

# THE “S” FACTORS

*Lessons from IFG's policy success reunions*

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# Foreword

Politicians, civil servants, commentators and academics are mesmerised by learning from failure. We thought that looking at lessons from success would complement our more extensive work on policy making – much of the focus there was on what is not working or what could be done better. But policies do work – more often than many think. And this report looks at what we can learn from those successes.

There are important links to work we have done on Ministers, on Parliament and are doing on the opposition. Ministers do matter. They can give real impetus to looking again at a problem and finding a new way through. The policies we have looked at would not have been successful without Kenneth Baker and Nigel Lawson, among others on privatisation, without Margaret Beckett and Ian McCartney on the minimum wage, Donald Dewar and Derry Irvine on devolution without David Miliband on climate change, John Hutton steering a course with prime ministerial support on pensions and even John Reid accepting the case for legislation on smoking. Parliament makes a difference too – as the important role of the Health Select Committee on the smoking ban illustrates how an entrepreneurial chair can take on government policy. Great preparation in opposition was the hallmark of the minimum wage and devolution, aided by outsiders, and it was David Cameron as leader of the Conservative party who started the momentum swing on climate change targets.

What all these policies have in common is that they demonstrate the policy fundamentals we set out in *Making Policy Better*. They are all underpinned by effective working relations between politicians and civil servants. In most cases they also benefit from widening the policy discussion beyond the confines of Whitehall and Westminster – whether through the explicit engagement of civil society – as in the case of the Scottish Constitutional Convention, the establishment of arm's length commissions, as in the case of pensions and the minimum wage, or the development of policy in reaction to the efforts of groups such as Friends of the Earth and Action on Smoking and Health.

At the Institute we propose to continue learning from policy success and to continue the debate with politicians and civil servants about how to improve policy making. We are also keen to hear others lessons from the case studies we have developed. But above all the message is that government, done well, can make a difference.

A handwritten signature in black ink that reads "PJR Riddell" followed by a horizontal line and two dots.

Rt Hon Peter Riddell

Director, Institute for Government  
January 2012

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## About the authors

**Jill Rutter** – Jill is director of the Institute for Government's Better Policy Making theme and has co-authored reports including *Making Policy Better* (2011) and *Policy Making in the Real World* (2011) and *Read Before Burning* (2010), about arm's length bodies. She joined the Institute as a Whitehall Fellow in September 2009. Before joining the Institute, Jill was Director of Strategy and Sustainable Development at Defra. Before that she worked for BP for six years, following a career in the Treasury, where she was Press Secretary, Private Secretary to the Chief Secretary and Chancellor, as well as working on areas such as tax, local government finance and debt and export finance. She spent two and a half years seconded to the No.10 Policy Unit (1992–94) where she oversaw health, local government and environment issues.

**Edward Marshall** – Edward joined the Institute for Government in February 2011. He has predominately worked on the Institute's Better Policy Making programme – researching the history of successful policy making in UK government and collaborative models of policy making. Edward holds a PhD in modern British history from Royal Holloway, University of London.

**Sam Sims** – Sam joined the Institute in September 2010. Prior to this, he worked as a researcher on the book *Brown at 10*, co-authored by Anthony Seldon and Guy Lodge. Sam has been involved across the Institute for Government's work on directly elected Mayors and is now working on policy making in opposition. Sam graduated from Oxford University in 2010 with a degree in politics, philosophy and economics.

# Acknowledgements

Many people have contributed to the development of this report.

Simon Parker and Michael Hallsworth conceived the idea of surveying Political Studies Association (PSA) members on policy success as part of the IfG work on Better Policy Making. We are grateful to all the PSA members, and in particular their Chief Executive, Helena Djurkovic, for helping us organise the survey and for responding. Michael McKessar did the initial analysis of the survey.

We had the idea of plagiarising the BBC's reunion format to gain insights into the policy making process and prototyped it with a small event on the Climate Change Act. That seemed to work well and Andrew Adonis then suggested we should use that format to look at the areas that topped the PSA poll. Tori Harris and then Edward Marshall did the herding cats work of making sure we had key players in the room at the same time. Their efforts were underpinned by our terrific events team – Loren Austin and Kerry Burkett – and Mike Brass ensured that we had podcasts available where possible.

This report depends crucially on the willingness of former ministers, advisers and civil servants to share their insights about what worked and what didn't. Those who participated in our policy reunions are listed at the end of each case study. Our thanks go to all of them. The lists are not exhaustive – so inevitably some voices are left unheard. If we have missed key parts of the story, we would welcome comments and additional insights. We are also indebted to our expert case study reviewers: Professor Andrew Gamble, Dr Martin Lodge, Akash Paun, Professor John Hills, Professor Virginia Berridge and Jonathan Brearley, as well as Catherine Haddon here for her help in finalising the case studies.

Too often we assume that political life and policy making is characterised by failure. What was clear from our policy reunions was the immense amount of pride and satisfaction that participants gained from being involved in policies that achieved their objectives. It was both revealing and inspiring to hear their stories. This is our attempt to distil some of the lessons.

# Executive summary

Policy failure is studied often – success much more rarely. In a series of policy reunions in 2010 and 2011, the Institute for Government asked people - ministers, civil servants, parliamentarians, and other participants - who had been part of “policy successes” to reflect on their experiences of making policy successfully.

We looked at six examples: privatisation, the introduction of the national minimum wage, Scottish devolution, the ban on smoking in public places, pension reform and the Climate Change Act. The first three topped a poll of members of the Political Studies Association conducted by the Institute for Government in 2010, which asked them to identify the most successful policies of the last thirty years. The more recent cases were chosen because they met our definition of a successful policy:

*“the most successful policies are ones which achieve or exceed their initial goals in such a way that they become embedded; able to survive a change of government; represent a starting point for subsequent policy development or remove the issue from the immediate policy agenda”.*

In the first section of the report, we distil seven common factors which appear to lie behind the success of these individual policies:

1. Understand the past and learn from failure
2. Open up the policy process
3. Be rigorous in analysis and use of evidence
4. Take time and build in scope for iteration and adaptation
5. Recognise the importance of individual leadership and strong personal relationships
6. Create new institutions to overcome policy inertia
7. Build a wider constituency of support.

These lessons cannot represent a sure-fire recipe for future success. But they appear as recurrent themes in the individual case studies. The policies studied also meet the “policy fundamentals” set out in the Institute for Government’s report, *Making Policy Better*.

The second part of the report sets out the individual case studies, to allow other readers to draw their own conclusions.

# Part 1: Lessons on Policy Success

# What is a successful policy?

## Introduction

Our political culture tends to highlight failure rather than note and celebrate success. 'Government policy delivers worthwhile results' is not a headline that will sell many newspapers nor form the basis for exchanges at Prime Minister's questions. Yet, over the past thirty years, actions by government have decisively changed the way we live and come to be regarded as part of a new consensus.

The Institute for Government has recently completed a major research programme into policy making in government. The impetus behind that, confirmed by our research, was a feeling by both civil servants and ministers that policy could be done better. But it is important for those who work in government, for those who have worked in government, and those who aspire to be in government to realise that policies can work – deliver long-term improvements in outcomes, and change the way in which our economy and society operate. The problem is that successful policies quickly become part of the furniture and, as a result, get less attention than they deserve.

In this study we look at how governments went about achieving those changes. In doing so, we aim to shed light on what good policy process can look like, with potential lessons for future policy makers. Of course, successful policy making can never be reduced to a mechanistic process, like following a recipe. But, nonetheless, we believe it is instructive to look at how past policy makers went about crafting and implementing some of these 'game changing' policies.

We did this by inviting participants in 'successful policies' to join us in a series of 'policy reunions' where they discussed the process that underlay each of our case studies.<sup>1</sup> We brought together ministers, civil servants, other advisers and wider influencers to distil their stories. A full list of those who participated in our reunions is at the end of each case study.

This report is divided into two parts. In part one, we look at what we mean by successful policies, draw out the common lessons from our case studies and what this means for our wider research on better policy making.

Part two contains more detailed case studies, drawing largely on our policy reunions supplemented by other interviews and additional background to allow readers to draw their own conclusions.

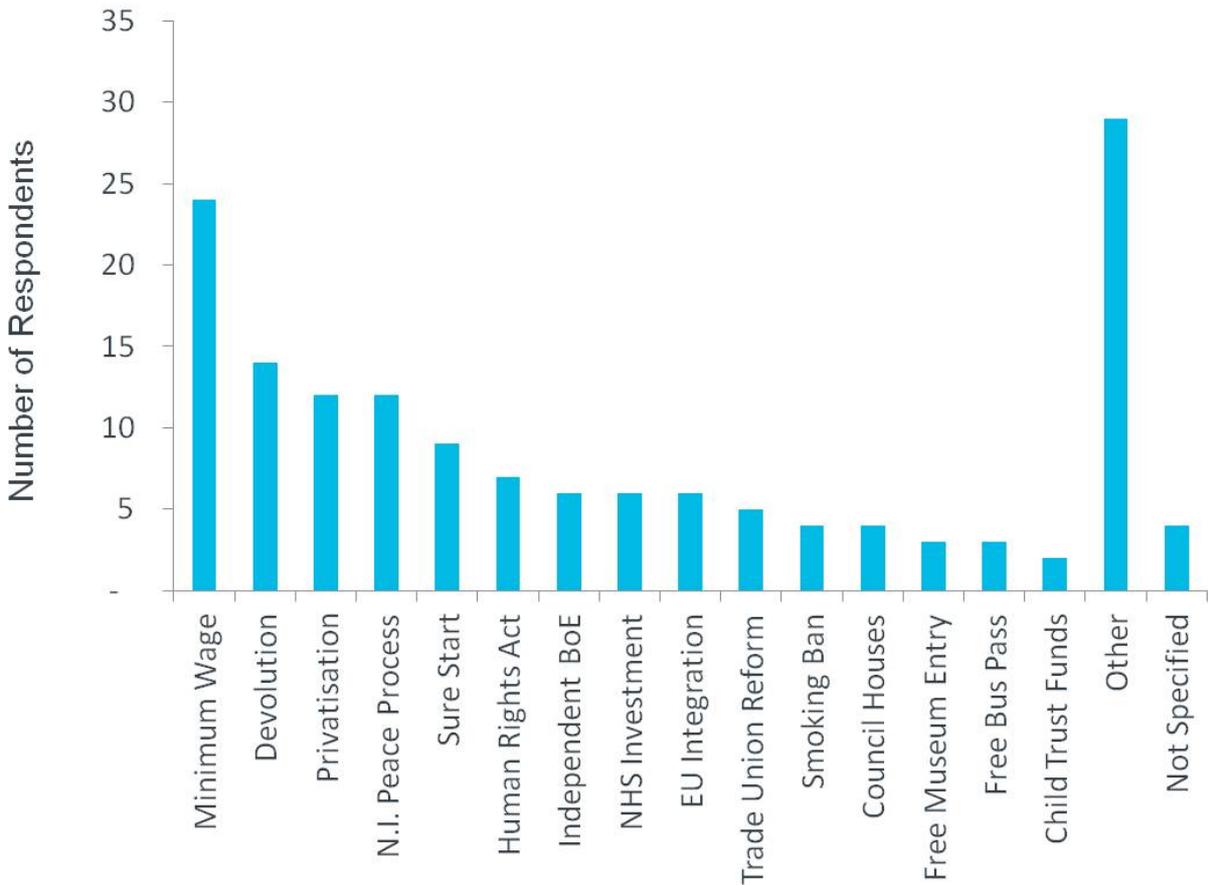
<sup>1</sup> Write-ups of these events and (for most) podcasts are available at: <http://www.instituteforgovernment.org.uk/our-work/c2/35/Policy+successes>

### The selection of case studies

There will never be universal agreement on what a successful policy is and no scientific way of selecting particular case studies. We selected our case studies in two ways.

