confidence of markets. The differences are largely

ones of timing. Further, both camps have weaknesses in their positions. For example, supporters of fiscal consolidation need to recognise that this involves a trade-off between short-term economic costs and long-term gain, and that, as Reform warned in June 2010, reconciling this trade-off ‘will not be pain free’ (Bassett, Cawston et al., 2010); while supporters of easing fiscal policy need to recognise that ‘multiplier analysis’ provides a much weaker case than commonly assumed for consumption spending funded by debt (Haldenby et al., 2011).

The Coalition made a mistake in understating the likely costs of fiscal consolidation. This reflected a failure to fully grasp the scale of the changes required. It was expected that much of the heavy lifting could be done through reducing waste or administrative costs. While making government and administration work better is important, making cost savings on the scale needed required going beyond incremental improvements. As Ruth Richardson said in a speech in London in September 2010, based on her experience in New Zealand, ‘salami slicing, waste busting media stunts, public servant or special adviser elephant hunting are just exercises that fiddle at the fringes. The real meat lies in asking the fundamental question – does the government have a role at all?’ (Richardson, 2010). By 2013 the National Audit Office had begun to raise similar concerns and noted that there has been insufficient emphasis on delivery of long-term changes and improvement in efficiency necessary to make savings sustainable. As they highlighted, departments still tend to lack a clear strategic vision of what they are to do, what they are not, and the most cost-effective way of delivering it (National Audit Office, 2013).

Many supporters of short-term stimulus spending also failed to consider how its economic impact depends on the type and not just level of spending. International evidence suggests that the return from spending on economic development (such as infrastructure) tends to be higher than from spending on social protection (such as welfare and health) (Gemmell, Kneller and

Sanz, 2009). As the current secretary of state for business, innovation and skills, Vince Cable, wrote while in opposition: 'Without fiscal consolidation it will not be possible to remedy the current gross imbalance in the economy. Without infrastructure investment there will not be a functioning, modern, sustainable, "green" economy for the next generation to work with' (Cable, 2009). Yet, as the House of Commons Public Accounts Committee (2013) showed, the pattern of consolidation has been the opposite of this. Low-value spending such as the poorly-targeted pensioners' winter fuel payments, free TV licences and bus passes should have been cut first, but instead the earliest cuts fell relatively heavily on areas like capital spending.⁵

Failing to get a grip on long-term spending

The need for fiscal consolidation does not just reflect immediate factors like the fallout from the global financial crisis. With the ageing of the population, the proportion of people who work and pay the taxes that fund services and transfers (largely funded on a pay-as-you-go basis) is falling (Nolan, Thorpe and Trewhitt, 2012). This reflects not only a bulge in the population reaching retirement age but also increasing longevity. Indeed, as Nolan (2013b) has shown, a person retiring in 2010 would have a one-in-six chance of spending three decades in retirement; by 2035 a quarter of people retiring can expect at least 30 years of retirement. This is even with current plans to increase the state pension age. This means major areas of government spending require reform, especially pensions and health.

Yet the Coalition has been reluctant to reduce spending in these two areas. This is like trying to rescue the public finances with one hand tied behind your back. To illustrate the importance of these two budgets: if the Coalition reformed them so that they remained fixed in cash terms, the increase in total spending from 2011–12 to 2014–15 would be 55.1% less. The increase in health spending alone is equivalent to 22.5% of the increase in total spending from 2011–12 to 2014–15 (Corrie, Nolan and Zuccollo, 2013). The overall result is like putting the public finances on a crash diet which actually

Table 3: The importance of the health, welfare and education budgets

Total managed expenditure (2014, £ billions)	733.5
Spending on health, welfare and education (2014, £ billions)	380.1
Share of total 2014–15 spending of health, welfare and education (%)	53.3
Share of increase in spending (2011–12 to 2014–15) of health, welfare and education (%)	55.1
Share of increase in spending (2011–12 to 2014–15) of health (%)	22.5

Source: Corrie, Nolan and Zuccollo (2013)

reduces the chances of long-term weight loss. There is a perception that services are being underfunded, while the real drivers of spending have been left untouched.

The growing power of the elderly voting bloc has proven to be a major constraint on pension reform. As Corrie and Nolan (2013) showed, around one quarter of all voters were over 65 in the last general election and this proportion is expected to grow every election to reach one in three by 2050. It is important to think about reducing the long-term costs of pensions, yet recent government policy has gone in the other direction. Although the Coalition brought forward a planned increase in the retirement age, this was offset by the change in the way that the state pension increases over time. The state pension will increase by the highest of earnings, the consumer price index or 2.5% (the so-called triple lock) and this change alone will add around 0.7% of GDP to the cost of pensions by 2040 (Cawston et al., 2011).

It is important to think about reducing the long-term costs of pensions, yet recent government policy has gone in the other direction.

Yet a recent change in the position of the opposition Labour Party towards universal benefits and the Coalition's 2013 spending review have shown that the desire to get to grips with spending on pensions is growing. The Labour Party has proposed means-testing the winter fuel payment (this has been a long-standing position of the Liberal Democrat deputy prime minister, Nick Clegg) and the 2013 spending review included a proposal to withdraw this payment from expatriate pensioners living in other European countries (based on a temperature test). A cap on the overall level of spending on welfare transfers has also been proposed by the Coalition, and both it and the opposition have signalled that this cap will include pensioner benefits. The Coalition's current position is, however, to exclude the state pension from this cap, which will mean its coverage is so narrow as to be practically meaningless. In 2013–14 pensioners will receive 54% of all welfare spending and tax credits, and the state pension alone will account for 75% of these pensioner benefits.

The Coalition has also failed to get to grips with the NHS budget. Again this partly reflects the concerns of the elderly voting bloc: Corrie and Nolan (2013) show that the NHS accounts for 95% of all spending on benefits in kind on the average retired household. Yet the Coalition's approach of ring-fencing the NHS budget has reduced the pressure to innovate and meant that the squeeze on areas of related spending, such as adult social care, has had to be deeper (Cawston et al., 2013). The ring fence has worked against the integration of services and the need to shift care from the acute setting into the community and the home.

The Coalition appears to have recognised problems with the health ring

fence and in the 2013 spending review extended a policy where NHS funds can be used by local authorities to integrate care. Having a funding pool that allows resources to cross departmental boundaries and to go where they will have the best impact on the community is sensible, and is similar to the justice sector fund in New Zealand. Yet this architecture will require a greater focus on joint working – among Cabinet ministers, departmental chief executives and throughout their agencies. Without further progress on civil service reform, it is hard to be confident that the joint fund for health integration will change outcomes in the way hoped. The Coalition government has failed to properly grasp the importance of civil service reform (Haldenby, Majumdar and Rosen, 2013) and the joint fund risks being another source of tension rather than transforming the way government works.

The Coalition government has also failed to grasp the importance of reforming the way in which the NHS is funded. For decades real reform of the funding of the service has remained off the agenda and emphasis has instead been given to reorganising the service to improve resource use. Improving resource use is important, but the narrow basis for funding the NHS means it is out of step with the mainstream of international practice and is vulnerable to the pressure on public finances from population ageing. On average, OECD countries spend 2.7% of GDP on private healthcare, while in the United Kingdom this is just 1.6% (Nolan, 2013a).

The need for revenue measures

While the bulk of the fiscal consolidation has taken place on the spending side, the Coalition has sought to make changes on the revenue side too. Yet there appears to have been little recognition that the re-

In 2010, when the spending review was launched, a spokesperson from HM Treasury said: ‘Anyone who thinks the review is just about saving money is missing the point. This is a once-in-a-generation opportunity to transform the way that government works’ ...

quirement for greater revenue (as a share of GDP) is not just a short-term phenomenon. There is a view that once the crisis is over it will be possible to significantly reduce taxation, yet OBR data show that public sector current receipts are expected to average 38.2% of GDP for the next 20 years, while total managed expenditure is expected to average 39.9% (Office for Budget Responsibility, 2012). There is no fiscal headroom for lowering tax burdens

without also going significantly further on entitlement reform.

It could be argued that this is a static view of taxation and that tax relief can, at least partly, fund itself. Yet the priorities in current tax policy do not satisfy this test of expanding the tax base and generating additional revenue. In particular, a major priority of the Coalition has been to increase the personal income tax allowance. This comes at a large revenue loss, and does little for the overall efficiency and fairness of the income tax system as the bulk of the relief goes to people above the level of the allowance (Nolan, 2011b). For most people this tax relief has an impact only on already-earned income and does not improve the return from additional work. It also increases incentives for tax avoidance and evasion, and reflects an approach to tax policy that has been criticised in the United States by the supply-side economist Art Laffer. As Laffer noted: ‘I’ve never said all tax cuts pay for themselves’ (Fox, 2007).

The Coalition’s approach to business taxation has been described as ‘schizophrenic’. On the one hand it has reduced the main rate of company taxation in an effort to create the most competitive tax regime in the G20. On the other it has introduced ad hoc taxes on important sectors of the economy, such as banking (Bassett, Haldenby et al., 2010), and attacked legitimate efforts by corporations to reduce their tax bills. As John Cridland, director general of the Confederation of British Industry, has noted: ‘That confusion of purpose – are we making the UK more tax competitive? Are we sending signals that somehow big business can’t be trusted? – needs reconciling’ (Rowley, 2013). Further, contrary to the political rhetoric, around half of the tax gap can be attributed to small-to-medium enterprises, and Coalition policies are encouraging these businesses to plan their affairs to avoid tax.⁶ By cutting company tax rates and increasing personal allowances while making the tax system more hostile towards higher income earners, the Coalition is getting its tax design wrong (with increasingly variable rates encouraging tax planning). The entire

Table 4: The long-term fiscal outlook – receipts and managed expenditure (share of GDP)

	2010–11 (%)	2020–21	2030–31	2040–41	2050–51	2060–61
Public sector current receipts	37.3	38.2	38.4	38.9	38.9	39.1
Total managed expenditure	46.5	38.8	40.1	41.6	42.7	45.0

Source: Office for Budget Responsibility (2012)

system needs to be simpler and less open to abuse.

