

New Crafts for an Old Machine? Civil Service competencies in Economic Policy Making

**Anglo-German Foundation workshop in association with the Centre for Analysis of Risk and Regulation and the Smith Institute/Industry Forum
26 October 2001**

Participants: Stephanie von Ahlefeldt (BMW), Anthony Barker (University of Essex), Alison Brimelow (Patent Office), Graham Bryce (DTI), Chris Clifford (LSE), Eric Deakins (Industry Forum), Andrew Dobbie (DTI), Wilhelm Eschweiler (BMW), Gerald Frankel (Industry Forum), Wally Ford (DTI), Sir Christopher Foster (RAC Foundation), Jonathan Green (Edison Mission), Christopher Hood (University of Oxford), Chris Howard (Cabinet Office), Bridget Hutter (LSE), George Jones (LSE), Robert Kaye (LSE), Martin Lodge (LSE) Giandomenico Majone (University of Pittsburgh), Edward C. Page (LSE), Clive Palmer (Industry Forum), Michael Power (LSE), Guido Peruzzo (BMW), Manfred Steffen (BMW), Michael Ridley (DTI), Martin Stanley (PostCom)

The issue of civil service competencies has been one of the leading themes in recent attempts of modernisation of government. Accordingly, this workshop brought together officials from the Department of Trade and Industry and the German Bundesministerium für Wirtschaft und Technologie, academics and business representatives to discuss (under Chatham House rules) challenges for civil service competencies in the 21st century. While the notion of 'competency' has recently been heavily stressed in the (private and public) management literature, the workshop identified and discussed two dimensions of competency, namely the institutionalised capacity for performance or aptitude of an organisation to perform certain activities and, second, civil servant's individual skills, abilities and experience. The workshop built on ongoing work at the Centre for Analysis of Risk and Regulation at the London School of Economics funded by the Smith Institute and the Industry Forum and focused on three specific issues:

- Consultation
- Subject Expertise and the new public administration
- The State as Risk Manager

Consultation

This session addressed the general issue of how to conduct consultation processes, the design of the consultation process (and its stages), and methods to obtain particular results. Difficulties are particularly prominent in rapidly changing policy domains (for example, telecommunications) where the stakeholders are changing and questions of inclusivity are becoming increasingly important.

Sir Christopher Foster introduced this topic with an analysis of consultation in the policy-process and the way in which the meaning of consultation in the UK had changed in the past few years. Consultation mattered for three distinct reasons, the accumulation of facts, the ability to make predictions and the assessment of normative opinions. In terms of accumulating facts, the importance of consultation varied depending on the extent of the knowledge present within government and how the body of existing knowledge was to be employed (for example, in terms of parading, persuasion and asserting authority). Important questions concerned the sources of 'facts' on which consultation took place, requiring from the civil servants both sufficient expertise in any given policy domain, but also sufficient capability to access affected groups. The 'prediction' function of consultation allowed in particular for a focus on 'social engineering', e.g. the exploration of alternatives, the testing of the workability of the proposed policies and to obtain the reactions from those involved in the policy. This required a high degree of competency as it was at the implementation level where even the best policies were most likely to fail. Consultation competence, which usually could be acquired by 'learning on the job', therefore, required knowledge of the crucial 'mouthpieces' in the domain, the selection of credible sources and the management of relationships within the policy domain. A further area concerned the 'normative content' of the policy proposals. For civil servants these were least difficult in areas with a clear policy history and set political preferences. A traditional civil servant competence therefore was to be knowledgeable of ministerial intentions and the ability to draft a workable document around such preferences and to offer attractive policy packages to ministers, who normally appreciated to be given limited choices.

Key changes had occurred in the nature of consultees. Whereas in the past those consulted had mainly included the 'old establishment' of producers, agencies and other government organisations (and, to a lesser extent, workers), consumers had only recently become part of direct consultation exercises via focus groups. However, despite this (centralised) activity, departments were still mainly listening to specialists. In Britain, there had been a slight shift towards listening to highly resourced organisations in contrast to influence-based organisations which traditionally had been regarded as 'better value' in consultation exercises. Within government there had also been a change in consultation, with less consultation with parliamentarians, less ministerial involvement in other departments' activities and with less capacity within the British civil service (due to de-layering) to generate a full consultation process and filtering through of proposals. A further question concerned the extent to which consultation should be supervised. On the one hand, it had to be ensured that consultation exercises were inclusive, fair and appropriate, on the other hand, such supervision risked being 'heavy-handed'. While there was much to be said in favour of informality, some supervision and procedures to guide consultation would potentially offer some benefits.