First, as part of our policy making research, we asked the UK’s leading political studies academics, members of the Political Studies Association (PSA), to nominate the policies that they deemed to have been the “most successful of the last thirty years” (so covering the period of the last Labour government and the preceding 18 year Conservative administrations of Margaret Thatcher and John Major). The results of that survey are set out in the table below.

The Political Studies Association poll – most successful policies of last 30 years



On the basis of this list, we selected as case studies the three top policies:

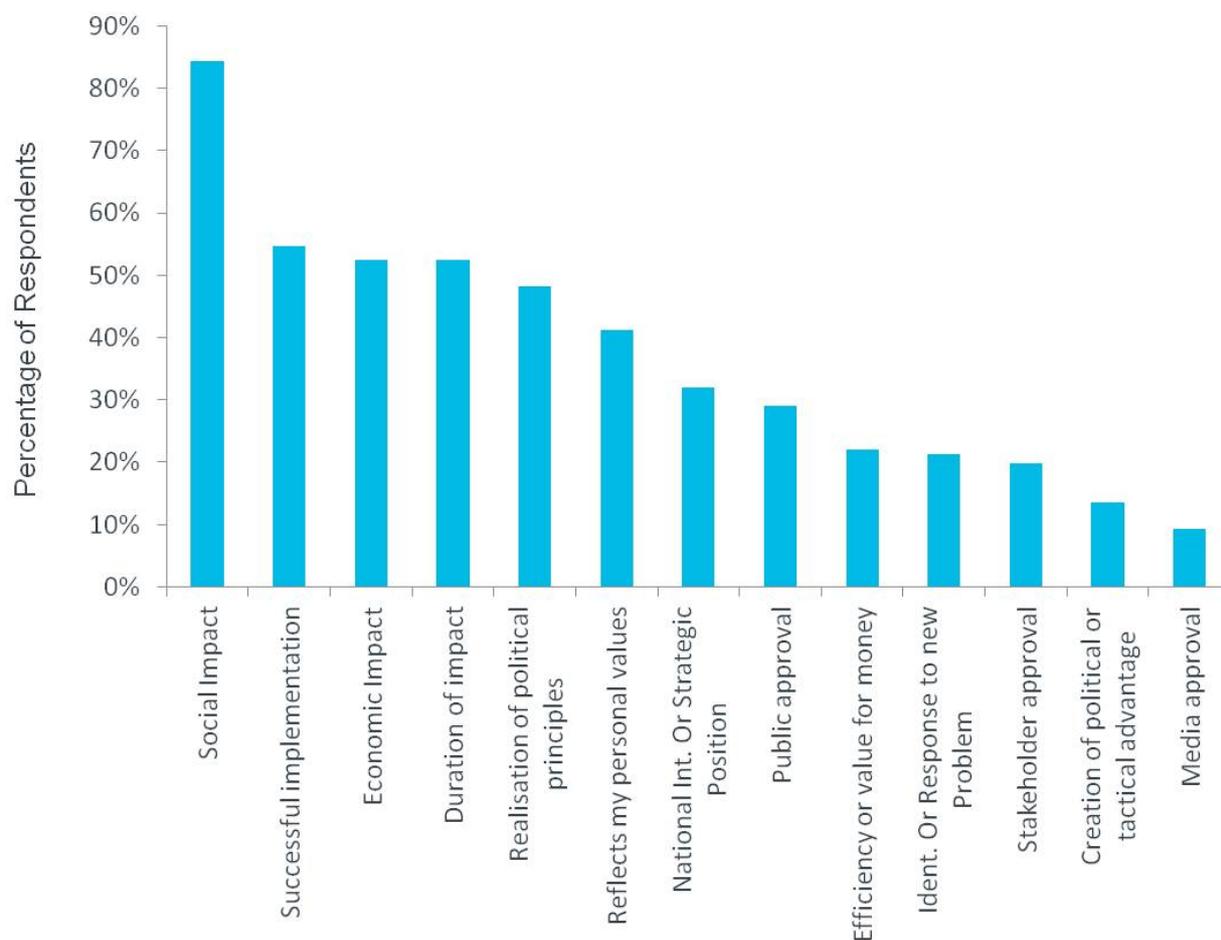
- The National Minimum Wage
- Devolution to Scotland
- Privatisation

We also asked the academics to give reasons why they selected these. The top criterion, cited by over 80% of respondents, was their social impact. Clustering at around 50% was the fact the policies were implemented successfully, that they had a positive economic impact and that they lasted. But there is a degree of personal bias in the sample – just under 50% said that one of the criteria they used was that the policy reflected their personal values. This may, for instance, explain why Mrs Thatcher’s very significant (and durable) reforms to the labour market failed to score any higher on the list.

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### Criteria used to select successful policies in Political Studies Association poll

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We wanted to expand the case studies beyond these three and have supplemented them with three more recent policies. The three we selected were:

- The Pensions Commission
- The Climate Change Act
- The ban on smoking in enclosed public spaces

For the first two, it is too early to judge whether the policies are successful in terms of delivering concrete outcomes – the criterion used to judge longer standing policies in the list above. The pensions changes recommended by the Turner Commission only start to come into effect in 2012; and the Climate Change Act’s real success can only be judged over the coming decades. However, in both of these cases, there was a significant change of policy direction in what had been very contentious areas of policy. The changed direction became part of a new consensus and survived a change of government.<sup>2</sup> Finally, we wanted to look at an area where policy had built cumulatively over a number of years – so for the final case study we looked at policies designed to reduce smoking rates – with a particular focus on the ban on smoking in enclosed public places.

## Defining and understanding policy success

There is a very little academic literature on policy success – compared to a burgeoning literature on policy failures and policy fiascos.<sup>3</sup> Indeed, one definition of policy success is simply a policy that is neither a failure nor a fiasco which seems a rather depressingly limited ambition.

The most comprehensive study is Allan McConnell’s *Understanding Policy Success*.<sup>4</sup> McConnell categorises success under three realms set out below – process, programmes and politics, and defines policy success thus:

*A policy is successful insofar as it achieves the goals that proponents set out to achieve. However, only those supportive of the original goals are liable to perceive, with satisfaction, an outcome of a policy success. Opponents are likely to perceive failure, regardless of outcomes, because they did not support the original goals.*<sup>5</sup>

<sup>2</sup> Though, at the time of writing, the current state of the economy is increasing pressure on government to slow the pace of change.

<sup>3</sup> For example, see Andrew Adonis, David Butler and Tony Travers, *Failure in British Government: The Politics of the Poll Tax* (Oxford: Oxford University Press, 1994), Mark Bovens and Paul ‘t Hart, *Understanding Policy Fiascos* (New Brunswick: Transaction, 1996); and Arjen Boin, Allan McConnell and Paul ‘t Hart (eds.), *Governing After Crisis: The Politics of Investigation, Accountability and Learning* (Cambridge: Cambridge University Press, 2008).

<sup>4</sup> Allan McConnell, *Understanding Policy Success* (Basingstoke: Palgrave Macmillan, 2010).

<sup>5</sup> *Ibid*, p. 39.

Process	Programme	Text
<ul style="list-style-type: none"> <li>• Preserving policy goals and instruments</li> <li>• Conferring legitimacy</li> <li>• Building a sustainable coalition</li> <li>• Symbolising innovation and influence</li> </ul>	<ul style="list-style-type: none"> <li>• Meeting objectives</li> <li>• Producing desired outcomes</li> <li>• Creating benefit for the target group</li> <li>• Meeting policy domain criteria</li> </ul>	<ul style="list-style-type: none"> <li>• Enhancing electoral prospects / reputation of governments and leaders</li> <li>• Controlling the policy agenda and easing the business of governing</li> <li>• Sustaining the broad values and direction of government</li> </ul>

Source: Reproduced from McConnell, *Understanding Policy Success* (2010), Table 2.2, p. 46.

Applying McConnell's framework, the case study policies exhibit successful process in his terms.<sup>6</sup> But good process on its own should not be enough – but needs to be seen as an important enabler of programme and political success.

Coming close to delivering programme outcomes seems to be an essential condition of a successful policy. It is hard to see a policy as successful that did not achieve most of its outcomes or only achieved them with significant unintended consequences which undermined the rationale and sustainability of the policy. The degree of success may not be apparent at the time – McConnell talks of a spectrum of success from “*durable success*” to “*conflicted success*” to “*precarious success*” (which may be a precursor of policy failure). But if policy is looked at in a more dynamic way, it can be seen that even precarious successes can turn into durable successes. For example, the privatisation programme looked precarious after the Amersham International and Britoil sales, but (after the British Telecom sale) it turned into a conflicted success which then moved over the years into a durable success. Indeed, one of the characteristics of successful policies is that they build in adaptability and resilience to be able to survive some initial setbacks; without that flexibility, a precarious success can easily tip into a failure.

Where we most depart from the McConnell framework is on our view of political success. In his view, political success comes from conferring an impression of competence and enhancing government reputation, but also from providing electoral payback. This suggests that the issue remains contentious. One of the characteristics of the policies we have studied is the reverse: that a hallmark of a truly successful policy is that it shifts trajectories and what was a contentious issue becomes a newly accepted norm and is taken out of the realm of political debate. Thus a sign of the success of privatisation is not the electoral advantage it conferred on the Conservatives, but that Tony Blair did not seek to reverse it. In the same way, Michael Portillo's acceptance of the national

<sup>6</sup> A possible exception is the smoking ban, which could be regarded as a process failure since the government failed to get its proposal accepted – but it did manage to engender a large degree of public support for a measure designed to deliver its wider policy goal of reducing smoking rates – indeed, one of the critiques of the government's partial ban proposal was that it would undermine the government's own stated objective to narrow health inequalities. Legitimacy was conferred not by the government driven process, but by the wider actions in Parliament and of civil society which ended up with a free vote in Parliament on the full ban amendment.

minimum wage in his first act as shadow chancellor (and the fact that the Low Pay Commission has survived a change of government) suggests it is a successful policy. This is a much more dynamic model of policy making which sees process, programme and politics interacting with each other to move the locus of political and policy debate compared to McConnell's rather comparative static approach. A full analysis of how our case studies benchmark against McConnell's heuristic for analysing policy success is found in Annex A.

Based on this, a stronger implied definition of success emerges, which also reflects our PSA respondents' view of the importance of durability, which could be summed up as:

***The most successful policies are ones which achieve or exceed their initial goals in such a way that they become embedded; able to survive a change of government; represent a starting point for subsequent policy development or remove the issue from the immediate policy agenda.***

Four of the case study policies (privatisation, devolution, minimum wage and the smoking ban) meet that test fully. The other two (pensions and climate change) meet the process and politics success measures, but since they have yet to be fully implemented their final 'programme' success cannot yet be judged. However, what they have done is provide an accepted framework within which programme objectives can be pursued.

Policy success could be seen as just a question of good timing. In a number of cases, policy reunion participants referred to the 'stars coming into alignment' – with people, politics and ideas all lining up to enable a policy that would previously have been unthinkable to get onto the table and be taken forward.

This concept was articulated in the academic literature by John W. Kingdon in his book *Agendas, Alternatives, and Public Politics*.<sup>7</sup> He identified the importance of 'policy windows' often at a change of administration, when policy entrepreneurs can put new ideas onto the policy making agenda. For a policy's time to have come, it needs to have been recognised as a problem, solutions need to have been created and it needs to be seen as feasible to deal with it.

The policy window/policy entrepreneur approach resonates with our case studies – but not necessarily in quite the passive, distinct way set out by Kingdon. Policy makers are able to create 'policy windows' – and part of what policy entrepreneurs do is help shape thinking to make people more amenable to change – through establishing processes like the Pensions Commission or the Scottish Constitutional Convention or institutional change like creating the Office of Climate Change to enable government to approach climate change issues in a joined up way. So while in all our case studies there are elements of opportunism, there is also a message that policy makers can help shape the opportunities open to them – rather than just be passive beneficiaries of external events.