It is also important not to confuse tax rates with tax revenue, and rather than raising tax rates emphasis should go on strengthening the tax base. As Reform (Bassett, Haldenby, et al., 2010), the OECD (Holmes, 2010), the Mirrlees Review (Mirrlees et al., 2011) and the IMF (2013b) among others have noted, the major opportunity for improving the tax base is to close holes in the indirect tax (particularly the VAT) system. The expensive system of pension tax relief is another potential area for reform (Cawston et al., 2011). Yet the Coalition has ruled out a significant expansion of the VAT tax base and has, in fact, performed an embarrassing policy reversal on the extension of VAT to hot takeaway food (dubbed 'pasty-gate' in the media). On pension tax relief, while this is an area that clearly requires reform, the approach taken has been largely designed according to political principles and failed to be a coherent package that increases saving and lowers costs to taxpayers.

Conclusion

In 2010, when the spending review was launched, a spokesperson from HM Treasury said: 'Anyone who thinks the review is just about saving money is missing the point. This is a once-in-a-generation opportunity to transform the way that government works' (Daily Telegraph, 2010). Yet the Coalition has failed to achieve this vision. This has

been partly, but not wholly, an own goal. By focusing on short-term political priorities rather than long-term reform, the Coalition has made its task even harder. There are emerging signs that this approach may be changing, but concerns remain.

The Coalition failed to properly capitalise on its opportunities over the last three years and it must not waste the final two years of this Parliament. Two key things must happen. First, the Coalition must illustrate that there is no simple relationship between spending money and improving outcomes. Debates in the United Kingdom are heavily biased towards a focus on inputs, such as scorecards of how individual budgets have moved up or down. As the experience in areas such as police reform show, it is possible to reduce inputs and improve outcomes (May, 2013). But this is only possible with reforms that improve the productivity of spending.

Second, the Coalition must give greater attention to the role of civil service reform in fiscal consolidation. As Ruth Richardson wrote, ongoing fiscal prudence requires 'a results-driven and accountable public sector ... a clear idea of what we wanted to achieve and ... to organise services to achieve these priorities' (Richardson, 2010). On this there are, as the current paymaster general, Francis Maude, has noted, important lessons that the United Kingdom could learn from New Zealand (Lodge et al., 2013). The close relationship between

New Zealand's State Sector Act 1988 and Public Finance Act 1989, along with the later Fiscal Responsibility Act 1994, has been reflected in a strong approach to managing budgets, making departments account for their assets and reporting performance. Ensuring that the civil service is more clearly held to account for contributing to governments' fiscal policy objectives is essential if the Coalition is to achieve its mission of doing more with less.

- 1 As Zuccollo (2012) noted, 'measures of the sustainability of the UK government debt show a long history of unsustainable borrowing: the surplus has been great enough to [sustainably] reduce public debt in only six of the past 34 years.'
- 2 The Coalition proposals were for an additional consolidation of £40 billion per year by 2014–15, which was composed of £8 billion a year from net tax increases and £32 billion a year from spending reductions. This is in the context of total discretionary planned consolidation of £113 billion by 2014–15 (thus, Coalition plans represented 35% of the total). In comparison to the Coalition's 80:20 goal, the previous Labour administration proposed that spending measures would contribute 71% of consolidation and revenue measures 29% (Corrie, Nolan and Zuccollo, 2013).
- 3 From 1998 to 2008 the UK had two rules: a golden rule to ensure budget balance and a sustainable investment rule to constrain total debt. These rules did not prevent the increase in government debt in the UK between 2003 and 2008, even before the global financial crisis (Zuccollo, 2012).
- 4 Supporters of the Coalition's plans have also emphasised the need to distinguish the UK from the eurozone. While the experience of eurozone countries is often cited as an example of self-defeating austerity, unlike these countries the UK has its own currency and an independent monetary policy, which can potentially lean against changes in spending and taxation.
- 5 It is important to not overstate the economic benefits of infrastructure spending. While infrastructure can play an important part in lifting the long-run growth potential of the economy, this depends on selecting the right projects and funding arrangements (see, for example, Haldenby et al., 2012).
- 6 The tax gap is the difference between the tax collected and the theoretical liability (amount that should be collected). The estimated tax gap for 2009–10 was around 8% of total revenues. Inaccurate returns from individuals and indirect taxes like VAT made up the biggest proportion of the tax gap. The share of the tax gap which could be attributed to corporation tax, especially of large and very large businesses, was relatively small (Nolan, 2011b).

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Chris Nixon

Valuing a Healthy Start to Life

How should governments make effective use of research that examines the costs of a ‘less than healthy’ start to life? Are there any ‘free efficiency lunches’ to be had by improving intervention processes in early childhood health and education? On the surface at least, health and education are prime areas for improved efficiency gains because of the large amounts of public money spent and the potential to create substantial public value.

In this article this is considered in the context of a society which struggles with how social choices are made.¹ One approach suggests that we allow society to pursue its goals whatever they may be. In modern debates this is about public value. Moore (1995) suggests that public value depends on the authorising environment and operational capacity.² The focus of this article is on operational capacity,³ and, in particular, on exploring new

techniques for assessing where further value might be created by investigating the impacts of a less than healthy start to life from epidemiological, economic and policy standpoints.

My wish is to integrate our understanding of the various approaches and emerging evidence in a manner appropriate for policy makers to use. Thus, I am looking from the ‘policy-making market’ back down the ‘research

pipeline’ to assess the salient factors that may guide child health investment decisions.

The epidemiological evidence of the implications of a less than healthy start to life is growing. A policy response is required. However, while we now have a deeper understanding of the physical consequences of a healthy start to life through the Developmental Origins of Health and Disease (DOHaD) programme of research, the growing economic evidence is not well connected to the science, and the policy debates are nascent. The notion that being healthy at birth maximises the chances of being a healthy adult is a simple idea with complex implications. This also makes it difficult to quantify.

The epidemiological complexity requires understanding the variable strength of the pathways which deprivation *in utero* prescribes, and how these might differ given different ethnicities, genetic profiles and other potentially relevant attributes. The rough proxy to indicate a constrained *in utero* environment is birth weight. According to the World Health Organization and UNICEF (2004), low birth weight is a birth weight

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of less than 2,500 grams. The economic and policy challenge is to construct a practical and logical connection with the epidemiological research. Further challenges include identifying and assessing the direction and strength of associations and how they might change; understanding how changes in income influence health and what the dynamics are of the interaction between the two (Thomas and Frankenberg, 2002); and identifying what other factors come into play in predisposition to illness.

McMichael (1999) sets out the major problems to be overcome: a preoccupation with risk factors that represent an immediate vulnerability for a particular condition, when rather

programming for later life health: the development deficit approach; the thrifty phenotype (Hales and Barker, 1992); and the predictive adaptive response (Gluckman and Hanson, 2004a, 2004b).

The Barker hypothesis has been modified into a more nuanced understanding of how a wide range of early life effects and illnesses may affect individuals (Gluckman and Hanson, 2004b). These explanations are not mutually exclusive, and focus on the importance of *in utero* conditions.

What has emerged is the DOHaD – Developmental Origins of Health and Disease – hypotheses (see www.soton.ac.uk). For example, researchers have linked cardiovascular disease, type

Animal studies

Conformation of the Barker and Hales fetal origins hypothesis focused on animal studies. These studies examined ‘western lifestyle’ risk factors, including high-energy, high-fat and low-fibre diets (Benyshek, 2007). They confirmed that processes that had an influence on health, particularly obesity, begin in the periconceptual and embryonic periods (Fleming, 2006) and are extended through postnatal growth (Eriksson et al., 2003). Animal models also show that maternal nutrition has a critical impact on the development of obesity and related diseases (Armitage et al., 2004).

Longitudinal studies

Links between a poor start to life and later life diseases were noticed by examining longitudinal studies (Barker et al., 1989). Researchers uncovered relationships (correlations) between variables over long time periods. Studies such as the Aberdeen Children of the 1950s cohort study (Batty et al., 2004) are typical of the type of ‘data warehouse’ which has been employed to examine life course influences. The Aberdeen study and others have illustrated the relationship between low birth weight and coronary heart disease (Leon et al., 1998), and low birth weight and non-insulin-dependent diabetes mellitus (Lithell et al., 1996). Low birth weight has also been linked to schizophrenia (Cannon, Jones and Murray, 2002), cognition (Breslau, 1995), behaviour in childhood (Kelly et al., 2001) and psychiatric disorders in adulthood (van Os et al., 1997).

Two studies in New Zealand (Dunedin and Christchurch) have highlighted material on the impacts of disadvantage and family violence on later life criminality (Jaffee et al., 2002). A third New Zealand study, Growing Up in New Zealand, is now under way. Its main strengths are that it takes a much larger and more ethnically diverse cohort of parents and children than previous New Zealand studies, and that it asks a wider range of questions: medical records are set in the context of the social and cultural environment that surrounds the children, and the study is designed to elucidate the multiple determinants

Links between a poor start to life and later life diseases were noticed by examining longitudinal studies ...

what we may face is a ‘web of causality’ (Wolfson, 2002); reconciling the difference between individual and population-level influences on health; understanding how risk factors change over time in a life-course approach; and how to gauge the impact of large-scale social change using scenario-modelling techniques.

The following section of this article sets out the research scene, looking at why epidemiologists became interested in this problem and their research agenda. The article then looks at how economists have responded to the epidemiological research. Finally, it examines how policy makers might approach the problem, given ongoing research in a new area.