The **discussion** focused on various areas of the consultation process. It was argued that given the widespread existence of 'implementation failure' that there should be less centralisation and more decentralised experimentation of approaches. However, it was also argued that such a decentralised approach would face difficulties with the wider public which expected uniformity, the existence of a central budget and centralised budgetary controls. The existence of such structures within British government would ensure that issues would easily end up at the top of central government. A further problem over implementation was claimed by some to lie in the civil service's bias towards policy formulation, spending too little time on 'will it work' questions and on policy feedback to allow for policy adjustment.

One participant argued that a key problem with consultation processes was that participants did not know what principles had already been established and that therefore business people gained the impression that consultation was often little else than a show. Furthermore, there was also a question of consulting the 'right' people. For example, consulting on insolvency policy failed to consult businesspeople with experience with business failure and instead drew mostly on the expertise of insolvency lawyers, who had a vested interest in maximising the number of firms pushed into bankruptcy.

In comparative perspective, it was questioned how different the German experience, with a more legal approach towards consultation, was in contrast to the British approach. It was said that one of the key problems in the BMWi was the 'finding out' of ministerial intentions which often meant that decisions were delegated upwards. The difficulty was how to manage the diffusion of information downwards to avoid risk-averse decision-avoidance at the working level. Similar problems were also diagnosed in the British context where ministers were seen as taking too many decisions. It was suggested that there was no ideal practice to facilitate the information distribution within a ministry. In both cases, it usually involved a slow re-adjustment after ministerial change. A British participant highlighted the importance of the minister's private office in contributing to the dissemination of ministerial preferences. Private offices developed a closer understanding of the political intentions of each minister and consisted of officials with relative expertise and seniority. This did not resemble the French-style cabinet system, and the private office would also not be involved in policy-making.

Subject Expertise and the new public administration

Regardless of civil service tradition, all administrations face challenges over obtaining the proper skills and/or drawing on the appropriate skills for understanding technological change. While in the previous age of public administration, the importance of the omni-competent civil servant has been stressed, current (primarily British) thinking is stressing the importance of managerial competency. The reliance on external expertise also raises questions of selectivity and inclusivity.

Anthony Barker highlighted the importance of gathering subject expertise in terms of consultation, the selection of groups and the evaluation of the advice in terms of factual reliability and soundness of advice. A key question was whether the civil service should be part of the sources and resources for the minister or whether the civil service was mainly an instrument for the minister. In the 1960s, the issue of subject expertise had been central to debates over civil service competencies, when it had been claimed by some critics that the British civil servant was an 'amateur' and need to gain more specific expertise. The Fulton Report had stressed the importance that the civil service should become more expert-oriented, in particular in areas of management and economics. These proposals had been rejected by the civil service itself which had argued that such specialisation would turn away many able candidates and that instead it was possible to train officials within the system. This approach reflected the tradition of the British civil service in stressing the importance of flexibility and 'picking up' expertise on the job.

Of crucial importance was the reliance on external expertise. All parts of government attempted to understand the wider environment by drawing on sources knowledgeable about the underlying processes. Given the panorama of modern knowledge, the various explosions within modern society in terms of numbers of fields of expertise and in sheer quantity of material, it was impossible, more than ever, to believe in the omni-competent civil servant, instead the key competency involved was to act as an intelligent receiver and client of specialist expertise and having knowledge about what type of knowledge should be brought in. Apart from drawing on opinion at large via surveys, the government relied on so-called official standing government advice sources, such as advisory committees and task forces. So-called 'official scientific advisory standing committees' offered an important infrastructure to draw in expertise. However, they raised numerous questions, such as

- a) which experts to invite
- b) why or when university academics should be relied on
- c) why did these academics accept their role
- d) how were they treated and managed in the committees, particularly
- e) why did they accept close control by civil servants given their autonomy at work.