<sup>7</sup> See John W. Kingdon, *Agendas, Alternatives, and Public Politics* (Boston, MA: Little Brown, 1984).

Having developed a demanding definition of success – and concluded that policy makers can actively shape the context within which policies are developed, we can now look at the individual case studies and at some of the common lessons policy makers should learn from them.

## The starting point for success

In preparation for the policy reunions, we asked all the participants to answer some questions to put the policy in a wider context and look to see if there were any commonalities between the starting points for the different policies we studied<sup>8</sup>. The key points to emerge are:

- In four of the six case studies, the **originating proponent** was perceived to have come from outside the government of the day, usually in the form of an interest group or the opposition.
- **Ownership within government**, although there was less agreement, the most common verdict placed responsibility with a single secretary of state or 'junior' minister; with the exception of pensions, where the Prime Minister was viewed as the originating proponent and the government 'owner'.
- Across the whole range of policies, there was almost unanimous agreement that the **commitment** of the main 'owner' had been strong and long-term.
- There was general consensus that these policies had benefitted from **well defined goals and objectives**; with the exception of pensions, where most said that the goals and objectives were contested, and on climate change, where respondents were split.
- All represented a **new response** – though with more mixed reactions to whether the goal was pre-existing or new. This held even for policies where there had been similar proposals in the past such as devolution.
- Answers were fairly evenly split between those who believed there was an **urgent need** to address the subject and others who saw it as a **long-term issue** (which had then become a greater policy priority). Of course, these two perspectives are not mutually exclusive since a complex or contentious issue may remain unresolved for many years and then suddenly become an urgent priority due to changing circumstances.
- In five out of six cases participants regarded the **evidence base** as contested, illustrating how often policy makers have to act without clear evidence to guide.

<sup>8</sup> Response was variable – only two of the attendees of the privatisation reunion responded compared to eight respondents to the devolution questionnaire – but offered some revealing insights. The full results are in Annex B

- All the policies were seen to involve **multiple Whitehall departments** and **complex delivery chains** and **had high power stakeholders** outside of government – mostly considered to have varying goals.
- There was no agreement across the policy areas about the degree of **party political controversy** on issues – some were significant (devolution, privatisation and the minimum wage), while smoking was not a frontline issue and views were split on pensions, and climate change only caused limited controversy.
- However, on all issues, most respondents saw considerable **internal party controversy within the government**.
- All issues, with the exception of climate change, were regarded as **publicly controversial** and most (save devolution and climate change) were also regarded as **salient with the public**.
- In all cases, except for a split on devolution, **the media reaction** was anticipated as being significant and there was general unanimity that the media reaction was likely to be contested (except for devolution and climate change).

So the emerging picture of case studies is of an external policy impetus, championed internally by a strong player with a long-term commitment to the success of the policy; areas that were publically salient but not necessarily at the frontline of party political controversy; with considerable internal (multi-department involvement, complex 'delivery chains') and external (anticipated contested media reaction and high stakeholder power) complexity; and with the policy makers' task in most cases made harder by the ambiguous nature of the evidence base. There is also a striking amount of internal political controversy.

One potential conclusion is that some of these factors meant policy makers had to develop new techniques and strategies to manage the internal controversies, bring external stakeholders on board, head off (or take on) potential media criticism, and build consensus on the evidence base and the proposed way forward. In the following section, we look at the lessons that emerge from how policy makers went about their task.

# Seven lessons from successful policy making

## Lessons from success

Individual case studies bring out particular lessons, as will be seen in the analysis of the cases and the policy reunions in Part 2. Looking at our case studies combined, there are some clear common themes. This does not represent a checklist for policy success. Indeed, our analysis shows how difficult this would be, and our research last year on making policy better shows the dangers of attempting to institute any kind of recommended and simplistic process on the basis of this.<sup>9</sup> However, it does reiterate some of the lessons of that work, and shows the kind of approaches and issues that policy makers should consider. It may be possible to draw other conclusions from the case studies and we would be interested to hear from anyone who sees additional or different lessons from those listed below.

On our reading of the case studies, the most important general lessons which emerge are:

1. Understand the past and learn from failure
2. Open up the policy process
3. Be rigorous in analysis and use of evidence
4. Take time and build in scope for iteration and adaptation
5. Recognise the importance of individual leadership and strong personal relationships
6. Create new institutions to overcome policy inertia
7. Build a wider constituency of support

We discuss these in greater depth below.

## Lesson 1: Understand the past and learn from failure

One of the conventional criticisms of policy makers and policy making is a lack of institutional memory. Yet most issues are not new and have been grappled with in the past. The importance of

<sup>9</sup> See Michael Hallsworth, Jill Rutter and Simon Parker, *Policy Making in the Real World: Evidence and Analysis* (Institute for Government, 2011).

understanding the past and analysing and learning from the causes of past failure emerged as an important issue in three of our case studies.

The case of Scottish devolution is the most instructive example of determination to learn from past failures and not repeat the same mistakes. The experience of devolution in the 1970s, triggering the fall of the Labour government provided a textbook case of how not to do devolution. Those determined to make devolution succeed second time round set about their task of doing everything differently, most notably that this time Scottish devolution would be a project designed and developed in Scotland rather than a Whitehall-Westminster confection which would be offered as a legislated take it or leave it. The 18 years of opposition were used well by the protagonists through the development of devolution as essentially a Labour–Liberal Democrat project, but which was owned by the Scottish political elite who were engaged in the Constitutional Convention. This approach meant that the scheme in 1997 was widely supported in Scotland.

But the second lesson from the past was in some ways equally important – and that was the lessons incoming Prime Minister Tony Blair took from the way in which the Callaghan government got bogged down in parliament over devolution. The Callaghan government had no mandate for devolution and it was an issue which ran into parliamentary difficulties from implacable opponents within Labour ranks, culminating in the Cunningham amendment specifying a minimum turnout threshold to make the referendum result valid. Tony Blair, who had continued John Smith’s policy on devolution (it was one of the few areas of previous Labour policy that survived his mid-1990s revamp), was determined that his government would not become mired in the same sort of political swamp early in its term, when he had other more pressing priorities to pursue. Blair therefore gave orders to the Cabinet Office that he wanted very early legislation and they needed to be ready to move fast on Labour taking office. However, before this, he saw off the Scottish Labour Party (SLP) by insisting that election victory alone would not be a sufficient mandate for change and this time there would be a pre-legislative referendum (an idea proposed by UCL’s Constitution Unit).<sup>10</sup>

The decision to go for a pre-legislative referendum was very unpopular with the SLP and Donald Dewar, who became Secretary of State in the new Labour government, was under constant criticism from the Scottish press for his perceived failure to go faster. But the effect of the referendum, held in September 1997, was to give the legislation the momentum it needed to see off potential opposition in Whitehall and the House of Lords. The scale of the vote for Scottish devolution (and the narrow but positive margin for the more restricted form of Welsh devolution) meant that the subsequent passage of the enacting legislation to establish the Scottish Parliament and the Welsh Assembly were completed by November 1998. The opposition from the House of Lords that might have been expected with such a major constitutional change was practically non-existent.

<sup>10</sup> The Constitution Unit originally proposed a pre-legislative referendum to see whether there was any justification for pursuing devolution in Wales, where the margins were always much more finely balanced than Scotland.

Learning from past failure was also a hallmark of the approach David Miliband took to his policy on climate change. Environmental concerns were increasing in political salience as the new Conservative leader, David Cameron, chose to make them part of his campaign to detoxify the party. David Miliband inherited a department which had struggled through a two year process of reviewing the climate change programme to look at how to meet the gap between the government's own commitment and delivery. This process had run into a series of brick walls at every turn – from the Treasury to the then Department of Trade and Industry (which then had responsibility not just for business but also for energy policy), the Office of the Deputy Prime Minister (in charge of housing), and the Department for Transport. The climate change programme review had been a bottom up process – with Defra, responsible for the policy but with few of the levers over key sources of emissions, in supplicant mode, asking other departments to take action to fill the gap to take government back towards its manifesto commitment to go beyond internationally required levels of CO2 reduction. No other department saw any particular justification for complying; there was little political drive to deliver beyond Kyoto commitments and the process dragged on and on, and ended up with a public declaration of failure.<sup>11</sup>

As Michael Jacobs, then environment adviser to Chancellor Gordon Brown, pointed out in our policy reunion, those who wanted to make progress saw this as a signal that a different approach was needed – that bottom up approaches were doomed to failure. People started to look at ideas emerging from Friends of the Earth for an alternative, top down, approach. At the same time, David Miliband realised that if he was going to make progress on his top priority during what he no doubt hoped was a short stint in Defra before being promoted once more, he would need to make internal changes not to repeat past failures. That meant creating a new institutional device in the Office of Climate Change (OCC) which would enable climate change issues to be analysed in a cross-government way rather than a department by department basis. Although Miliband's original proposal to locate the OCC in the Cabinet Office was rejected by the Cabinet Secretary, he managed to get sufficient cross-departmental governance to allow a different approach. The OCC also enabled him to create a fresh team rather than simply relying on those who had lived through the enervating and confidence sapping process of the Climate Change Programme Review.

The third example of learning from failure was on the minimum wage. Here the earlier failure was the lack of realism in approach to setting the minimum wage in the Labour Party's 1992 election manifesto – which contained a specific commitment to set the minimum wage at £3.40 an hour, half male median earnings in 1991-2, with a commitment to raise it over time to two-thirds.<sup>12</sup> That proposition was a real tactical error: not only was the level chosen unrealistically high (it would have given the UK the highest minimum wage in the developed world), but it also opened up the proposal to detailed attack from the government and the commentariat. Under questioning, Labour leader Neil Kinnock was unable to explain the formula used to calculate the rate. That in turn made the party look unready for governing. In its place, Tony Blair adopted not a formula but an 'in principle' commitment to establish a new minimum wage, set on the advice of a low pay commission: *"There should be a statutory level beneath which pay should not fall - with the minimum*

<sup>11</sup> See *Climate Change: The UK Programme 2006* (Defra, 2006).

<sup>12</sup> See *Opportunity Britain: Labour's Better Way for the 1990s* (Labour Party, 1991).

*wage decided not on the basis of a rigid formula but according to the economic circumstances of the time and with the advice of an independent low pay commission, whose membership will include representatives of employers, including small business, and employees.*"<sup>13</sup> This meant that any attack had to be launched on the principle of a minimum wage rather than the endlessly debatable and highly controversial specifics of the policy.

In the other case studies, there were fewer obvious parallel failures to learn from – but there was a strong element of adaptive policy making (see below). In the case of privatisation, government learnt as it developed its own programme – and one reason for officials' support for the new approach was the sense that earlier policies to improve the performance of the nationalised industries had failed and this was a significant drag on UK productivity. In the case of smoking, there was direct learning not from the past but from other jurisdictions, most notably the Republic of Ireland and Scotland, on likely public reaction and enforceability of a smoking ban. But part of the impetus which Health Secretary John Reid accepted made legislation inevitable was the failure of the voluntarist approach set out in the Labour government's own earlier White Paper. Furthermore, the Pensions Commission could be regarded as a tactic for Tony Blair to assert a degree of control over an area of policy where the Chancellor wanted to retain control.

## Lesson 2: Open up the policy process

It seems counterintuitive – not least to politicians who have spent years battling to get their hands on the levers of power – but one of the hallmarks of all these policy successes is the extent to which the policy process has been opened out beyond the confines of Whitehall. The policy making norm – internal inception, policy development within government, formulaic consultation, scantily scrutinised legislation and then imposition – is replaced by a much more porous and inclusive process which is an important part of the building of a new consensus.