Setting the scene

The impact of low birth weight on stunting and chronic disease in later life has been explicitly set out as a hypothesis only relatively recently (Barker et al., 1989). Barker, in collaboration with Hales, demonstrated that adult health could be strongly associated with size at birth (Hales et al., 1991). Three theories have been advanced by researchers to explain the importance of intra-uterine

2 (non-insulin-dependent) diabetes and osteoporosis in adults with low birth weight. DOHaD’s aim has been to provide a scientific basis for public health measures directed at preventing these diseases. DOHaD suggests that adult-related diseases ‘originate through adaptations which the fetus makes when it is undernourished, and which permanently change its structure, physiology and metabolism.’⁴

Epidemiology

For the DOHaD hypotheses, the complexity of biological systems means that it is difficult to say with absolute accuracy how even the simplest versions behave. Epidemiological research focuses on understanding why we see associations between temporally distinct events and the pathways between them. Understanding the strength of a causal inference requires the gathering of data and applying a broad range of biomedical and psychosocial theories in an iterative way to generate or expand theory, test hypotheses, and make educated, informed assertions about which relationships are causal and how they are causal.

that interact over time to determine why intra-uterine development is associated with later life health outcomes, beginning in early life with childhood growth and cognition. Importantly, and unusually, the study collected baseline pregnancy data to examine the influence of development and environments existing before and during pregnancy.

Longitudinal studies are prospective and observational; they examine the world without controlling or manipulating it. They have less power to detect causal relationships relative to other experiments. However, sufficiently large longitudinal studies with repeated observation at the individual level are valuable. Scale allows subgroups that can proxy 'with' and 'without' samples to be drawn. Other strengths lie in the ability to use analysis to exclude time-invariant unobserved individual differences, and to use the temporal order of events as evidence. They also provide an opportunity to understand the relative influence of distal and more proximal influences on developmental outcomes. Longitudinal studies have the great advantage of providing data that can be used to establish parameters for the population where interventions are planned.

Famines

While there have been many famines, in few cases has there been the data to test aspects of the DOHaD hypothesis. One example where data was available was the Dutch 'hunger winter' famine, in which a short and unexpected event caused 18,000 deaths. During the famine, which lasted from November 1944 to April 1945, average daily rations fell below 800 calories. The Dutch Famine Birth Cohort Study found that the children of pregnant women exposed to the famine were more susceptible to diabetes, obesity, cardiovascular disease, microalbuminuria and other health problems (see Hart, 1993; Roseboom et al., 2001; Neugebauer, Hoek and Susser, 1999). The children of the women who were pregnant during the famine were smaller than average. While stunting was expected, what was more surprising was that when these children grew up and had their children,

those children were also smaller than average. This data suggested that the famine experienced by the mothers may have caused epigenetic changes that were passed down to the next generation.

Estimating economic parameters

The literature on wider health, social and economic costs and benefits of a healthy start to life is growing. As Alderman (2009) points out, while awareness of the need for investment in nutrition is not new, the spotlight has now been firmly placed on the data and techniques to prove the case, which are new.

Economists have made passing references to the ongoing epidemiological research, with the possible exception of

later life, and intergenerational benefits. Also, improved verbal and cognitive ability can improve later life outcomes (Dustmann and van Soest, 2003) and reduce likelihood of partaking in risky activities or crime (Heckman, Stixrud and Urzua, 2006). There is a direct economic impact in that healthier people are better workers: a productivity dividend from improved physical capacity and increased cognitive ability. Other costs of poor mental and physical health (e.g., see Heckman, Stixrud and Urzua, 2006) potentially have a major impact: New Zealand health system expenditure projections, for example, forecast a rise from 6.9% of GDP in 2011 to 11.1% in 2060 (Treasury, 2012).

The evidence across different populations shows that poor health outcomes have large costs to society throughout the life course of individuals ...

Almond and Currie (2010). In most articles, Barker is cited and cursory attention is paid to how the epidemiological research is progressing. A possible reason for this is the lack of incentives to connect the epidemiological and economic research. A major challenge for economists and epidemiologists will be to work more closely together to further understand the impacts of a less than healthy start to life.

Why are economists interested in DOHaD?

The Barker hypothesis has encouraged a growing economic literature (Almond, 2006; Black, Devereux and Salvanes, 2007; Dustmann and van Soest, 2003; Heckman, Stixrud and Urzua, 2006). The evidence across different populations shows that poor health outcomes have large costs to society throughout the life course of individuals (Ruger, Jamison and Bloom, 2001). The generalised links suggest that there are social 'dividends' that can be gained.

The health dividend includes lower infant and child mortality, reduced health care costs for neonates, infants and children, reduction in chronic diseases in

Heckman's observation that 'skills beget skills' succinctly describes the path dependency associated with the education dividend. Learning today improves the ability to learn in the future. If further work can establish the mechanisms by which a healthy start to life can improve early-intervention educational outcomes further, then the impact will be much greater. This is of particular importance, because we know that the influence of early educational intervention can be felt not just today but in the future: it improves the rate of learning long after the child has left early education programmes. Relative to later life education, 'skills beget skills' is a reason for the higher rates of return from early life education.⁶

Moving from high to low rates of mortality and fertility and higher life expectancy can have a dramatic impact on a country's development (demographic dividend). Increasing numbers of young children can increase the working-age population – witness East Asian growth, for example (Bloom and Sachs, 1998). The opposite can also occur. In sub-Saharan Africa the mounting disease burden

means that resources are spread among large numbers of children, creating high fertility and high mortality (Bloom and Sachs, 1998).

These insights offer explanations of how health improvements can assist development goals. However, the challenge is to demonstrate the strength of each DOHaD mechanism. Estimating how much public value can be generated will be crucial in influencing policy makers. This is where the economic tools can be utilised to great effect to illustrate the magnitude of the various impacts.

Theoretical underpinnings

Arrow (1963) first set out the differences between good health and other goals using a production function approach. Phelps (2003) identifies these factors as heavy government involvement, asymmetric information, spillover effects (externalities), barriers to entry and

respond to further health investments and socio-economic issues and the possible interaction between biological and environmental impacts (ibid.).

Despite the appeal and persuasiveness of a production function approach by economists, the key limiting factor to further progress is the lack of availability of large-scale longitudinal data sets with which to evaluate the long-term impacts of a less than healthy start to life in detailed terms.

Animal and longitudinal studies

Questions remain over the strength of the DOHaD hypothesis pathways that link later life diseases with a constrained *in utero* environment. Retrospective epidemiology has not proven the hypothesis since we lack the clinical data of neonate development for large populations. It is also unethical to test the hypothesis using human populations. Women cannot be

so it is not known if one intervention on a specific link will be effective.

Natural experiments

Elements of understanding are vital, since, as a matter of effectiveness, proof is required that *a priori* effect is necessary and/or sufficient. A key matter is to establish sufficiency, since it is uncertain that all variables are required for testing cause are included. In many cases, the confounding variable is poverty. Poor regions have poor health outcomes and poverty is passed on through generations.

Twin studies

Twin studies can control for omitted bias. Genetic and environmental pregnancy and maternal factors can be held constant to focus attention on the results of physical differences across populations. Studies by Royer (2009), Black, Devereux and Solvanes (2005) and Oreopoulos et al. (2006) for different countries found that twin differences in birth weight were positively associated with subsequent educational attainment, although Royer suggests these differences were small. Twin birth weights were found to be positively associated with adult labour market outcomes (Black, Devereux and Solvanes, 2005).

Royer points to a number of constraints. Parents and health care providers may give varying degrees of care (Becker and Tomes, 1976). Low birth weight may systematically alter the investments in each twin: i.e., the lighter twin might receive more care. Furthermore, there are concerns about survivor bias, where the lack of fetal nutrients may increase early-age mortality rates, and therefore those who survive are likely to be resilient. This is reinforced by Rosenzweig and Zhang (2006), who point to expenditures on schooling being positively correlated with weight differences at birth.

Unique data sets

To mitigate the impact of the omitted variable problem, Almond (2006) uses the 1918 influenza pandemic in the United States to test the DOHaD hypothesis. The 'Spanish flu' arrived unexpectedly in September 1918 and was largely over by January 1919. The sharpness and brevity of the event, coupled with its heavy

Twin studies can control for omitted bias. Genetic and environmental pregnancy and maternal factors can be held constant to focus attention on the results of physical differences across populations.

third-party agents. Grossman (1972) built on Arrow's work in setting out a health demand function which portrayed health as a stock variable which varied over time with further investment and depreciation. Wagstaff (1986) demonstrated how early life investments can have a disproportionate impact on later life health.

Almond and Currie (2010) document further additions to the Grossman model. They include the use of a constant elasticity function to overcome the strong perfect substitutability assumption, i.e. that all health investments should be concentrated in one period (Heckman, 2007); the level of health investment to ensure that 'damage' can be shown as proportional to the total stock of health investment in a person (ibid.); the potential resilience when damage in the first period is particularly large (Almond and Currie, 2010); and demonstrating how children

randomly assigned deprived or enriched environments during pregnancy and their offspring's morbidity and mortality be tracked without intervention.

A disconnect exists between the debates being carried out among epidemiologists about proving the way the various associations and causal pathways can be understood as a biological mechanism, and economists scrambling for data to test different aspects of the general hypothesis. The disconnect can occur in a number of ways. The use of animal studies focuses in on proving one causal link. The problem is, how might you generalise this to a population level? If there is a web of causality, perhaps only one link within it has been uncovered. By using longitudinal studies, distal correlations are uncovered but causal pathways are not. While a general relationship may include all causes, they are not untangled

impact on pregnant women, make it ideal for examining the DOHaD predictions. Almond shows that those cohorts who were *in utero* during the short period that the pandemic was active suffered from reduced educational attainment, increased rates of physical disability, lower income and status and higher transfer payments relative to other cohorts.

Van den Berg, Lindeboom and Portrait (2006) use Dutch registers of birth between 1815 and 2000 combined with macro-economic data outcomes to examine the impact of recessions on individual mortality. They found that being born during a recession increases the mortality rate late in life for most of the population. Lower-income earners tend to be affected disproportionately from being born in recessions. Higher-income earners born during recessions have a much more muted mortality response.

Almond and Mazumder (2011) focus on the holy month of Ramadan to illustrate the linkages between fasting and fetal health. They find that Muslims in Uganda and Iraq are 20% more likely to be disabled as adults if early pregnancy overlapped with Ramadan. The impact is larger for learning disabilities.