Further problems involved the inevitable mismatches between what officials demanded and what experts wanted to give, leading to conflicts on epistemology and questions over what knowledge was 'useful', and the 'character' of facts, for example mismatches between public perception and science in times of crisis.

One way to enhance the system would be to have structures including open meetings so that expert advice to government was shared with the wider public and the mass media as well as with the wider public research infrastructure. However, the confidentiality of advice had to be maintained.

In the **discussion** it was stressed that the British civil servant was not 'as bad as portrayed'. In particular, in the EU arena, the British civil service was well adapted to gain maximum advantage from the system with strong linkages between political leadership and officials, well-developed policy positions and very successful co-operation, in the case of telecommunications between the expertise of Oftel and the DTI. In the case of the BMWi, the education and training efforts had been and were continued to be increased in order to maintain subject expertise. But what was really important was how effective the system was in getting results. A participant stressed that there had been, in the British case, a strengthening of the selection criteria for experts. A further discussant stressed that increased openness was likely to lead to politicisation rather than scientific debate. The higher the amount of media coverage, the more would the level of expertise involved in the discussion be reduced.

A further issue was the way in which EU competency was obtained and in the way the different traditions, the British 'generalist' and the German 'lawyer' went about gathering their evidence. Some questioned whether there were qualitative differences between a legalistic approach which would rely on logical reasoning and a more informal process in the British case. Furthermore, possible differences could emerge because of the federal structure, which meant that officials had to permanently justify their activities and legitimise their decisions. A problem was identified in how to handle expertise, in particular how to handle expertise when the minister was proving to be 'expertise resistant' or when it was felt to be politically convenient to go in a different direction to the expert advice.

It was claimed that the British civil servant was possibly best at process management rather than at subject management. However, it was stressed that the key civil servant competency was to have sufficient subject expertise to understand the expert advice. One way to deal with such kind of issues had been, in the DTI, the system of 'career anchors' which meant that an official's career was related around a small number of anchors such as 'regulation and competition' or 'EU policy-making'. One problem was seen in the tension between a focus on expertise which would lead to a narrow world view that would avoid innovation. It was necessary to have flexibility and innovation to respond to changes in ministers. The DTI therefore had more subject expertise than it was credited for, although it relied less on external advisory committees.

In the German case, it was said that recruitment took place with a particular emphasis on the career background of the particular candidate, although there was, due to civil service law, a constraint in having to employ mainly lawyers and economists. Nevertheless, it was seen as important to employ people who had worked in the relevant policy field before, for example in energy. To maintain Fachkompetenz, it was required to build the appropriate

network that would supply the appropriate information. The BMWi was committed to training officials for future demands and employed an agency to supply programmes.

There was also a question of employing the 'best', which could possibly lead to a commercial bias. It was suggested that the potential expert bias was the reason why experts should not be in a deciding function, but rather that it was the role of the civil servant to filter from the various biased views. It was also argued that the revolving door concept was not necessarily leading to poor results as those public sector officials who were to return to the private sector needed some high impact victories in order to boost their salaries in their private sector careers after their period in the public sector had ended. Once this was accepted, the recruitment of private expertise for short-term public sector employment offered cheap expertise once given the appropriate incentive structure.

The State as Risk Manager

Policy formulation inherently requires a trade-off between different goals and therefore risk management. The business risk management literature offers only limited lessons for the risk management in government. The latter must deal with systemic as well as organisational risk. For example, in making policy on energy supply mixes, decisions have to balance considerations of long-term energy supply, price, environmental considerations and political as well as public pressure. This session discussed the set of skills required by civil servants to act as risk managers (arguably a novel term for German public administration) as well as the division of labour between political and civil servant functions.