The Low Pay Commission (LPC) was established in 1997 not to decide whether the UK should have a national minimum wage (NMW) – that had already been settled – but what the NMW should be and how it should operate. While in opposition, shadow employment minister, Ian McCartney<sup>14</sup> had held detailed preparatory discussions with both the Trade Union Congress (TUC) and the Confederation of British Industry (CBI) to work up the best approach and to make sure they would be prepared to participate in the Low Pay Commission. However, the LPC itself made a virtue of the openness of its process of setting the NMW – publishing its analysis and having hearings around the country so it could understand the very different labour market issues.

The establishment of the Pensions Commission in 2002 was a compromise designed to help solve an internal impasse on pensions policy – the perception by Prime Minister Tony Blair that there was a looming problem on pensions and the contrary desire by Chancellor Gordon Brown to see off any

<sup>13</sup> Labour Party's 1997 General Election Manifesto; available at: <http://www.labour-party.org.uk/manifestos/1997/1997-labour-manifesto.shtml>

<sup>14</sup> Now Sir Ian McCartney. Throughout we refer to people by the titles that they had when they were most involved in the policy process which is under consideration.

threats to his future room for fiscal manoeuvre – in particular, any suggestion that the state pension might have to be made more generous. The initial remit to the Pensions Commission focused solely on private and occupational pensions, not on the state pension: “we will establish a pensions commission to assess trends in occupational and private pensions and long-term saving, and to advise whether there is a case for moving beyond the current voluntarist approach.”<sup>15</sup> The history of what in Whitehall were often known as ‘celebrity reviews’, where a big name came in to front a piece of policy analysis, was not particularly promising. Many such earlier reviews suffered from the perception that their conclusions were pre-determined by ministers and therefore failed to develop independent credibility or traction.

On the face of it, the Pensions Commission also looked like a ‘celebrity review’ – led by Adair Turner, former director-general of the CBI, ex-McKinsey, and at the time vice-chairman of Merrill Lynch Europe; accompanied by LSE professor John Hills and union grandee Jeannie Drake of the Communication Workers Union. But the Pensions Commission realised that if they were to build the sort of consensus which would mean the government would have to take their proposals seriously, rather than being politely received and put in a ‘not invented here’ box by Treasury ministers and officials, there were virtues in making the process genuinely open and highly rigorous. They were helped in this by the extended timetable for reporting, imposed on them by the Chancellor. This was designed to kick the issue into the long grass, which meant that they were not asked to produce their final report until after the likely date for the next election.

The Pensions Commission used this time well – first to build consensus around their evidence base – with a first report totalling 346 pages and a further 226 page appendices of detailed analysis published in October 2004, which outlined the current situation, trends and challenges rather than making specific recommendations, and then by exploring the topic at a series of events around the country and, when they had got general agreement there was a problem, by taking a much more open approach to getting agreement around their proposals. This included ‘deliberative’ events with citizens designed to test out such previously unthinkable propositions as raising the state pension age in return for restoring the earnings link, as well as consultation with businesses who was being asked to contribute to pensions for all employees for the first time.

The effect of this opening up was to redefine what was thinkable. Internal consideration of policy is often hamstrung by initial editing out of what is possible – to avoid the risk of damaging leaks or handing political advantage to the opposition. Where ‘courageous’ ideas are on the table and do get out, any leak can lead to ministers (or No. 10 on their behalf) assuring the press, parliament and public that the government has no plans to act on an idea that was only being tossed around by a few deniable officials. By opening up the process and taking people through the logic of their arguments, the Pensions Commission managed to take an unthinkable idea – raising the state pension age – and made it part of an overall package that was perceived to offer costs and benefits all round. According to James Purnell, Pensions Minister at the Department for Work and Pensions (DWP), a by-product of the Commission developing its proposals in public was to downplay the shock of the new:

<sup>15</sup> From the Forward to the 2002 Pensions Green Paper – see *Simplicity, Security and Choice: Working and Saving for Retirement* (DWP, 2002), p. v.

*Raising the state pension age is one of things which you kind of think 'Oh my god, if you say this everybody is going to go crazy.' But you said it lots and lots of times in a series of controlled explosions and it went from page one of the paper, to page three to page five. And by the end it was 'Oh yeah, everybody knows they're raising the retirement age.'*<sup>16</sup>

Establishment of a commission is a very explicit way of ministers contracting out – and depoliticising – at least some stages of the policy making process. There are also other successful examples of new associations broadening the policy process. The Scottish Constitutional Convention was a civil society not a government project to develop a blueprint for Scottish devolution – the Conservative government at the time set their face against any form of devolution and John Major decided to make the threat to the Union part of his campaign platform in 1997 as he had done in 1992. But the final design was also helped by the willingness of the Labour policy committee on devolution to use the UCL Constitution Unit's expertise to fine tune their proposals – as Pat McFadden, then devolution adviser to Tony Blair, told us at the policy reunion – their civil service like perspective on how to make devolution workable was a vital part of the preparation.

One of the characteristics of our policy successes was the extent to which the original concept came from outside government. The Climate Change Bill was based on an original proposition developed by Friends of the Earth (FoE) as part of their Big Ask campaign, triggered by Tony Blair's bold declaration of climate change leadership in September 2004 (which, interestingly, failed to deliver any momentum to the meandering government process). Although there was no formal collaboration with FoE, Bryony (now Baroness) Worthington, author of the original thinking on top down targets at FoE, was seconded into Defra to be part of the team designing new approaches and played an important role in developing the government proposition.

Opening up the process played out rather differently on the smoking ban. Here, once it recognised that the earlier voluntary approach was not working, the government lost the initiative to external players by choosing a tactical option to stave off a total legislative ban. The government's decision to distinguish between places that served food and those that did not alienated the hospitality trade and, inadvertently, created the space for an alliance between industry representatives and health campaigners to push for a full ban. That public campaign, aided by the activities of the Health Select Committee, meant the government was eventually forced to concede a free vote on the proposal. The momentum of support in favour of a total ban led to the unusual phenomenon of both Prime Minister and Chancellor voting down a recent manifesto commitment in favour of a more far-reaching alternative.

The initial impetus behind privatisation was ideological and policy was largely developed within the Treasury and other key departments such as the Department of Trade and Industry. But it was such a change of direction that there was a real dearth of internal expertise and thinking at the start – the civil service had done no preparation for a policy that barely featured in the 1979 manifesto. The government came to rely very heavily on its merchant bank advisers – though their motives were initially suspect for some within government since they were major beneficiaries of the policy,

<sup>16</sup> Institute for Government, Policy Reunion on the Pensions Commission (9 December 2010); details available at: <http://www.instituteforgovernment.org.uk/our-events/77/policy-reunion-pensions-commission>

earning very considerable fees for advising on sales and underwriting them. A key role was also played by academics such as Stephen Littlechild and Bryan Carsberg who helped develop the new regulatory regimes that were necessary as the monopoly utilities were moved pretty much intact into the private sector.

### Lesson 3: Be rigorous in analysis and the use of evidence

Good evidence, analysis and problem definition provided the bedrock of many of the policies we have looked at – not only laying the ground for initial proposals, but also providing a basis for creating the consensus necessary for durable success.

In the case of the national minimum wage, academic research was crucial in undermining the conventional wisdom that a floor on wages inevitably cost jobs. Analysis showed rising income inequality and, during the 1980s, there was increasing concern about the prevalence of in-work poverty underpinned by the research work of the Low Pay Unit, a campaigning think tank. In the early 1990s, the academic economists' view started to change. Pioneering empirical work by David Card and Alan B. Krueger in the US, supported by similar research conducted by scholars in the UK, found no effect on employment for those over 25 and only a small effect for those under 25, which was small if they were subject to a lower minimum wage.<sup>17</sup>

On smoking, the initial impetus for a legislative ban in the UK came from the Chief Medical Officer. Sir Liam Donaldson's 2002 Annual Report said "*International experience has shown the only way to rapidly and successfully tackle the health risks from second-hand smoke is to introduce a ban on smoking in public places*" and asked that "*Very serious consideration should be given to introducing a ban on smoking in public places soon*".<sup>18</sup> The case for protection from second hand smoke was based on emerging evidence on the risks of passive smoking which provided a justification for government intervention. Department of Health economists thought the health benefits of the ban per se were likely to be quite small compared to other potential interventions, but that it had a potentially more significant effect through signalling a 'denormalisation' of smoking. However, evidence was critical to the longer run development of the case for action on smoking – starting with the original Doll and Bradford-Hill epidemiological studies in the 1950s that first established links between smoking and lung cancer. The other characteristic of the development of policy on smoking and in particular on the smoking ban was the importance of learning from other international examples – with developments in Scotland and the Republic of Ireland especially important. One of the big issues on the smoking ban was likely levels of public acceptability and compliance. The Health Select Committee was able to refute these concerns after visiting Ireland and taking evidence on the smoking ban in practice.

<sup>17</sup> See David Card and Alan B. Krueger, *Myth and Measurement: The New Economics of the Minimum Wage* (Princeton, NJ: Princeton University Press, 1995); and Richard Dickens, Stephen Machin and Alan Manning, 'The Effects of Minimum Wages on Employment: Theory and Evidence from Britain', *Journal of Labor Economics*, vol. 17:1 (1999), pp. 1-22.

<sup>18</sup> *Annual Report of the Chief Medical Officer 2002* (Department of Health, 2003), pp. 23, 24.

Both the Pensions Commission and the LPC made a virtue of rigorous analysis to underpin their proposals. The Pensions Commission's initial analytic work ranged widely across demographics, economics and behavioural analysis to understand future pension entitlements. Their secretariat was drawn from the department – and indeed the initial secretary to the Commission doubled up as Head of Analysis at DWP – with suitable 'Chinese walls' in place. What was notable about the Commissioners was their own capacity and appetite for analysis. They were willing to be taken through detailed spreadsheets worked up by their small analytic team, even taking on the Office for National Statistics (ONS) when they believed their assumption on a key figure was wrong (ONS decided the Pensions Commission was right).

Key to the Pensions Commission success was the decision to split their report into two stages and to undertake a detailed consultation on their analysis rather than produce a single report with recommendations and supporting analysis. An important element of their work was to define the problem based on their detailed analysis. The genesis of the Pensions Commission had been triggered by the concern about the widespread closure of final salary schemes in the private sector. However, what the Pensions Commission's work showed was that the problem was not people who were being transferred from one form of pension scheme to another but the 40% of private sector employees who had no pensions provision whatsoever. Their analysis also exposed the barriers to pension provision by many smaller employers – not least the high charges that made such schemes uneconomic. Getting agreement that this was the problem rather than the closure of final salary schemes was crucial to the second stage, as was bringing the state pension back into play.

The Low Pay Commission also had a dedicated secretariat and became the centre of UK expertise on detailed labour market analysis. Given the initial concerns about the level of the minimum wage and its possible impact on jobs, one of the important roles for the Low Pay Commission was to have the capacity to track the impact of the minimum wage on employment. It was this monitoring that allowed it to have the confidence to ratchet up the minimum wage from its initial level. The secretariat also helped the Commission understand issues on specific sectors.

However, despite best efforts, evidence is not always available. As people conceded at the policy reunion, the argument on climate change was not on the science and the case for global action (the government accepted the scientific consensus as summarised in successive IPCC reports and, unlike the US, the need to take action on climate change was not a subject of political dispute between the main parties), but on the case for UK leadership through domestic action. The Treasury had commissioned the head of the government economic service and former Treasury Chief Economic Adviser, Nick Stern, in July 2005 to produce a report on the economics of climate change. This became a major enterprise – and the Stern report which argued that there was a strong economic case for action was published in October 2006 – though Stern's emerging analysis was well known in Whitehall before publication. The review provided a case for coordinated international action and was seen very much by the Treasury as a tool for climate change diplomacy rather than as a prescription for domestic action. Officials in Defra and in other departments tried to establish an evidence base for domestic leadership, but conceded that the economic evidence for first mover advantage was quite weak and that this was an issue where the government had to take a more principled stand.