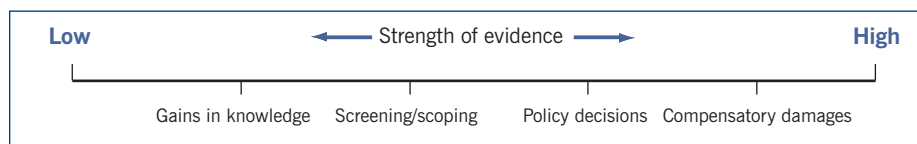
Implications for policy analysis

Much of the research debate has been about seeking stronger proof of the DOHaD hypothesis. Policy-making has a different logic; it is fundamentally practical and looks for results more than knowledge.

What is the problem?

Policy analysis defines the problem and asks what intervention is appropriate. Interventions should be designed to maximise welfare over time; their context relates to the health issue identified and includes the potential costs and benefits. Ideally there would be no need to intervene, as markets would allow those affected to take care of the health risks. However, market failure can occur, such as lack of or poor parental information about the link between current maternal health and future economic outcomes of potential offspring. Possibly, regulatory or other intervention might pay off for society.

Figure 1: Continuum of decision settings



Source: Brookshire (1992)

Does the market resolve the problem?

Less regulation is preferred to more. Generally, people should be free to engage in activities unless they are prohibited for some good reason. Good regulatory design should signal the importance of innovation for economic growth and the maintenance and enhancement of standard of living. This is why many governments have been proactive on maternal smoking, because of the direct harm through lung cancer and the indirect health problems for children of smokers. The problem that the DOHaD hypothesis sets out is in a similar category. Many parents or caregivers require guidance to provide the early life-course environment appropriate to prevent risks of later life diseases. The market has not by itself been able to ameliorate the problem.

Is there a workable government intervention available?

No ready-made solution exists for intervention because the problem is new and there is debate over the strength of the impacts. However, a number of suggestions are made here as to how to think about a possible approach to intervention. While it is important that the evidence for an approach is as strong as possible, policy makers are willing to expose themselves to 'evidence error' to inform better policy-making advice (OECD, 2006).

Brookshire (1992) sets out an approach as shown in Figure 1. If the objective is to gain more information about a policy or to develop an initial assessment, then a relatively low level of data or evidence is required. Higher degrees of evidence are required if a national policy decision is being made. In such cases, a compelling case which supports any particular approach may be required.

However, this 'proportionate' approach depends on the assessment of the state of the evidence, which in itself can be subjective.

Different types of evidence need to be considered: evidence about the scale and workings of the problem; evidence about the different types of interventions and their technical effectiveness; and evidence from consultation to test the idea with the affected population and highlight responses likely responses which can be influential as to outcomes (NZIER, 2011). Policy needs to consider the evidence about the problem and the risks of doing nothing. The policy maker also has to be aware that those investigating the problem can give only a 'snapshot' of current thinking.

Developing effective interventions that are able to mitigate some of the impacts of a less than healthy start to life will be a major challenge for policy makers. It is also where the evidence from longitudinal research will be able to more clearly demonstrate the parameters of what can be achieved. This highlights the importance of Growing Up in New Zealand to inform policy options.

Policy framework

Wolfson (2002) sets out an approach to examining the impact of a less than healthy start and possible interventions. Using tax and climate change modelling, Wolfson illustrates how scenarios can be generated from an observed counterfactual. Tax authorities run detailed microsimulation models to estimate not only total revenue impacts but also changes in income for various groups within society. Similarly, global climate change models estimate temperature levels in different locations.

One concern is that the development of outcomes, particularly single-value outcomes, may confuse researchers' preferences with scientific facts. Wolfson suggests that this concern is misplaced if the 'what if' values are generated by richly-populated microsimulation models. These models are able to separate the amounts of time various groups (or units) spend in each health state over time. Thus an

Figure 2: Frame of reference

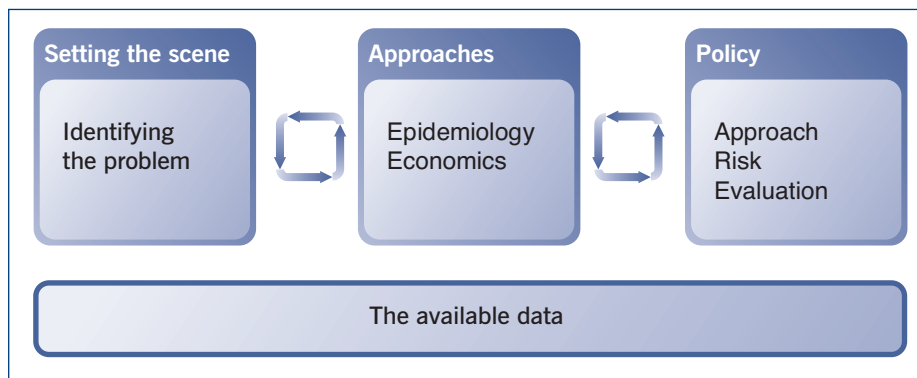
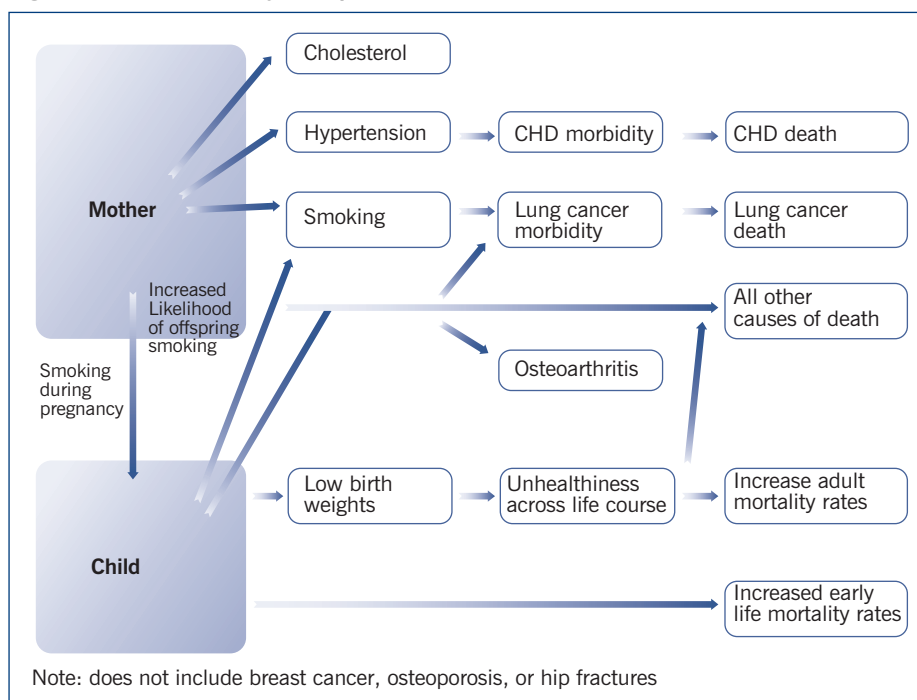


Figure 3: Web of causality example



Source: adapted from Wolfson (2002)

individual's life course can be modelled to analyse the impact of specific lifetime events. These models are able to test various assumptions associated with the parameters to assess their importance on the overall result. Also, the 'cause' impact can be disaggregated by age, sex and other population characteristics.

All scientific work is incomplete and further developments of methodology are expected, but the microsimulation approach represents the 'best of our current state of knowledge' (Wolfson, 2002).

Evaluation

If we are uncertain about the outcome of an intervention (investment), then an evaluation is required. This is not a trivial

exercise, since such an evaluation should not only pinpoint areas of weakness in the selected policy but set out the direction of future work.

Unfortunately, there are real issues with how programmes are evaluated across government. Hallsworth, Parker and Rutter (2011), commenting on the English regulatory framework, point to programme evaluation as being problematic: evaluations are often commissioned but are often ignored; central government is culturally not very interested in learning from the past; timescales for evaluation and policy-making are out of sync; departments have the incentives and opportunity to tone down unfavourable findings; evaluations are often not built into

policy design and are sometimes poorly executed; and evaluation findings are often not managed well and can inhibit organisational learning. For good policy-making, the design of the evaluation is just as important as the initial research, as it can act as a signpost and maximise chances of longer-term 'policy success'.

When to act?

Rasmussen (2001) argued that the DOHaD paradigm had not been proven to the point where causality has been shown and that it was too early to use research as a basis of intervention. Ten years on, there has been an increasing number of animal experience studies and numerous journal articles building the evidence base to support the DOHaD paradigm. Not all of these articles have been supportive of DOHaD conclusions, but most add to the evidence base supporting the DOHaD hypothesis.

If the DOHaD hypothesis is correct, every day some children are born who might be saved from a poor start to life and its consequences if worthwhile intervention programmes were commenced. The logic of the decision does not revolve around the level of proof of the hypothesis alone. It hinges on taking uncertainty into account in assessing the expected returns on possible interventions to address the groups who are potentially at risk. Such an assessment is not a simple task, as there are a range of factors that have to be estimated and this introduces more uncertainty.

Narrowing the uncertainty, multidisciplinary style

To further our understanding, a more coherent approach is required to tackling the issues. While a multidisciplinary approach has always been held up as best practice, in reality such approaches are rare. Ideally, a policy framework which focuses on the interaction between the problem definition, various approaches being taken and outcomes is required (see Figure 2). Current approaches, while extremely helpful in elucidating various epidemiological and economic aspects of a poor start to life, have, nevertheless, been disconnected and of passing use to policy makers.

Complexity of the interconnections

A compelling reason for closer cooperation between different disciplines is the complexity of the issues. A one cause–one effect outcome is highly unlikely (Rothman and Greenland, 1998). Figure 3 illustrates the web of causality for maternal smoking, for example.