Giandomenico Majone focused on discussions of risk and the precautionary principles, in particular in the context of the European Commission's communications on the precautionary principle. Following an introduction into the key vocabulary of risk, namely alternatives, events, outcomes, probabilities, utilities, opportunity costs and decision rules, he stressed in particular the importance of three principles, namely consistency within and across decisions and agencies, accountability and procedural rationality. Without breaking down the analysis in probabilities, alternatives and outcomes there was no accountability in decision-making. Furthermore, two fallacies were particularly prominent, namely planning according to the most likely event and worst-case planning. Decision-making constrained by limited principles such as 'minimax' (minimize the probability of maximum loss) or the precautionary principle would lead to inconsistent decisions. The case of 'minimax' utilised losses but not probabilities, which only made sense in a limited set of situations. The precautionary principle was similarly distorting: regulators would focus mainly on particular events and subsequent losses rather than on the entire range of possibilities. Under the World Trade Organisation's rules, the precautionary principle was allowed to be applied at

the national level in limited circumstances when scientific evidence was insufficient, but only if the danger was regarded as imminent and the measure was imposed for a limited time. At the EU level with the 'precautionary principle' being relevant in particular in areas of environment regulation, the precautionary principle was likely to cause bad decision-making and capture by special interests. Its German equivalent (Vorsorgeprinzip) had approximately eleven different meanings. In the Commission's definition, the precautionary principle offered a maximum of regulatory discretion. This was particularly evident in its claim that cost benefit analysis was not only to include the costs to the Community but also non-economic considerations such as acceptability to the public. The dangers of such a policy were clear: it would have significant distributive consequences in closing the EU markets for developing countries' products, especially in agricultural products from former colonies. The adoption of standards for B₁ aflatoxin would reduce deaths in the EU by about one death per year in the EU, while it had led to a substantial loss to African farmers who had not been part of the 'risk calculus'. Furthermore, the precautionary principles could be easily abused by political considerations, such as French farmers. Although it was quite clear why the Commission was adopting this type of language, the best solution to re-establish credibility in European risk regulators (especially with regard to food safety) was to create independent agencies.

In the **discussion**, several questions were raised over what type of risk management skills civil servants required, and how much they were required to be knowledgeable of the different risks. There were questions about the extent to which particular procedures were embedded in administrative routines and how explicit such calculations were. Furthermore, it was difficult to see who was to judge on the risk calculations which at the same time also involved a substantial personal risk for the civil servant in terms of career development. It was also questioned whether any organisation in 'real life' could possibly perform technical risk assessment exercises in what seemed to be a 'political vacuum'. It was pointed out that the United States Supreme Court in AFL-CIO v. American Petroleum Institute (a case relating to benzene) had confirmed the legitimacy of quantitative risk assessment and made reliance on the methodology obligatory for all American agencies engaged in health regulation. Subsequent disputes had been only about the assessment offered by the agency.

It was argued that the British civil service operated on the basis of 'fright factors', which were defined by the extent of the visibility of the risk, whether it involved future generations or merely an individual and whether it was transferable or self-contained. The real demand was to maintain consistency across these types of calculations rather than to advocate one-size-fits-all calculations. It was suggested that such factors could be included into risk assessment activities, but needed to be made transparent. It was also pointed out that the precautionary principle in Germany faced certain challenges. In the past, especially small-and medium sized enterprises had based their product development on 2-5 year product cycles, which would allow for an

assessment on the lines of the precautionary principle. Such decision-making was no longer possible, since the industry was changing rapidly with innovation being far more important and rapid. A further issue was political cost. For politicians, a single death because of a particular disease, such as BSE, was unacceptable, and therefore one had to provide measure against that. If one wanted to have rational risk assessment and management, then one would have to change society first. It was agreed that ministers should be allowed to make decisions which would go against scientific advice, but this should be transparent and make sure that the politician was to bear the costs of decision-making and the political costs of over-ruling scientific advice.

The idea of risk management and assessment also called for the consideration of an international dimension, in particular a distributive impact assessment of decisions which looked at the international impact. One problem of the approach was that it looked at decisions from the perspective of an individual decision-maker, while decisions were made within organisations with different type of incentives and time horizons. It was suggested that the best way to establish credibility and transparency was to establish a single body, following the agency-model, which should take decisions with regard to risk assessment.

Overall

The workshop allowed for an exchange of perspectives between British and German officials and with academics. The discussions provided for a considerable testing of the findings stemming from research conducted at CARR and deepened the understanding of various important factors which are crucial for understanding civil service competence in the 21st century and which are usually not emphasised in the competency frameworks produced by 'modernising government' proponents. The CARR team are extremely grateful to the Anglo-German Foundation for making the event possible and for so generously supporting the organisation of the workshop.