#### Lesson 4: Take time and build in scope for iteration and adaptation

Two of the top three of the Political Studies Association list of policy successes (indeed three out of four if the Northern Ireland peace process is interpreted as the Good Friday Agreement of 1998) were not just first term successes but first year changes. There is a danger that the message taken out of that is that successful reform needs to build on the momentum of a recent victory and that speed is vital.

But that would be to ignore the very long gestation and detailed preparation of the policies of the minimum wage and devolution – indeed a significant characteristic of both policies was the very extensive work done while Labour was in opposition. Preparation for devolution started in earnest with the formal establishment of the Scottish Constitutional Convention in March 1989. On the minimum wage, preparation really kicked in after Tony Blair became leader in 1994. The Labour Party set up both an implementation group and a compliance group, which met to think through all the issues thoroughly. So much detailed work was done in opposition that Ian McCartney was able to give his prospective officials at the Department of Trade and Industry specific proposals of what the new government would want and they were able to secure a slot in the immediate post-election Queen's Speech and have the legislation establishing the Commission in place by the summer recess.

Moreover, Tony Blair's decision to opt for a Low Pay Commission rather than a one shot attempt to set a minimum wage put the policy on a much better long run basis. It meant that rather than have to solve every issue straight away – including some real complexities on the treatment of, say, workers in the hospitality industry – the Commission could start with a proposal that employers supported, test labour market impacts and then, as acceptance grew and the impact on employment (or lack of it) became clear, the rate could be raised and difficult issues, which were initially parked, could be addressed. In a similar way, one of the features of the 1997 devolution settlement was that it left rough edges and did not try to resolve every issue – the West Lothian question was left hanging and the Barnett formula on financing was maintained. Some issues have been more recently addressed through the Calman Commission and further elements of devolution have been agreed – and the SNP victory in the most recent elections to the Scottish Parliament means this will continue to be a live issue through the remainder of this parliament.

The prime example of an adaptive, iterative policy was the development of privatisation. Although the Labour government had sold off some of its shareholding in BP in June 1977 to help meet the IMF austerity package, this was untested territory in both the UK and elsewhere. No real preparation had been done in opposition and there had been zero work in the civil service as the idea was barely mentioned in the incoming Conservative manifesto which focussed much more on tax and spending. So the policy was introduced slowly – with early sales of businesses which had a history in the private sector like Cable & Wireless and British Aerospace. From rather marginal and obscure companies which happened to have a state shareholding, big utilities (regarded by economists as 'natural monopolies') came into play – starting with British Telecom (whose privatisation was in part a response to the failure of a finance raising attempt, the so-called Buzby Bond, to fly). As the mega sales came into view, new ways had to be found both to get around the

opposition of management and workforce, but also to allow the stock market to cope with flotations which were many times bigger than any sales previously seen in London. The government, which had twin objectives of privatisation and liberalisation, had to make a case by case choice of what to do – but often was boxed in to having to privatise whole entities because of the paucity of adequate accounts that would allow companies to be broken up. This meant there was a parallel need to invent a new regulatory regime. Regulators in turn had to learn on the job as they saw the scope for delivering efficiency gains in the newly privatised industry.

In retrospect, the privatisation programme has an air of inevitability about it – but, at the time, it was highly controversial, with each sale contested. Moreover, with each sale, the government was heading into the unknown, risking either underpricing or a sale failing. It was the near failure of the keenly priced Britoil sale that made the government rethink the programme as a political (rather than a strictly economic) programme to be judged in the round as a move toward 'popular capitalism'. This was important as the programme went into more and more uncharted waters with bigger companies.

Although the Treasury had been in overall charge of policy towards nationalised industries, privatisation forced them and the sponsor departments into new areas and new relationships. Over time, however, the British government developed considerable internal expertise in key departments engaged in privatisation, reinforced by a remarkable degree of continuity among ministers and officials.

Pensions policy was another example of lengthy deliberation followed by a long timeline for implementation. One of the important aspects of the changes was to bring them in slowly – with new pension requirements only commencing in 2012 and the raising of the state pension age taking place between 2024 and 2026 (though that has been brought forward to between 2018 and 2020 as part of the Coalition's deficit reduction plan). On climate change, a solution was created which in many ways is analogous to the way in which the government had settled on the minimum wage – the Climate Change Act embedded the targets for emissions reduction in legislation, but without prescribing any specifics. This was underpinned by duties on the government to comply. The Climate Change Committee was established to monitor government performance against its commitments and give the business community an assurance that government would take the targets seriously. This approach allows appropriate flexibility to be built on how to meet the targets – with the intention of having removed the flexibility on whether to meet them – however, the history of government imposed legislative targets is not that reassuring, with targets on child and fuel poverty reduction missed with no penalty.

Reducing smoking rates is another long-term policy goal. Governments have been taking at least some actions to reduce tobacco use since the early 1960s – and, in 1964, the Royal College of Physicians produced a list of the measures the government should take to reduce tobacco use. Governments only adopted the RCP manifesto over time – becoming a bit bolder as the evidence of harm mounted, the industry became an increasing pariah, and smoking rates and tolerance of smoking fell. This is an example of dynamic behaviour change policy where new options become possible as previous interventions (and social trends) change smoking rates. The government failed

to react quickly enough to the change in public opinion – not realising the degree of public acceptance for a smoking ban.

These examples all point to the importance of building the capacity to adapt and learn into policies to make them more resilient, able to respond to new information and changes of circumstance. That also means that policies do not have to represent the definitive final word on an issue – but allow more people and interests to be engaged as the policy evolves.

### Lesson 5: Recognise the importance of individual leadership and strong personal relationships

People matter and individuals can make a significant difference to policy outcomes. That is not to say that many of the policies would not have happened without the particular individuals involved – nor that strong leadership is a guarantee of success – but there was a distinctive contribution made by individuals in each of these cases. Moreover, most of the case studies were characterised by exactly the sort of open, honest and trusting relationships between ministers and civil servants that our earlier research on policy making showed both sides wanted to see.<sup>19</sup>

In the cases of the Pensions Commission and the Low Pay Commission, the choice of Chair was very important – and there was general agreement that both Adair Turner and George Bain made highly effective Chairs who were able to bring their commissioners together and encourage them to reach internal agreement. Adair Turner also managed the high politics within government – aided by both Work and Pensions Secretary John Hutton and the high priority (reflected in the time he was prepared to devote to the subject) given to pensions policy by Tony Blair. Ian McCartney played a major role in preparing the minimum wage proposals for government, while Rodney Bickerstaffe of NUPE and Chris Pond of the Low Pay Unit kept lobbying for the minimum wage when both business and most of the union movement were united against it. In both cases though, the leadership of the chairs and commissioners was underpinned by the development of close and effective relationships with their dedicated secretariats.

In the case of devolution, there was a hugely effective combination between Donald Dewar, first as Secretary of State for Scotland and then as First Minister, and Lord Irvine who saw his role as Chair of the Constitution Cabinet Committee to make sure that the proposals emerging from the Scottish Office were rigorously tested through the Cabinet Committee process to ensure they were fire-proof when they were put out publicly.

On climate change, the big difference was made by David Miliband as Secretary of State at Defra – deciding to put climate change at the top of his agenda and using his political capital to bring the Prime Minister and Chancellor, as well as DTI, on side. But his task was made easier by David Cameron staking a Conservative claim to leadership on climate change – indeed it is quite likely that Miliband would not have been appointed to Defra if Cameron had not decided to raise the political salience of climate change in early 2006. Freelancing senior officials were also important.

<sup>19</sup> See Hallsworth, Rutter and Parker, *Policy Making in the Real World*, Chapter 8.

Sir David King, as Chief Scientist, said that climate change was a bigger threat than terrorism, which exposed the gap between the government's rhetoric and action. Meanwhile, Nick Stern took the opportunity of his review to become a powerful global advocate for action on climate change.

A similar role was played on the smoking ban by the Chief Medical Officer, Sir Liam Donaldson, who used his ability to give independent advice to government to come out in favour of a smoking ban in public places. Another important player was Kevin Barron MP who used his appointment as chair of the Health Select Committee after the 2005 election to focus on the government's proposal for a partial ban and then create cross-party support for a full ban. Ministerial leadership on the smoking ban was not to the fore in England, but the personal commitment of the First Minister in Scotland and the Minister of Health in Ireland were important factors behind the bans in both their respective countries.

The privatisation programme became so large that individual leaders are hard to identify. Once Margaret Thatcher became convinced of the case for privatisation by Nigel Lawson and Keith Joseph, she kept on challenging her ministerial team to be more ambitious. In particular, there was a cadre of ministerial players who were involved in a number of privatisations – foremost among them were Nigel Lawson, Ken Baker and John Wakeham. The first regulators – including Stephen Littlechild and Bryan Carsberg who had helped with the initial thinking – also played a major role in establishing the credibility of the new regime.

One of the hallmarks of the policy reunions we held was how often participants remarked on the extremely high quality of the working relationships between ministers (or commissioners) and civil servants. This was reflected in the way in which the civil servants became committed to the success of the policy they were working on. John Wakeham noted the quality of relationships on privatisation and Lord Irvine regarded the way in which the formal processes translated the devolution commitment into legislation as “*superbly staffed*” and a “*blueprint for future policy developments*”. Equally, it was clear that the secretariats and commissioners established excellent working relationships in both the Low Pay and Pensions Commissions.

One of the striking aspects of the case studies is the extent to which civil servants, who normally move jobs on a very regular basis, stayed with the subjects. Gerry Grimstone told us that he worked on over 20 privatisations. Two decades later, in the case of climate change, officials helped navigate changes through potential opposition within their own departments and many went on to take other roles on climate change – for example, David Kennedy, who was the lead on the climate change bill in Department of Trade and Industry, became the first Chief Executive of the Committee on Climate Change when it was established and Ravi Gurumurthy, who at the time of the Climate Change Act worked as an adviser to David Miliband, went on to become Director of Strategy at the new Department of Energy and Climate Change.

## Lesson 6: Create new institutions to overcome policy inertia

Devolution created a new institution – the Scottish Parliament – but was in many ways a triumph of traditional internal processes. Policy was developed within a Scottish Office which learnt from the

preparations done before the 1992 election in case of a Labour victory that time round, and proceed through an intense Cabinet Committee scrutiny process overseen by Lord Irvine and coordinated by the Constitution Secretariat headed by Kenneth Mackenzie within the Cabinet Office which had been hastily created the day after the election. Privatisations were undertaken by individual departments, but policy was driven by a proactive Treasury (an early foreshadowing of the activist Treasury seen under Gordon Brown) and coordinated by a new Cabinet Committee on asset disposal. But the privatisation process also laid the ground for a new cadre of public bodies – the powerful utility regulators – Oftel, followed by Ofgas, Offer and Ofwat and ORR, originally set up to be headed by a single individual to avoid the messy compromises of board governance.

In the other cases, new institutions were created to break through the inertia created by the normal silos that typically characterise policy making in Whitehall. In the case of the Pensions Commission and the Low Pay Commission, those new institutions also allowed the issue to be 'technocratised' – given over to experts rather than politicians, while their balanced composition enabled them to become a forum for resolution of issues between what Europe would call the 'social partners'. Putting people together in a commission created an environment conducive to agreement. Thus Adair Turner, with a business background, and nominated by Tony Blair, was flanked on the Pensions Commission by an academic nominated by DWP, John Hills, a longstanding welfare and inequality expert from LSE, and the Treasury's nominee, trade unionist Jeannie Drake. A crucial part of the Pensions Commission process – which as they told us happened at regular private dinners they hosted for each other in their homes – was for the commissioners to reach agreement on what the problem was and what a fair outcome would be. A distinguishing feature of the final proposals from the Pensions Commission was the way in which the proposals shared the burden of changes – with employers asked to bring all employees into pension schemes, the taxpayer asked to bear the cost of restoring the earnings link for the state pension and workers to accept later retirement. The Commission process meant a balanced package could be thrashed out and made internally coherent rather than have to emerge as a set of compromises from a series of interdepartmental wrangles.