With the DOHaD hypothesis there is still debate about the various pathways that cause later life diseases and their relative impact. This means that if an intervention acts by affecting a specific pathway, then its overall impact will be hazy. Therefore, a richer understanding of the linkages between competing/overlapping approaches is required by economists and policy makers to better appraise the suite of possible interventions.

Further work is required to identify the missing data to assist our understanding of the various linkages. We need to identify what we already know, relate what we know to the policy problem, establish the gaps relative to the policy issue, make judgements about the importance of the gaps and how amendable they are to research, and enlarge the knowledge base in a manner relevant for policy.

Conclusion

This article has set out the approaches being taken by researchers investigating the likely impacts of a healthy start to life from epidemiological, economic and policy standpoints. For the ‘free efficiency lunches’ to be grasped, closer cooperation is required between epidemiologists, economists and policy makers to demonstrate the public value generated by a healthy start to life. This will require asking the right policy questions, developing the theory in part with the use of microsimulation tools, and using New Zealand-specific data, partly from the new longitudinal survey Growing Up in New Zealand. It will only be when the evidence emerges from this process that policy makers will be able give wholehearted support to re-prioritising and ranking health interventions and diverting social welfare expenditure.

Challenges include the significant time lag between policy interventions and the benefits of those interventions, identification of the most appropriate interventions and how they will be delivered, and evaluation of those interventions and over what timeframes. Both the practical

and research requirements to successfully implement DOHaD principles will require changes to current approaches. While these challenges are not insurmountable, they will require concerted efforts from researchers and policy makers over a long period of time.

- 1 Arrow (1963) first identified this problem through the impossibility theorem.
- 2 The authorising environment can potentially come from the legitimacy bestowed on governments through the election process, or stakeholders within the wider community who can demonstrate a commitment to a particular area or issue. By operational capacity Moore means how institutions can harness and mobilise resources which support policy implementation that creates or increases public value.
- 3 See Prebble (2012) for an in-depth discussion and debate on the practical application of public value theory.
- 4 <http://www.som.soton.ac.uk/research/olddohad/centre/whatis/default.htm>.
- 5 See, for example, <http://www.child-encyclopedia.com/documents/HeckmanANGxp.pdf>.
- 6 However, as the ECE taskforce (2011) suggests, the impact of early childhood intervention is highly confounded with the child's socio-economic background.

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Ken Palmer, Chris Bullen and Janine Paynter

What Role Can Local Authorities Play in Tobacco 'End-game' Policies in New Zealand?

In March 2011 the New Zealand government agreed to the recommendation that it 'aim for tobacco consumption and smoking prevalence to be halved by 2015 across all demographics, followed by a longer-term goal of making New Zealand a smoke-free nation by 2025' (New Zealand Parliament, 2011, p.4). 'Smoke-free' is defined in this instance as a very low prevalence of smoking and minimal availability of tobacco, rather than prohibition of smoking.

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To date New Zealand has implemented a comprehensive tobacco control programme and has ratified the global Framework Convention on Tobacco Control. Tobacco control policy has been implemented mainly via national law in the form of the Smoke-free Environments Act 1990 and amendments thereof. This law and associated regulations (Smoke-free Environments Regulations, 2007) prohibit indoor smoking in workplaces, tobacco promotion, including display of products at the point of sale, and incentives for retailers from tobacco companies. Graphic warnings required on all tobacco products are covered in the regulations. Tax on tobacco in New Zealand has also been significantly increased. Some smoking cessation medications are subsidised and there is a national organisation which provides cessation support via a variety of networks.

Despite these tobacco control measures, current trends in tobacco use indicate that they will be insufficient to achieve the Smokefree 2025 goal (Blakely et al., 2010). Additional, innovative policy measures will be required. Reducing the availability of tobacco is one of these proposed measures. Extension of smoke-free areas to outdoors is another. This article considers the potential for New Zealand local authorities to contribute to the tobacco 'end game' in their role as regulators of tobacco sales and smoking.

Internationally, local-level tobacco control policies have been implemented in a number of jurisdictions. For example,

The Health Act ... specifies that the local authority is empowered and directed to make bylaws for the protection of public health.

over 150 local jurisdictions in California have smoke-free outdoor policies (Satterlund et al., 2011), ranging from protection around businesses, footpaths, parks and beaches to complete bans on outdoor public smoking. Other US states with local laws restricting smoking include Massachusetts, Texas and North Carolina (Mowery et al., 2012). In New Zealand, the largest local authority, Auckland Council, has committed to a goal of 3% smoking prevalence by 2030 in four of its local board areas (Auckland Council, 2013). Several local authorities in the United Kingdom are considering how they can contribute to reducing smoking prevalence (Cook, 2012). This contribution ranges from explicit support by Wigan Council for national tobacco control measures such as plain packaging, to consideration of bylaws banning smoking around play and sports areas by the London Borough of Hackney.

Licensing of tobacco retailers is uncommon and conditions of licences are generally minimal; restrictions on tobacco availability are also relatively rare (Chapman and Freeman, 2009). The restrictions focus on preventing sales to minors. Conditions for tobacco

sales are inconsistent with those for other hazardous products, such as pharmaceuticals, firearms, and even foods, for example meat (Ministry for Primary Industries, 2013). A consequence is easy access to the most harmful smoked form of nicotine, tobacco, and more strictly regulated access to less harmful medicinal nicotine, such as nicotine patches and gum (Gilmore et al., 2009).

Here we discuss the powers available to local authorities in regard to restrictions on sales and extension of smoke-free areas, the potential for any bylaws to be challenged, and the likely issues arising.

Purpose of local authorities

New Zealand local authorities are territorial authorities (which comprise either district or city councils), regional councils, and unitary councils (which combine both territorial and regional bodies). They are constituted and empowered under the Local Government Act 2002 (LGA). There are 11 regional councils, 61 territorial authorities and 6 unitary councils.

Prior to 5 December 2012 a main purpose of local government (set out in section 10 of the LGA) was to 'promote the social, economic, environmental, and cultural well-being of communities, in the present and for the future'. This expansive purpose of promoting community well-being would have included all matters of public health. On 5 December 2012 the purpose was more narrowly defined as: 'to meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.'

'Good quality', in relation to local infrastructure, local public services and performance of regulatory functions, was

defined in section 10(2) to mean efficient, effective and appropriate to present and anticipated future circumstances.

Applying the substituted purpose to the regulation of tobacco sales and smoking in public places, the relevant power of local authorities will be to provide for the performance of regulatory functions in a way that is most cost-effective for households and businesses. Whether the change in purpose will affect or limit the achievement of public health objectives remains a matter to be determined, possibly through judicial review before the High Court, in the years to come.

However, the traditional public health functions long mandated under the Health Act of 1956 should be regarded as unaffected by this change to the purpose of local government. Section 11 of the LGA states that the local authority has the role of carrying out the purpose of local government as per section 10 discussed. Section 12 of the act confers on the local authority in performing its role full capacity to carry on and undertake any activity or business, do any act, or enter any transaction, and accords it for this purpose full rights, powers and privileges. These actions remain subject to other acts and laws in New Zealand (section 12(3)). But wider or specific powers under other acts are continued (section 13).

The nature of regulatory control envisages the exercise of a power which may restrict freedoms and rights of individuals and corporate bodies, and the general (common) law requires that local authorities have a specific power, or a power by necessary implication, to carry out the intended regulation. If that power is not present, a court may rule the action to be invalid.

Existing powers that will influence tobacco control by local authorities

Health Act 1956

The Health Act 1956 has a number of sections relevant to tobacco control and local authorities. Section 23 relates to general powers and duties of local authorities in respect of public health. It is the duty of every local authority to improve, promote and protect public health within its district. The Health Act

also specifies that the local authority is empowered and directed to make bylaws for the protection of public health.

Section 64 of the Health Act referring to bylaws states that:

- (1) Every local authority may, for the purposes of this Act, make bylaws for all or any of the following matters, namely:
 - (a) improving, promoting, or protecting public health, and preventing or abating nuisance;
...
 - (o) regulating the handling and storage of noxious substances, or of goods which are or are likely to become offensive;
...
 - (q) regulating the conduct of offensive trades, and of manufactures and processes which may be offensive or dangerous to the persons employed in or about the same or injurious to health;
...
 - (t) prescribing the sanitary precautions to be adopted in respect of any business or trade;
...
 - (y) generally, for the more effectual carrying out of any of the provisions of this Act relating to the powers and duties of local authorities.

- (2) The powers conferred by this section are in addition to the powers conferred on any local authority by any other Act.

The nature of offensive trades referred to in section 64(1)(q) is limited to trades listed in schedule 3 of the act, and presently handling tobacco products does not feature in the list.

In both sections 23 and 64 of the Health Act the term 'public health' is defined to have the same meaning as in section 6(1) of the New Zealand Public Health and Disability Act 2000, namely:

- public health* means the health of all of
- (a) the people of New Zealand; or
 - (b) a community or section of such people.

The term 'health' is not defined under the Health Acts nor under the New Zealand Public Health and Disability Act. However, 'health' surely includes any

adverse effects on human health from the use of tobacco products and exposure to tobacco smoke.

Under section 65 of the Health Act, bylaws may leave a matter to be determined either generally or for any class of cases; may provide for a licensing and registration system; may provide for payment of reasonable fees for inspections and other services; and may apply generally throughout the district or within any specified part of the district.

The Building Act 2004

Under section 65A of the Health Act, the effect on bylaws of the Building Code under the Building Act 2004 is that a local authority may not make any bylaw that purports to require any building to

achieve performance criteria beyond that specified in the Building Act or Code.

Presently there are no provisions in the Building Code which relate to smoking as such, except indirectly as to ventilation of internal rooms (which may or may not be used for smoking) under the general performance standards for ventilation. Having regard to that restriction, it is doubtful that a local authority could under a bylaw alter building criteria to exclude smoking or to establish ventilation requirements applicable to smoking within a building.