The Low Pay Commission was a similar tripartite body with three representatives from each of business, labour and independents, including an independent chair, Canadian academic George Bain. He recognised that the authority of the LPC resided in its ability to come up with unanimous decisions. Bain therefore pressurised his commissioners to resolve disputes internally to avoid handing decisions back to the government – and, in particular, the Treasury, which had always wanted to treat the Commission's recommendations on an à la carte basis. The Treasury had opposed putting the Commission on a standing basis, but the LPC is now an accepted part of the landscape – surviving the most recent cull of quangos.

Perhaps the most interesting innovation was the creation of the Office of Climate Change (OCC) by David Miliband. This was an attempt to 'silo bust' within Whitehall rather than handing policy over to external expert reviewers. Climate change is a genuine cross-departmental issue – but is also an area where the needs of emissions reduction run directly into conflict with more conventional departmental objectives – hence departments reluctance to offer up any significant measures in the Climate Change Programme review. The lead department, Defra, was only recently created – a result of the abolition of the Ministry of Agriculture, Fisheries and Food in 2001 and Margaret

Beckett's unwillingness simply to take on a Department of Rural Affairs, which led to the addition of an environment brief that included responsibility for climate change mitigation and adaptation.<sup>20</sup> But the Climate Change Programme review laid bare Defra's inability to get other departments to commit to action.

David Miliband's response, modelled on some earlier attempts at institutional innovation like the Social Exclusion Unit and the Office for Criminal Justice Reform (which predated the creation of the Ministry of Justice), was to establish a cross-cutting unit on climate change with the aim of providing ministers with common analysis to allow them to focus on making the political choices, not debating numbers. Even though the new unit ended up in Defra, it was deliberately separated from the normal reporting structures within the Environment Directorate-General and had cross-departmental governance at both ministerial and official level, and elements of cross-government funding. Critical to the OCC's success was that it was treated as a shared resource by ministers – and therefore allowed to brief ministers directly on their analysis during discussions on the Climate Change Bill – even though the OCC was initially responsible for bill management. The creation of the OCC also allowed David Miliband to bring new skills and faces into climate change even though he was confronted by an inert senior official machine reluctant to rethink its approaches despite the disappointment of the Climate Change Programme review.

### Lesson 7: Build a wider constituency of support

Our definition of policy success prizes durability and the ability to weather political change. Building a constituency of support beyond the governing party is an important component of making changes stick and in particular making change able to survive a change of government.

All of the reforms listed above seem to have passed that test. Tony Blair did not seek to renationalise the privatised industries. Likewise, the Conservatives rapidly accepted the mandate for devolution despite their opposition to the referendum and within a week of becoming Prime Minister, David Cameron went to Edinburgh to meet the SNP's Scottish First Minister, Alex Salmond. Michael Portillo's first act as Shadow Chancellor in February 2000 was to signal Conservative acceptance of the national minimum wage and independence of the Bank of England – two policies they had originally opposed. The fact that the CBI and other employers were on board gave the Conservatives few options. By 2000, 53% of businesses in an Ipsos Mori poll of employers with over 200 employees were positive on the minimum wage with only 21% opposed. The Pensions Commission's proposals were widely accepted when finally made – a process helped both by the composition of the Commission and the way in which they built a coalition of support among business and labour. One of the arguments David Miliband made for action within government to convince a sceptical Treasury was that Labour could not be holding out against legislation which the Conservatives and Liberal Democrats were supporting – so the Climate Change Bill started out with cross-party support thanks to the campaigning efforts of Friends of the Earth. One of Kevin Barron's achievements in the Health Select Committee was to get cross-party

<sup>20</sup> See Anne White and Patrick Dunleavy, *Making and Breaking Whitehall Departments* (Institute for Government, 2010).

support for the full smoking ban through his hearings – which in turn triggered the Conservatives to lead the way in offering a free vote.

In all these cases, the process created a constituency of external support which in turn laid the foundation for political consensus that the changes were irreversible or not worth contesting. The time invested in developing the policy in advance was translated into widespread acceptance by the time of implementation. Even privatisation, which was highly contested at the time, created new shareholders in the privatised industries and also in many cases obvious consumer benefits as service improved, competition was gradually introduced, investment backlogs were cleared and prices fell. The last explicit reference to returning privatised companies to public ownership was in 1983; this was confined to a call for the state to buy stakes in high-tech industries by 1987; and subsequent manifestos (including 1997) reject further privatisations.

# Making policy well

There is no one factor which leads to success, but policies can work when the elements discussed above work together to reinforce each other. In our report, *Making Policy Better*, we set out seven fundamentals of good policy making which need to have been observed at some stage in the process.<sup>21</sup> In this section, we benchmark the policies we have studied against these policy fundamentals.

## 7 Policy Fundamentals

1. Clarity on **goals**
2. Open **idea** generation and robust use of **evidence**
3. Rigorous **policy design**
4. Responsive **external engagement**
5. Thorough **appraisal** of options
6. Clarity on **role** of central government and **accountabilities**
7. Mechanisms for **feedback** and **evaluation**

One of the dominant characteristics of the policies we have studied is that none are quick fixes – indeed they all defy the mantra that successful reform needs to be done quickly and underline the point that governments can bring about significant changes if they look longer term. Even the ‘first year’ successes like the minimum wage and devolution, where legislation was in Labour’s first Queen’s Speech, were preceded by long preparation (indeed one participant said that devolution had been preceded by 100 years of preparation through administrative devolution to Scotland). In retrospect, they all look like ideas whose time had come – however far from obvious that was at the time.

This form of ‘slow’ policy making allows time for underlying issues to be well understood and agreement to be reached on the nature of the problem that the policy is designed to address. This allows the architects of change to be **clear about the objectives** of the policy. In most of the cases, there was clarity about the objectives. The most contested example was pensions where there were competing priorities between No. 10 and the Treasury, and the issue changed as the Pensions Commission refocused attention away from the changes in private sector schemes to the problem of people in the private sector without any form of private pension provision which in turn forced the issue of the inadequacy of the state pension onto the agenda.

<sup>21</sup> See Michael Hallsworth and Jill Rutter, *Making Policy Better: Improving Whitehall’s Core Business* (Institute for Government, 2011), pp. 14-15.

All these policies are characterised by the **openness** of the process – the involvement of academic thinkers (and bankers) on privatisation; the role of the NGOs and the medical establishment on the smoking ban (and pushing for action on smoking more generally – the willingness of professionals to engage appears to be why Anglo-Saxon countries have had much more success in reducing smoking rates than continental Europe) or Friends of the Earth in leading the charge for climate legislation. Often opening out the process has provided the initial ideas for a different approach for those in government looking to move on from internal failure, such as the much more open processes that made sure devolution in the late 1990s was owned in Scotland, and the establishment of the Pensions and Low Pay Commission at arm’s length from government. Both the Chairs of LPC and Pensions Commission saw opening out the process of deliberation as a critical way of building support for their proposals and ensuring they would survive the transition back into government decision-making.

Most of these policies were also notable for their impressive use of **evidence**. The Low Pay Commission and the Pensions Commission produced voluminous evidence and analysis. The LPC became the recognised experts in the field and helped define the problem – and it was tapping into academic research that challenged the assumption that minimum wages costs jobs and paved the way for the policy in the first place. International examples were critical on the smoking ban (where there was a strong evidence base on the public health cause for action, but much less on the impact of different interventions beyond taxation); on both climate change and privatisation, there was a reasonable evidence base for the case that the status quo was not tenable – but both policies were leaps in the dark at the start.

Ensuring that policies can translate from the page of a manifesto or a White Paper into practice is a reason for putting emphasis on **policy design**. The Constitution Unit helped ensure that Labour proposals on devolution were workable – and then they were stress tested through the Cabinet Committee decision. It was the unworkability of the government’s compromise proposal for a smoking ban which forced the hospitality industry into an unlikely alliance with health groups and ultimately resulted in the government’s original intention being overturned. The Pensions Commission was a pioneer in the formal use of behavioural insight to recommend a move to a default model for enrolment which was then adopted by government. The Low Pay Commission, climate change targets and privatisation were all in their own way models of adaptive policy making which allowed scope for learning and adjustment as there was more information and understanding of the issues. Allowing scope for iteration and policy refinement and expansion is an important element in successful policy making – and avoids the need to get everything right first time.

The slow, evolutionary and open processes adopted for many of these policies meant there was a lot of scope to **respond to external concerns**. But even so there remain concerns about hard to reach groups – for example, the very small businesses and other employers who would be impacted by the Pensions Commission proposals but were unlikely to have the time or capacity to read documents or come to events. Similarly, the climate change debate engaged political parties, big business and NGOs, but not clear that it went beyond that and there is still a lot of public resistance to the measures required to deliver climate targets which puts a question mark over the long run sustainability of climate policy.

The process of depoliticising issues allowed more scope for developing and **appraising options** – for example, by the Pensions Commission which managed to shake off its initially highly restricted remit and bring into scope issues which would have been out of scope in internal work. Internal policy debates can be restricted to what is perceived as ‘possible’. More open processes like the Pensions Commission can allow for taboos – such as the inviolability of the state retirement age – to be broken and thus the range of options looked at to be widened and different bargains to be struck (for example, on how to share the burden).

One of the most important aspects of the climate change targets was to try to attribute responsibility for delivering emissions reduction – and to hold the government **accountable** for meeting the targets. The initial Low Carbon Transition Plan (2009) and the subsequent National Carbon Plan (2011) both give departments specific responsibilities for emissions reductions – to avoid the shirking of responsibility that undermined the Climate Change Programme in the early 1990s and establish an independent compliance watchdog. However, the long-run test is whether UK actions actually match the UK’s rhetoric of leadership on climate change – it is much easier to make commitments to ambitious targets than to deliver the required changes.

The monitoring role of the Low Pay Commission, the Climate Change Committee and utility regulators allowed for immediate **feedback** on the impacts of policy decisions and for the results to affect future policy decisions. None of the policies we have looked at were subject to formal **evaluation**.

Taken together, the policies we have looked at score quite well against the policy fundamentals. They tick most of the boxes and are particularly strong on openness, evidence, clarity of goals and on option generation and appraisal. Iterative processes allowed policy design to emerge and improve. They also succeeded in embedding themselves by establishing new norms and moving the focus of political debate.

## Policy makers as system stewards

In our working paper, *System Stewardship*, we look at policy makers as one actor in a complex system, which they cannot control.<sup>22</sup> In this world, policy outcomes are determined not just by those formally in power but by the decisions of multiple actors who make and remake policy. The power of policy makers to determine outcomes lies on a spectrum – on some issues, policy makers can exert a degree of control; in other areas, the ability of policy makers to influence is relatively limited.

The case studies we have looked at focus on the “*upstream*” end of policy making. In the case of privatisation, the policy making role was to move the nationalised industries out of the public sector and establish regulatory regimes; on devolution, to put the legislation establishing the Scottish Parliament onto the statute book; on the minimum wage, to set up the apparatus for determining the level. None of these were as ‘complex’ as attempting to reform the NHS or raise

<sup>22</sup> Michael Hallsworth, *System Stewardship: The Future of Policy Making?* (Institute for Government, 2011).

educational standards, or tackle child poverty. It is notable that none of these policy priorities scored highly in the PSA list of successful policies. On pensions, our case study focuses on the process of getting policy agreement – whether the policies have the desired impact of reducing poverty in old age will depend on whether the new system is more effective in getting people to save more for their retirement.