Smoke-free Environments Act 1990 (SFEA)

Under section 5 of this act smoking in workplaces is prohibited. A workplace is defined to mean an internal area within a building, and includes corridors and washrooms; there are certain exemptions, comprising private motor vehicles and

bedrooms in motels and hotels. Under section 6, another exemption applies to a dedicated smoking room in a hospital care institution, a residential disability care institution or a rest home, where the mechanical ventilation which may apply is not connected to any ventilation to the other parts of the establishment. An adequate equivalent smoke-free room must be available for socialising.

Smoking in a vehicle supplied by an employer is not permitted under section 5A, except where all users obtain agreement with the employer to allow smoking. Under section 9, smoking in passenger service vehicles is restricted except in a small vehicle where all persons agree. Smoking in an operating taxi is prohibited at all times.

[Section 20] is important in that any bylaw that may be made under the Health Act or the Local Government Act cannot be challenged merely on the grounds that there are no particular bylaw powers granted under the SFEA ...

In respect of licensed premises, restaurants, casinos and gambling machine venues, sections 12–13B of the SFEA prohibit smoking in any part of the establishment that is not an open area. Under section 2, an open area means a part that is not an internal area. An internal area is defined as an area that, when all its doors, windows or other closable openings are closed, is completely or substantially enclosed by a ceiling or roof, and the walls, sides, screens and those openings. The interpretation of this provision is the subject of a pending action before the High Court in relation to the Diamond Lounge at the Auckland SkyCity Casino (*New Zealand Herald*, 13 February 2013, p.7).

Significantly, section 20 (saving of powers to make bylaws), states:

Nothing in this Part shall limit or affect the powers of a local authority

under section 145(b) of the Local Government Act 2002, to make bylaws providing greater protection from tobacco smoke than is provided by this Part.

That provision is important in that any bylaw that may be made under the Health Act or the Local Government Act cannot be challenged merely on the grounds that there are no particular bylaw powers granted under the SFEA, and the regulatory restraints under this act in respect of employment or premises are not to be seen as exclusive.

The Ministry of Health has the primary function under section 32 of

authorities. A territorial authority (which includes a unitary authority) may make bylaws for its district for the following purposes:

- (a) protecting the public from nuisance;
- (b) protecting, promoting and maintaining public health and safety;
- (c) minimising the potential for offensive behaviour in public places.

As identified under the SFEA, the appropriate power under which a territorial authority could consider making bylaws in relation to regulating the number of outlets selling tobacco products, and secondly the entitlement of persons to smoke in public places, would be section 145(b).

are set out in the text *Local Authorities Law in New Zealand* (Palmer, 2012). This book sets out the steps to be followed by a local authority in making a bylaw.

In particular, the LGA, section 144 states: 'The Bylaws Act 1910 prevails over this Part [8] and Part 9'. Under section 155 of the LGA (Part 8), a local authority must first determine whether a bylaw is the most appropriate way of addressing the perceived problem, and, if that is established, must determine whether the proposed bylaw is the most appropriate form of bylaw, and whether it has any implications under the New Zealand Bill of Rights Act 1990. Section 155(3) states: 'No bylaw may be made which is inconsistent with the New Zealand Bill of Rights Act 1990'.

The most significant issue would be whether a court would find any restraints under a bylaw upon the sale of tobacco products, or upon the use of those products in a public place, to be unreasonable.

the SFEA to regulate the packaging and display of cigarettes, tobacco and cigars. The ministry has extensive powers under section 39 to issue binding regulations on these matters. The relevant Smoke-free Environments Regulations 2007 (as amended) are highly prescriptive as to advertising by retailers, display of tobacco products, and packaging detail (with mandatory graphic health warnings). Section 30 of the act prohibits the sale of tobacco products to persons younger than 18 years of age. The regulation powers allow for different requirements for different classes of people who offer products for sale, and at different places of business or points of sale. These powers to make regulations do not appear to authorise a complete prohibition on sales, nor do they deal with smoking in public places or in private motor vehicles.

Local Government Act 2002

Section 145 of the LGA confers a general bylaw-making power on territorial

Likely challenges to bylaws

On the assumption that the Health Act, section 64(1)(a) and the LGA, section 145(b) provide sufficient breadth of legal authority to make bylaws relating to the sale of tobacco products and smoking in public places, the question of challenge as to the validity of such bylaws remains an important issue.

Bylaws Act 1910

Under section 12 of the Bylaws Act, the High Court may quash a bylaw on the grounds that it is invalid. Specifically, section 17 states three grounds on which a bylaw may be challenged and quashed: namely, that it is beyond the powers of the local authority, that it is not consistent with the laws of New Zealand, or that it is unreasonable in a legal sense. This review power does not apply to a government regulation, which cannot be challenged for reasonableness.

Many cases which give guidance on the approach by the courts as to validity

New Zealand Bill of Rights Act 1990

Under the New Zealand Bill of Rights Act 1990, a person or body challenging the validity or reasonableness of a bylaw may claim that any restriction upon the sale of tobacco products, or upon the use of smoking in public places, is contrary to section 14, freedom of expression:

Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form;

or contrary to section 16, freedom of peaceful assembly:

Everyone has the right to freedom of peaceful assembly;

or to section 17, freedom of association:

Everyone has the right to freedom of association.

Another angle could be to claim breach of section 19, freedom from discrimination, which reads:

(1) Everyone has the right to freedom from discrimination on the grounds of discrimination in the Human Rights Act 1993.

However, the latter ground would not succeed to the extent that nothing in the Human Rights Act prohibits discrimination in respect of availability

of tobacco products or smoking in a public place.

Whether a bylaw is unreasonable

The most significant issue would be whether a court would find any restraints under a bylaw upon the sale of tobacco products, or upon the use of those products in a public place, to be unreasonable. Case law on this issue is set out in Palmer (2012, at 13.8.8). Whether a matter is viewed as unreasonable is not a matter of personal opinion for the court or judge. It is an objective question of whether there is a sufficient justification for the interference with some existing right or freedom and whether there is a sufficient justification for the restraint. For example, a bylaw may be considered unreasonable if it prevents a public right and does not have a clear public benefit. Reference can be made to *McCarthy v Madden* (1914) 33 NZLR 1251 at 1268 (restriction on driving stock through local authority area held to be excessive); and *Williford Family Trust v Christchurch City Council* (2011) NZAR 209 at 67 (bylaw restricting location of small brothels found to be unreasonable).

Another parallel may be drawn with the possession of alcohol in a public place. Under *Police v Hall* (2001) DCR 239, a bylaw banning the possession of liquor in a provincial town was held to be unreasonable as a restraint on an existing freedom to possess liquor in a public place. Subsequent to that decision, specific amendments were made to the LGA to empower local authorities to impose liquor bans applying to parts of a local authority area, and for these to extend to potentially a 24-hour, 7-day prohibition.

The Hall case indicates the degree to which a court will evaluate an existing public right against an attempt to restrict that right, having regard to the legality of the activity.

A further parallel can be drawn with the legal situation under the Prostitution Reform Act 2003, which declared prostitution to be lawful for the future. That act stated that a local authority could make bylaws 'for the purpose of regulating the location of brothels'. Subsequent cases have determined the extent to which these restrictive bylaws

may be applied (see *Williford Trust* case referred to above).

Currently, the location and number of shops which may sell tobacco is controlled by zoning laws establishing commercial zones for retail sales. Unlike the Sale and Supply of Alcohol Act 2012, which allows for a council policy on the number of liquor outlets, there is no specific licence required to sell tobacco products. It would be unlikely that any zoning rule would be upheld which restricted the sale of tobacco products from a lawful commercial outlet.

Potentially, under section 151(3) of the LGA a bylaw may provide for the licensing of persons or property. Where established, on robust public health grounds, a bylaw licensing vendors of tobacco products or the premises selling these products, and

restrict a council's capacity to do this. The current approach to smoke-free outdoor areas is educational, and 'No Smoking' or 'Smokefree' and 'Auahi Kore' signs are used to indicate that smoking is undesirable in an area. However, there are anecdotal reports of non-compliance. For example, the shopping centre in the low-income Auckland suburb of Otara has an educational smoke-free policy and signage, but there are reports of groups of people smoking around the smoke-free signs. This undermines the goal to reduce the visibility of smoking. Bylaws may be necessary to achieve compliance with smoke-free policies for outdoor public spaces.

There are two important prerequisites for implementation of robust bylaws restricting access to tobacco. First, further research establishing the benefits of

The current approach to smoke-free outdoor areas is educational, and 'No Smoking' or 'Smokefree' and 'Auahi Kore' signs are used to indicate that smoking is undesirable in an area.

imposing additional conditions of sale, could be made. A licensing bylaw aimed at closing down all tobacco sales in a particular location or community would be more difficult to sustain if challenged.

In relation to a restriction on smoking in public places, a bylaw could be made on the grounds of protecting public health. If the bylaw was limited to a public reserve or building, a sporting venue, or some other defined public space, the validity could probably be sustained. Likewise, a bylaw applying to specific shopping streets, malls or gathering points on public land could be held to be valid.

Implications for policy, practice and further research

Local authorities with or without a community mandate to implement bylaws restricting smoking in public places can do so under the provisions of the Local Government Act and the Health Act. New Zealand smoke-free legislation does not

stronger controls on access to tobacco is required. A question should be answered as to whether fewer stores selling tobacco would reduce uptake and increase cessation. Second, licensing of tobacco retailers will be needed.

Conclusions

The Health Act 1956 and Local Government Act 2002 provide scope for local authorities to regulate smoking in public places. However, in order to implement robust bylaws regulating the sale of tobacco at retail outlets, retailers would need to be licensed. This step is likely to require evidence that restricting availability of tobacco will reduce the uptake of smoking and increase the number of people who stop smoking. To maintain progress, mayors and council members should be invited to make bylaws to eliminate smoking in selected public places, and to consider bylaws to licence and regulate tobacco vendors.

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LOOKING FORWARD NZ Aid Beyond 2015

Wednesday 4 September 1:00pm-5:30pm
Government Building, Lecture Theatre 2

We live in a rapidly changing world. Over the past fifteen years, great progress has been made in reducing poverty and addressing global development problems. The Millennium Development Goals have helped to focus our efforts to ensure all people can enjoy a basic quality of life, free of poverty. These Goals draw to an end in 2015 and currently a new global development framework is being crafted. What is the role of aid amidst the shifting context of global development? How can New Zealand's aid and development efforts best respond to these changes?

This half-day forum will provide an opportunity to reflect on such issues. It will commence with a keynote address by Professor Stephen Howes of the Australian National University's Development Policy Centre on the topic: 'The future of aid: does it have one, and if so what does it look like?' Following this, various other experts on aid issues and political party spokespeople will discuss the future of New Zealand aid, and what role New Zealand can play in building a world where all people live safe, healthy and prosperous lives.

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28 August 2013

Sheree J. Gibb, David M. Fergusson
and Joseph M. Boden

Gender Differences in Paid and Unpaid Work

findings from a New Zealand birth cohort

One of the most prominent changes in the labour market over the last five decades has been the increase in women's participation in paid employment. In New Zealand and

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overseas, increasing numbers of women have entered the labour market and have been working increasingly longer hours in paid employment (Callister, 2005a; Goldin, 2006; Jacobsen, 1999; Johnston, 2005). For example, while only 28.4% of New Zealand women aged 15–64 were employed full-time in 1951, by 2001 this proportion had increased to 56.4% (Johnston, 2005).

Although women's participation in paid employment has increased substantially, women continue to bear primary responsibility for housework and child care within the home. The New Zealand

Time Use Survey reported that women spent more hours than men in unpaid work, and that this gender difference was evident across all employment groups, including full-time workers (Statistics New Zealand, 2001a). Time use surveys from other countries have reported similar findings (Aliaga and Winqvist, 2003; Australian Bureau of Statistics, 2006; Fisher et al., 2007; Lader, Short and Gershuny, 2006).

These findings have led to suggestions that women are now bearing a 'double

burden' or 'second shift' (Byrne, 2002; Hochschild, 1989) suggest that women are dissatisfied with the allocation of their time, but few studies have examined this empirically. Studies have also suggested that some men are dissatisfied with their lack of participation in unpaid work, and especially in child care (Hand and Lewis, 2002; Department of Labour, 2007).

A limitation of many previous studies of gender differences in time use and satisfaction with time use is that they

satisfaction with time use. The specific aims of the study are:

- to examine gender difference in time spent in paid employment and unpaid work;
- to examine the extent to which males and females are satisfied with their time use.

Method

Data and participants

Data were drawn from the Christchurch Health and Development Study, a longitudinal study of a birth cohort of individuals born in Christchurch in 1977. The methodology of and major findings from the Christchurch Health and Development Study have been reviewed previously (Fergusson and Horwood, 2001; Fergusson et al., 1989). The data used for this article were drawn from the age 30 follow-up interview. A total of 987 participants completed the age 30 interview, representing 80% of the surviving cohort at that age.

Measures

Time use

The age 30 participants were asked to report the hours per week they usually spent undertaking the following activities: paid employment; housework (household maintenance, cooking, gardening, shopping for groceries, etc); and child care (including looking after children, after-school activities, sports, etc). Where the number of hours varied from week to week, participants were asked to estimate an average. Participants who reported having a cohabiting partner at age 30 were also asked to estimate the number of hours per week that their partner spends in each type of activity. The reports of time use were used to construct a series of variables representing total time spent per week (in hours) for participants and their partners in a range of areas:

- paid employment: this was the total number of hours per week spent in all paid employment;
- child care: this was the total number of hours per week spent looking after dependent children (weekly child-care hours that exceeded 112 were truncated to 112);

Although women's participation in paid employment has increased substantially, women continue to bear primary responsibility for housework and child care within the home.

burden' or 'second shift' of paid employment and unpaid work (Bratberg, Dahl and Risa, 2002; Byrne, 2002; Hochschild, 1989). For example, Byrne (2002) states that 'the "revolving door model", which assumes that as women take on more paid work, men will compensate by taking on more unpaid work, is an optimistic illusion' (Byrne, 2002, p.34). Similarly, Hochschild claims that 'most women work one shift at the office or factory and a "second shift" at home' (Hochschild, 1989, p.4). However, time use studies have revealed that, when both paid and unpaid employment are considered, women and men spend approximately equal amounts of time in work (Callister, 2005b; Lader, Short and Gershuny, 2006; Statistics New Zealand, 2001b). These findings do not support claims that women are suffering from a 'double burden' of paid and unpaid work and instead suggest that, although women's work is split across two areas, the total time they spend working is similar to that of men.

While previous studies have reported gender differences in time allocation across different areas, few studies have examined whether men and women are satisfied with this time allocation.

have been conducted overseas, and it is not clear to what extent their findings will generalise to the New Zealand context. Some limited data from New Zealand have been provided, but are somewhat contradictory and incomplete. For example, the 2010 *Social Report* (Ministry of Social Development, 2010) found no difference between males and females in terms of satisfaction with work-life balance. On the other hand, data from the 2008 Survey of Working Life (Statistics New Zealand, 2008) suggests that males have a lower rate of satisfaction with work-life balance, although the gender difference was not tested specifically.

A further limitation of previous studies is the use of nationally representative samples of participants that have included a wide range of ages. It is likely that any changing trends in gender differences in time use and satisfaction with time use will be most apparent among younger samples of participants, where gender roles and time use may be quite different from those among older participants.

Against this background, this study uses data from a birth cohort of New Zealand-born 30-year-olds to examine gender differences in time use and

- housework: this was the total number of hours per week spent doing all housework activities, including, cooking, cleaning, gardening, and any other activities considered to be housework (weekly housework hours that exceeded 84 were truncated to 84);
- total work time: this was the sum of the number of hours per week spent in paid employment, child care and housework (total work hours that exceeded 112 were truncated to 112).

Satisfaction with time use

As part of the age 30 interview participants were asked a series of questions about their satisfaction with their time use. Those who reported having a cohabiting partner were also asked a series of questions about their satisfaction with the allocation of time between themselves and their partner.

Gender

Gender was the participant's sex reported at the birth interview.

Statistical analyses

Differences between means were tested for statistical significance using a t-test for independent means. Differences between proportions were tested for statistical significance using a chi-squared test for independence. All statistical analyses were conducted using SAS 9.1 (SAS Institute, 2003).

Results

Gender differences in time use

Table 1 compares the mean hours per week that men and women spent in paid employment, child care and housework,

Table 1: Mean hours per week spent in paid and unpaid work for males and females

	Males (N=478)	Females (N=509)	p
Paid employment	40.3	28.0	<.0001
Child care	7.7	23.7	<.0001
Housework	6.0	10.6	<.0001
Total work hours	54.2	61.5	<.0001

and the total hours spent in paid and unpaid work (housework, child care and paid employment combined). The table shows that there were significant differences in time use between men and women. Men spent significantly more time than women in paid employment ($p<.0001$), on average 12.3 hours longer per week. Women spent significantly more time than men caring for children ($p<.0001$), with women spending on average 16 hours more than men per week on child care. Women also spent significantly more time than men doing housework activities ($p<.0001$), with the actual gap being 4.6 hours per week. Overall, women spent slightly but significantly more time than men in all work activities ($p<.0001$), the gap being approximately 7 hours per week, or an hour a day.

In order to examine the consistency of gender differences in participants' self-reported time use, participants' estimates of their own time use were compared to their estimates of their partner's time use. Table 2 shows the mean hours per week spent in different activities by participants without partners and by participants with partners. For participants with partners, the table also shows the mean hours per week that participants estimated their partner spends on various activities. Each comparison has been tested for statistical

significance using a t-test for independent means and the p-value for significance from this test is reported in the table.

The table shows that gender differences in time allocation across different domains were fairly consistent across the three groups (participants without partners, participants with partners, and participants' partners). In all three groups, men spent significantly more time than women in paid employment (all $p<.0007$), while women spent significantly more time than men in child care (all $p<.0005$) and housework (all $p<.0001$). There were, however, some differences in the gender gap in total work time between the three groups. Among participants with and without partners, women spent significantly more hours than men in total work ($p<.02$). However, among participants' partners, male partners spent slightly but significantly longer than female partners in total work ($p<.02$). Inspection of the means for different components of the total work measure suggests that the source of this difference lies in estimates of child care time. Compared to participants' self-reports of their own child care time, participants' estimates of their partner's child care time tended to overestimate the time that male partners spent in child care and

Table 2: Mean hours per week spent in paid and unpaid work for males and females with and without partners

	Without partner		With partner						
	Males (N=169)	Females (N=167)	Self			Partner			
			Males (N=309)	Females (N=342)	p	Male partner (N=335)	Female partner (N=316)	p	
Paid employment	36.1	28.7	<.0007	42.6	27.7	<.0001	44.2	27.1	<.0001
Child care	3.1	14.8	<.0001	10.2	28.0	<.0001	13.8	20.7	<.0005
Housework	5.3	8.3	<.0001	7.1	13.5	<.0001	6.6	12.4	<.0001
Total work hours	44.4	50.8	<.02	59.6	66.2	<.0009	64.0	59.3	<.02

Table 3: Satisfaction with time use for males and females

	Males (%)	Females (%)	p
How satisfied are you with the allocation of time (for work, housework, child care) between you and your partner?			
Not at all satisfied	3.2	3.5	
Somewhat satisfied	34.3	39.2	
Very satisfied	62.5	57.3	>.40
How satisfied are you with your current work-life balance?			
Not at all satisfied	8.0	7.5	
Somewhat satisfied	51.5	43.2	
Very satisfied	40.6	49.3	<.03
How satisfied are you with the balance between work and parenting in your life?			
Not at all satisfied	7.5	8.0	
Somewhat satisfied	63.4	42.3	
Very satisfied	29.1	49.8	<.0005
To what extent has your involvement in parenting and childrearing been limited by your need to earn money through paid work?			
Not at all	20.9	62.6	
Somewhat	39.6	22.4	
A great deal	39.6	15.0	<.0001
Which of these statements best describes how you feel about the allocation of child care time between you and your partner?			
I would like to do a larger share of the child care	41.5	6.6	
I would like my partner to do a larger share	0.0	14.4	
I am happy with the allocation of child care time	58.5	79.0	<.0001

underestimate the time that female partners spent in child care.