But what is notable in many of these cases is the extent to which policy makers set in place frameworks which allowed for adaptation and iteration towards declared objectives. Thus privatisation changed in scope and ambition and the regulatory regimes developed as the extent of potential efficiency emerged. Equally establishing the LPC on a standing basis allowed it both to develop internal knowledge and expertise – but also to adjust when data changed and to monitor and respond when evidence of the labour market impacts of its recommendations became clear. The ban on smoking in enclosed public places was one stepping stone in policy developments over fifty years to reduce the death toll from tobacco use and needs to be seen in the context of those wider moves, where new measures become possible as smoking prevalence and public attitudes change.

Tackling climate change is a classic example of an area where government is one actor whose decisions can influence, but not determine, the behaviours of multiple players whose individual choices determine whether emissions go up or down. The initial climate change programme failed because it focussed on the measures the government introduced and ignored the impact of wider developments on the UK emissions trajectory. The Climate Change Act makes the UK government, overseen by the Climate Change Committee, the 'steward' of UK emissions by attempting to put a straitjacket around the economy to make clear to all actors that they needed to make low carbon choices – and, as such, is a declaration of intent, rather than any guarantee of delivery. Its success can only be judged in the future – by whether it allows the UK to reduce emissions to targeted levels at acceptable economic cost and, more crucially, whether the UK's lead is followed by other countries.

## The role of ministers

The Institute for Government's report on *The Challenge of Being a Minister* looked at the characteristics of effective ministers.<sup>23</sup> The top three positive attributes of an effective minister, based on a survey of ministers and civil servants, were:

- Having a clear vision, goals and objectives
- Building constructive relationships
- Leadership/getting the best out of people

<sup>23</sup> Peter Riddell, Zoe Gruhn and Liz Carolan, *The Challenge of Being a Minister: Defining and Developing Ministerial Effectiveness* (Institute for Government, 2011).

Ministers and politicians more generally get a bad press for being short-termist, uninterested in evidence and bending to external opinion rather than attempting to shape it. But the case studies allow us to look at the role of ministers in promoting 'game changing' policies and the strategies that they adopted for achieving lasting change. Most of the ministers in these cases display these characteristics – whether the Conservative ministers, lead among them Nigel Lawson, Kenneth Baker, John Wakeham, and Nicholas Ridley, who presided over the developing privatisation programme, John Hutton and Margaret Beckett guiding through the pensions reforms and the minimum wage, Donald Dewar and Lord Irvine leading the Scottish Office and Whitehall through the process of getting devolution onto the statute book or David Miliband setting the government in a new direction on climate change policy.

### Policy making in opposition

One of the other issues which the Institute is examining is policy making in opposition. We have already looked at the way in which oppositions have prepared for transition into government and we are now looking at how oppositions make policy. Of the case studies, both Scottish devolution and the minimum wage were year one commitments for a newly elected government, with very substantial preparation in opposition, whereas the Climate Change Act illustrates an example where a change of policy by a new opposition leader, David Cameron, directly changed the political dynamic within government. Parliament emerges as a significant forum for policy amendment in the smoking ban case study – with the role of the Health Select Committee in creating cross-party support for a total ban an important factor in forcing a change of policy on the government.

### Conclusion: Messages for policy makers

The case studies do not offer a recipe to follow to guarantee success. Crucially, it is the interplay of factors which made for success in the cases we have studied. Strong ministerial leadership is itself not an asset if the policy design is flawed and there is insufficient consensus to be able to proceed. For example, political leadership was very evident on the poll tax; the Child Support Agency had considerable cross-party support; rail privatisation was dealt with in quite a similar way to the earlier, more successful, privatisations. Yet these are all in the front rank of policy failures.

But each does highlight the imperative of good preparation – whether in government or opposition – and of broadening policy making beyond Whitehall: not one of these policies followed the traditional method of decide, consult, enact and implement on a rushed timetable. Most gave significant time to involve the people who would have to make the change happen. That process in turn helped to move public opinion and create a constituency which would help embed the change in the future. But they also highlight the importance of having clear objectives – and to press on in the face of external pressure – as well as illustrating the potential for reshaping political conventional wisdom on what is acceptable.

A key part of the policy success was the flexibility which allowed the policies to adapt. That was part of the initial design of the minimum wage; the initial devolution settlement in Scotland

deliberately parked some difficult issues which can be revisited now the idea of devolution itself is no longer a subject of great political debate). The smoking ban was simply one, significant, stage in a process of so-called 'denormalisation' of smoking – and as people noted – it so went with the grain of where public opinion was heading that the real issue was not whether but when the UK moved to a full ban. The Pensions Commission set the UK on a different route to solving the problem it identified – the problem of the unprovided private sector employee: the Coalition has built on and accelerated those proposals – but the real test will come next year when the obligations on employers to cover all employees take effect. Similarly, although the Climate Change Act was groundbreaking and put the UK in a leadership position internationally on climate change, the real test is whether the UK puts in place the policies to meet its long-term targets (interestingly, the government's own Office for Budget Responsibility does not count the legally binding target as a 'policy' for the purposes of its assessment of the government's fiscal sustainability to 2050 – the year the UK is supposed to meet the 80% reduction). Privatisation was a supreme case of policy making learning by doing.

With hindsight, things could have been done differently – in each of the policy reunions, participants reflected on whether they could have done things better: whether they should have dealt with public sector pensions at the same time as private pensions; whether the privatisation programme should have done more, earlier, to promote liberalisation and competition; whether financial relations between the UK and Scotland should have been tackled earlier. This underlines another message from these examples of successful policy making – not letting perfection be the enemy of action. In the complex and dynamic world of policy making, there will always be rough edges: what these case studies show is that lasting change is possible. Those changes then reset the policy starting point and open up new possibilities (and problems) for future policy makers.

The final message for policy makers – ministerial and official – is that these case studies suggest they can and should aspire to make changes that last and meet our definition of policy success:

***The most successful policies are ones which achieve or exceed their initial goals in such a way that they become embedded; able to survive a change of government; represent a starting point for subsequent policy development or remove the issue from the immediate policy agenda.***

## Annex A: Applying McConnell's framework for judging policy success

Question	Issue	Comment	Application to case studies
Do you want to assess process/programmes and/or politics?	Three dimensions of success set out by McConnell – policies can succeed in one or more of these	In case studies, we are looking at process as a means not an end of developing successful programmes; we are not looking at narrow political advantage but at "durable" success which then becomes part of new paradigm. At some point the policy may have appeared a "precarious" success (e.g. privatisation).	<p>For the climate change and pensions case studies, it is too early to judge whether they deliver programme success in terms of substantive policies implemented with positive impacts. The smoking ban was, in McConnell's terms, a process failure as the government was forced to back down.</p> <p>Judgement of main players was that these were mainly second order issues – therefore impact on political success not really applicable (privatisation is the exception as it was a major plank of Thatcherism). We use a stronger version of political success – that the government policy becomes accepted by the opposition and part of a new political consensus.</p> <p>Generally, though, we are judging the case studies against all three dimensions.</p>
What time period do you want to assess?	Short-term vs long-term	Short-term success is usually based on immediate impact not implementation success. One of the lead criteria used by the Political Studies Association (PSA) was durability – so we are looking at long-term success.	The jury is still out on the long-term success of the pensions and climate change reforms (but the frameworks they put in place have survived a change in government). We are not interested in short-term palliatives or 'political gestures'.
Which benchmarks will you use to ascertain success?	McConnell posits nine benchmarks to judge success:  1. Government objectives	We use achieving government objectives as a key benchmark, but also policy domain criteria (more general cross-cutting values); we want policies to have made a difference – so before and after	The durable success of the policies we are judging is attributable both to their success in attaining government objectives, but also in delivering wins across the more general 'policy domain criteria'.

	<ul style="list-style-type: none"> <li>2. Benefit to target group</li> <li>3. Before and after</li> <li>4. Policy domain criteria</li> <li>5. Who supports the policy</li> <li>6. Another jurisdiction</li> <li>7. Balance sheet</li> <li>8. Newness and innovation</li> <li>9. Ethics, morality and the law</li> </ul>	<p>matters; we have interpreted support more rigorously by taking as successes policies that cease to be subjects of mainstream political battles; this implies a positive balance sheet. There are elements of newness and innovation in all our case studies, but we do not regard that as a success measure per se.</p>	<p>There are innovative aspects in all the policies we look at, but the main success criterion is that they brought real world change ('before and after' – though needs also to be judged versus counterfactual). Narrow views of support or targeted group beneficiaries are not considered as independent success criteria in their own right (though they may be instrumental – e.g. on privatisation, providing benefits to specific groups was an important way of gaining support; whereas a fair distribution of burden was important part of making the pensions reform acceptable).</p>
Are you confident that you can isolate the policy outcomes from all the other influences on these outcomes?	Yes/no	It is clear that the policies had some impact – even if it is not entirely possible to distinguish from other factors. We have used judgement rather than more objective statistical analysis to determine the impact of the policies.	Over time some of the policies (e.g. climate change and pensions) will be amenable to some objective judgement – does the government meet targets; is there increased pension provision and is there a reduction in pensioner poverty? Others policies were clearly ones whose time had come (e.g. the smoking ban).
To the best of your knowledge and/or instincts do you consider a hidden agenda to be at work?	Yes/no	All policies are clearly conditioned by some wider agenda – in particular, political positioning whether within government or between government and opposition. Rather than infer and then evaluate against hidden (and therefore undeclared) agendas, it would seem more useful to take the stated agenda at face value.	Privatisation was part of a wider Thatcherite agenda of reshaping the state and eventually became a means of promoting ownership. The barely concealed agenda of devolution was to “shoot the nationalist fox” and to that extent could now be judged a failure (but equally, if that was phrased as diffused pressure for independence, might be judged a success). On climate change, David Cameron’s motives were driven by the need to reposition the Conservatives (and then the Labour response was motivated by a desire not to be seen as being weaker on climate change than the opposition).
Does the sphere of policy you are assessing have	Yes/no	We are assessing all spheres, though (as outlined above) applying a stiffer test on politics. This	Generally these policies have a primary goal and a number of secondary goals – and may also be part

more than one goal?		implies a rather limited and static approach to policy goals which can themselves adapt over time.	of a wider purpose – e.g. on climate change, part of the rationale was to establish UK leadership on the issue and to inspire greater international ambition (a result that has yet to be achieved); the smoking ban was part of a long-run suite of policies designed to 'denormalise' smoking and reduce the death toll from tobacco use. The goals of privatisation changed as ministers and officials realised the potential for the programme.
Are there any unintended consequences, including success being greater than planned?	Yes/no – question is whether unintended consequences outweigh "success" in meeting policy goals	The judgement that these policies were successful is that they have had net positive effects and that unintended consequences were dealt with.	Privatisation could be judged a greater success than planned – and that potentially led to an extension of the programme into more problematic areas where the balance less clear. Also clear choices on proceeds and speed versus liberalisation. On climate change, there may be big unintended consequences if the UK is locked into an inefficient way of meeting climate goals which damages the economy (but that is more likely to come from ancillary targets – e.g. on renewable – and the way the government chooses to meet targets). Election of a majority SNP government – in a system designed to pre-ordain coalition – might be taken as an unintended consequence of Scottish devolution.
Does the policy fall short of meeting the targets that were set?	Yes/no – McConnell thinks yes most likely answer	Targets set in most of the cases not very explicit numerical ones.	Thus far, significant shortfalls not evident versus explicit targets for the areas we have looked at (but not clear these policies are truly amenable to this type of judgement).
Are you assessing more than one policy realm (process, programmes and politics)?	Yes/no – McConnell acknowledges that all are needed to capture the complexity of public policy	Yes.	Assessed against all realms.