Satisfaction with time use

Table 3 shows the responses of males and females to a series of questions about their satisfaction with time use and work-life balance. For each question the responses have been compared using a chi-squared test for independence. The table reports the p-value for significance from this test. Only one question (overall work-life balance) allowed for a partnered versus unpartnered participant comparison, for which there was no statistically significant difference between partnered and

unpartnered cohort members ($p > .20$).

The table shows that men and women reported similar levels of satisfaction with the overall time allocation between themselves and their partners, with 62.5% of men and 57.3% of women reporting that they were very satisfied with the time allocation within their partnership ($p > .40$). There were, however, gender differences in the extent to which men and women were satisfied with specific areas of time allocation. Women tended to be more satisfied than men with their work-life balance ($p < .03$), with women more likely than men to report that they were very satisfied (49.3% versus 40.6%)

and less likely to report that they were somewhat satisfied (43.2% versus 51.5%). However, the largest gender differences in satisfaction were those that related to satisfaction with time spent in child care. Overall, women were more satisfied than men with the balance between work and parenting in their lives ($p < .0005$), with 49.8% of women reporting that they were ‘very satisfied’ with this aspect of their lives, compared to 29.1% of men. Men were more likely than women to report that their involvement in child care had been limited by their need to earn money through paid work ($p < .0001$), with 39.6% of men reporting that their involvement had been limited ‘a great deal’ and 39.6% reporting that it had been limited ‘somewhat’, compared to 15% and 22.4% of women respectively. The majority of women (62.6%) reported that their involvement in child care had been limited ‘not at all’ through their involvement in paid employment, compared to only 20.9% of men. Finally, women were more likely than men to report that they were happy with the allocation of child care time within their partnership ($p < .0001$), with 79% of women reporting that they were happy compared to 58.5% of men. Men reported a desire to become more involved in child care, with 41.5% of men reporting that they would like to do a larger share of the child care compared to only 6.6% of women. However, few women (14.4%) reported a desire for their partners to become more involved in child care.

Discussion

This study examined gender differences in time use and satisfaction with time use in a birth cohort of New Zealand-born 30-year-olds. The main findings from the study were:

- There were clear gender differences in time allocation across different areas, with men spending more time than women in paid employment and women spending more time than men in child care and housework.
- Overall, women spent significantly more time than males in all paid and unpaid work (paid employment, child care and housework combined).

This gender difference was approximately one hour per day.

- For the most part, the same gender differences were reflected in participants' estimates of their partners' time use, suggesting that there was little gender bias in time estimates. The only exception was that participants tended to overestimate the time that male partners spent in child care and underestimate the time that female partners spent in child care.
- While men and women reported similar levels of satisfaction with overall time allocation within their partnerships, there were gender differences in satisfaction with both work-life balance and the allocation of child care time. Specifically, men were less satisfied than women with both their work-life balance and work-parenting balance and reported that they would like to be more involved in child care.

These findings indicate that there are gender differences in the ways in which men and women allocate their time to different areas, with men spending more time in paid employment and women spending more time in child care and housework. This gender division of labour is consistent with traditional gender roles, with men taking primary responsibility for financial support and women taking primary responsibility for the home and family. This finding is interesting given that the data for this study were drawn from a relatively young cohort, born in 1977 and raised during a period in which there was a strong focus on improving female participation in education and employment and questioning traditional gender roles (for examples, see Eccles, 1986; New Zealand Council for Educational Research, 1988; Ruble, Cohen and Ruble, 1984; Sadker and Sadker, 1994).

Although there were considerable gender differences in the allocation of time across different activities, the gender gap in the total time that men and women spent in all paid and unpaid work was smaller, with women spending approximately an hour longer than men per day in all paid and unpaid work.

This difference of one hour per day would equate to approximately one extra 14-hour day of work every fortnight. Previous research has reported that, although there are large differences in the time that men and women spend in different activities, the gender gap in the total hours spent in all paid and unpaid work is smaller, typically less than one hour per day (Australian Bureau of Statistics, 2006; Callister, 2005a; Fisher et al., 2007; Statistics New Zealand, 2001b). In contrast to the results of the current study, some of these studies have reported that when paid and unpaid work are combined there is no gender

more likely than women to report being 'somewhat satisfied' with their work-life balance, and less likely than women to report being 'very satisfied'. Also, many men reported that their involvement in child care had been limited by their employment and that they desired a better work-parenting balance, with more than 40% reporting that they would like to do a larger share of the child care than they currently do. In contrast, the clear majority of women were satisfied with the allocation of child care time and their work-parenting balance, and did not feel that their involvement in child care was limited by their employment.

It is interesting to note that while men [i.e 41.5%] in the current study had a strong desire to be more involved in child care, this desire was not strongly supported by women [i.e. 14.4%].

gap in total work hours (Fisher et al., 2007; Statistics New Zealand, 2001b). This difference may be accounted for in part by the specific activities included in each time use measure. For example, many previous studies of time use have included commuting time in measures of time spent in paid employment (Fisher et al., 2007; Statistics New Zealand, 2001b), while the current study did not. Including commuting time would increase estimates of time spent in paid employment, which would likely increase men's total work hours more than women's given that men have higher rates of participation in paid employment than women.

Overall, both men and women reported high levels of satisfaction with their time use. More than 90% of men and women reported being 'very' or 'somewhat' satisfied with their work-life balance and the allocation of time within their partnership. However, the results of this study did identify two areas of dissatisfaction with time use: a lower level of satisfaction amongst men regarding overall work-life balance, and men's dissatisfaction with their lack of involvement in child care. Men were

These findings do not support claims that women are dissatisfied with their 'double burden' of paid and unpaid work, and instead suggest that most women are happy with the balance between paid and unpaid work in their lives.

The findings regarding lower levels of satisfaction with work-life balance among men is in agreement with the suggestive evidence provided by the New Zealand Survey of Working Life 2008 (Statistics New Zealand, 2008), but diverges somewhat from the evidence provided by the 2010 *Social Report* (Ministry of Social Development 2010), in which 79% of female employees and 77% of male employees reported being satisfied with work-life balance. These discrepancies may be due to methodological differences between the present study and the data provided by the Social Report and Survey of Working Life. Also, a desire among men for greater participation in child care has been noted previously in both New Zealand and Australian data (Hand and Lewis, 2002; Department of Labour, 2007).

It is interesting to note that while men in the current study had a strong

desire to be more involved in child care, this desire was not strongly supported by women. Only 14.4% of women wanted their partner to do a larger share of the child care, compared to 41.5% of men wanting to do a larger share. A similar pattern was observed in an evaluation of New Zealand parental leave policy, which revealed that more than half (51%) of fathers would be interested in having some of their partner's paid parental leave transferred to them, but only 28% of mothers reported that they would

transferring paid leave to male partners is uncommon: a 2005/06 evaluation of parental leave in New Zealand revealed that only 1% of fathers had a portion of their partner's paid parental leave transferred to them (Department of Labour, 2007). Qualitative studies have suggested that there may be social and cultural barriers within the workplace that prevent men from participating more fully in child care. Men have reported difficulties obtaining the flexible working arrangements or part-time employment

of Statistics, 2006; Fisher et al., 2007; Statistics New Zealand, 2001b), suggesting that the findings of the current study were not substantially affected by the choice of time measure.

A further issue is that the range of possible leisure activities considered in the present study is somewhat limited. The use of measures with a larger range of possible activities could provide more information with respect to gender differences in time allocation and the extent to which specific activities contribute to satisfaction or dissatisfaction with work-life balance. An example of a more comprehensive range of activities is given by the New Zealand Time Use Survey 2010 (Statistics New Zealand, 2010), which has reported gender differences in time allocation across a variety of activities.

This limitation notwithstanding, the results of the current study suggest that there are gender differences in the ways in which young New Zealand adults allocate their time to different activities, but that the total time spent in all work activities is similar for men and women. While most individuals are satisfied with the time allocation and work-life balance in their lives, there was a tendency for men to report greater dissatisfaction with child care arrangements and a desire to be more involved in caring for their children. These findings suggest that there may be a need for policies to enable men to achieve a better balance between work and parenting in their lives.

... the results of the current study suggest that there are gender differences in the ways in which young New Zealand adults allocate their time to different activities, but that the total time spent in all work activities is similar for men and women.

consider such a transfer (Department of Labour, 2007). These findings suggest that, while male partners may desire a more equitable sharing of child care time, in some cases female partners may be unwilling to give up a portion of their child care time to their partner.

Policy implications

Discussions about work-life balance in New Zealand and overseas have tended to focus on women's difficulties balancing work and parenting (Byrne, 2002; Ministry of Women's Affairs, 2002). However, the findings from this study suggest that achieving work-life balance, and especially work-parenting balance, is more problematic for men than for women. This suggests that policies are needed to enable men to better balance work and parenting in their lives.

Currently in New Zealand, eligible mothers are entitled to 14 weeks paid parental leave and 52 weeks unpaid leave, and can transfer some or all of this entitlement to their partners. However,

that are often provided to women caring for children (Hand and Lewis, 2002; Department of Labour, 2008). This suggests that policies are needed to encourage employers to provide men with the same options for child care as are available to women, including flexible working hours and part-time work, to enable greater male participation in child care and improve work-life balance for men.

Limitations

A limitation of this study is that the time use data were based on retrospective self-report estimates rather than time use diaries. Time diary methods are generally regarded as preferable to retrospective reports because they provide a more accurate estimate of the length of time spent in different activities (Bonke, 2005; Kan, 2008). However, the gender differences in time use reported in the current study were mostly consistent with those reported previously in studies using time diaries (Australian Bureau

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