## Annex B: Typology Questionnaire Summary

	Privatisation	Devolution	National Minimum Wage	Smoking	Pensions	Climate Change
1) Who was the originating actor of this policy?	Junior Minister – unanimous	Other – 6/8 majority (citing Scottish Constitutional Committee and John Smith); although two went for SoS	Other – 4/5 majority (citing Labour Party); other vote was for PM	Other – unanimous; mixture of stakeholders (public health lobby, European directive)	Prime Minister – almost unanimous	Other – 6/7 majority mention this, although Secretary of State (SoS) also gets three mentions
2) Who was the main UK government 'owner' of this policy?	Even split between Single Secretary of State and Junior Minister	Single Secretary of State – large majority	No agreement – Single Secretary of State, Single 'Junior Minister' and PM all given credit	No agreement – senior civil servant (CMO), multiple SoS, Other (Kevin Barron) and Single 'Junior Minister' all cited	Prime Minister – almost unanimous (SoS and Pensions Commission also mentioned)	Single Secretary of State – almost unanimous
3) How strong was the commitment of this main 'owner' to the policy?	Strong, long term – unanimous	Strong, long term – almost unanimous	Strong, long term – unanimous	Strong, long-term – 3/4 majority	Strong, long term – unanimous	Strong, long term – unanimous
4) How well defined were the goals and objectives of this policy?	Well-defined – unanimous	Well-defined – almost unanimous	Well-defined – 4/5 majority; although two respondents suggested policy was contested	Well-defined – 3/4 majority	Contested – 3/4 majority; other said well-defined	Split between Well-defined and Contested

5) What degree of change to existing policy did this policy represent?	New response to a perceived new policy goal – unanimous	New response to an existing policy goal / perceived new policy goal – evenly split between these two interpretations	New response to a perceived new policy goal / existing policy goal – 3/5 stating new policy goal	New response to an existing policy goal – 3/4 majority; other felt it was a new policy goal	New response to an existing policy goal / perceived new policy goal – evenly split between these two interpretations	New response to an existing policy goal – almost unanimous
6) What was the perceived urgency of this policy?	Split between Urgent and Lifetime of Parliament	Urgent – 5/8 majority; others saying long-term issue	Even split between Urgent and long-term issue	Long-term issue – 3/4 majority; other felt it was urgent	Long-term issue – unanimous	Split between Urgent and long-term issue
7) What evidential foundation was there for this policy?	Contested – unanimous	Contested – almost unanimous	Contested – almost unanimous	Even split between Contested and Unambiguous	Contested – almost unanimous	Contested – almost unanimous
8) What type of internal dependencies were involved with this policy?	Multiple Whitehall departments, complex 'delivery chain' – unanimous	Multiple Whitehall departments, complex 'delivery chain' – unanimous	Multiple Whitehall departments, complex 'delivery chain' – unanimous	Multiple Whitehall departments, complex 'delivery chain' – 3/4 majority; other felt it was simple 'delivery chain'	Multiple Whitehall departments, complex 'delivery chain' – unanimous	Multiple Whitehall departments, complex 'delivery chain' – unanimous
9) What level of non-government stakeholder power surrounded this policy?	High power and varying goals – unanimous	High power and united goals / varying goals – evenly split between these two interpretations	High power and varying goals – unanimous	High power and united goals / varying goals – evenly split between these two interpretations	High power and varying goals – unanimous	High power and united goals / varying goals – majority view, but no consensus

10) What kind of legislation was required for this policy?	Primary legislation – unanimous	Primary legislation – unanimous	Primary legislation – unanimous	Primary legislation – 3/4 majority	Primary legislation – unanimous	Primary legislation – unanimous
11) What level of party political controversy surrounded this policy?	Significant - major point of conflict between parties – unanimous	Split between Present but not a 'frontline issue' and Significant – major point of conflict between parties	Significant - major point of conflict between parties – unanimous	Present, but not a 'frontline issue' – majority; although one thought significant	Even split between Significant and controversial and Limited because agreement	Limited because agreement – almost unanimous
12) Was there a significant degree of controversy within the governing party?	Yes – unanimous	Yes – 5/8 majority	Yes – 3/5 majority	Yes – 3/4 majority	Yes – unanimous	Yes – almost unanimous
13) What level of public salience surrounded this policy?	Significant and controversial – unanimous	Evenly split between Limited but controversial and Significant and controversial	Significant and controversial – almost unanimous	Significant and controversial – 3/4 majority; other felt it was limited but controversial	Significant and controversial – unanimous	No agreement
14) What was the anticipated media reaction to this policy?	Significant and contested – unanimous agreement	Split between Significant and contested and Limited, negative, non-contested	Significant and contested – unanimous agreement	Significant and contested – unanimous agreement	Significant and contested – unanimous agreement	Significant – 5/7 majority, but no agreement about whether it was contested

## Part 2: Case Studies

# The Privatisation of British Telecom (1984)

## Starting point

Privatisation became one of the defining policies of the Conservative Party's eighteen years in power between 1979 and 1997. Yet it was barely mentioned in the 1979 Conservative general election manifesto and the new government's first budget speech contained only an oblique reference to shrinking the state. As Margaret Thatcher reflected in her memoir, since now "*almost universal lip service is paid to the case for privatization it is difficult to recall just how revolutionary – how all but unthinkable – it seemed at the end of the 1970s.*"<sup>1</sup> Such "*unthinkable*" policy solutions only found favour due to the growing perception that the persistent economic performance problems in the public sector required radical remedies. This case study looks at the ways in which bold and untested proposals were turned into successful policy.

## Policy background

Although privatisation has a number of potential meanings, the sale of publicly owned assets (otherwise known as denationalisation) became almost synonymous with the use of the term as applied in the UK. Nigel Lawson recalled that "*most of us felt denationalization did not sound positive enough*" and therefore the process came to be officially described as privatisation.<sup>2</sup> This usage was an invention of David Howell (Secretary of State for Energy, 1979-81, and Secretary of State for Transport, 1981-3) and seems to have gained favour simply through the lack of a better alternative: "*It is an ugly word and Margaret disliked it so much that for some time she refused to use it. But none of us could come up with anything better.*"<sup>3</sup> In its broader conception, privatisation also signalled a change in the relationship between the state and business, as well as the deregulation, liberalisation and the introduction of competition into formerly publicly owned industries.

One of the key aspects of the debate on the origins of privatisation is to what extent it was planned in advance by the Conservatives while in opposition. Many of those from the time saw little evidence of planning for privatisation. At our policy reunion, John Wakeham recalled that the economist Stephen Littlechild deleted a chapter on privatisation from a book, which he wrote on options for a future Conservative government in 1978, because he feared including it would mean

<sup>1</sup> Margaret Thatcher, *The Downing Street Years* (London: HarperCollins, 1993), p. 677.

<sup>2</sup> Nigel Lawson, *The View from No. 11: Memoirs of a Tory Radical* (London: Bantam, 1992), p. 198.

<sup>3</sup> *Ibid.*

the book would not be taken seriously.<sup>4</sup> The focus of the 1979 manifesto was on controlling money supply, reducing public expenditure and cutting tax. Yet, while it did not outline a programme of widespread privatisation, the manifesto did promise “to sell back to private ownership the recently nationalized aerospace and shipbuilding concerns, giving their employees the opportunity to purchase shares”, as well as selling off “shares in the National Freight Corporation to the general public”.<sup>5</sup> Many commentators have concluded that denationalisation came about either largely by accident or as a policy emerging through trial and error. According to James Foreman-Peck, “in the late 1970s privatisation was scarcely even a gleam in the minister’s eye”.<sup>6</sup> Andrew Gamble has described the eventual policy making process as “a series of ad hoc decisions and experiments” that were “given retrospective justification and coherence by government ministers”.<sup>7</sup>

However, one of the architects of the policy process, Nigel Lawson, has rejected these interpretations: “They could not be more mistaken.”<sup>8</sup> Although admitting that little detailed work had been done in opposition, Lawson explained that the reluctance to go public with these plans was the result of “chiefly Margaret’s understandable fear of frightening the floating voter” and he remained adamant that “privatization was a central plank of our policy right from the start.”<sup>9</sup> Other accounts suggest that a certain amount of work had been done even before the Heath government a decade earlier. A denationalisation group had worked through the Conservative Research Department and a study was prepared on the potential for such a policy.<sup>10</sup> However, these proposals did not make it into Heath’s already very full programme. Whatever its exact origins, the ultimate form of privatisation adopted under Thatcher evolved as initial successes spurred on grander initiatives.

After winning the 1979 election, the Thatcher government was determined to introduce a raft of reforms that would restructure the economy, roll back the state, and redefine the relationship between the public and private sectors. This radical agenda had been generated in direct response to the failure of previous regimes, but it also responded to a growing disenchantment with the mixed economy of the post-war settlement. Andrew Gamble has suggested that the new direction of the Thatcher government was possible “because by the time it took office so many of the policies and ideas associated with the 1940s had been discredited”.<sup>11</sup> As the government pushed through measures to boost economic performance, reduce dependency on the welfare state and limit the power of public sector unions, post-war political consensus gave way to an increasingly adversarial

<sup>4</sup> Institute for Government, Policy Reunion on Privatisation (24 November 2010); details available at: <http://www.instituteforgovernment.org.uk/our-events/64/policy-reunion-privatisation>

<sup>5</sup> Conservative Party General Election Manifesto (1979), available at: <http://www.conservative-party.net/manifestos/1979/1979-conservative-manifesto.shtml>

<sup>6</sup> James Foreman-Peck, ‘How Privatisation Has Changed Britain’, *BBC* (3 December 2004), available at: <http://news.bbc.co.uk/1/hi/business/4061613.stm>

<sup>7</sup> Andrew Gamble, ‘Privatization, Thatcherism, and the British State’, *Journal of Law and Society*, vol. 16:1 (Spring, 1988), p. 7.

<sup>8</sup> Lawson, *View from No. 11*, p. 199.

<sup>9</sup> *Ibid.*

<sup>10</sup> Brendon Sewill, ‘Policy-Making for Heath’, in Alistair Cooke (ed.), *Tory Policy-Making: The Conservative Research Department 1929-2009* (Conservative Research Department, 2009), p. 61.

<sup>11</sup> Gamble, ‘Privatization, Thatcherism, and the British State’, pp. 2-3.

relationship between reformers and defenders of the status quo. In particular, the key tenet of the New Right strand of Conservatism, which developed during these years, held that the market was the best way to organise economic activities since it provides financial constraints and incentives that reduce waste and inefficiencies. In the words of Lawson, there is *"no equivalent in the state sector to the discipline of the share price and the ever-present threat of bankruptcy."*<sup>12</sup> It should be noted, nonetheless, that the policies adopted in practice were not always as radical as the rhetoric.

There were a number of reasons why addressing the performance of these industries was of concern to the incoming Conservative government. During the 1960s and 1970s, Britain suffered from high inflation, low growth and difficult industrial relations. As Kenneth Baker, who was to oversee the privatisation of BT, later recalled: *"Inflation in the '70s got totally out of hand. We were running at 18 to 20 per cent inflation, and if you run that for very long it's a disaster."*<sup>13</sup> Damned by commentators as the 'sick man of Europe', the ideas of economists Friedrich Hayek and Milton Friedman gained supporters on the right who advocated tackling inflation, increasing the role of markets and limiting the size of government in order to transform the country's fortunes.

The state had been gradually accruing public corporations since the nineteenth century, but particularly so under the 1945 Labour government. By 1979, nationalised industries represented 10% of the economy and 14% of capital investment.<sup>14</sup> However, the productivity performance of nationalised industries lagged behind the private sector and the rate of return on capital was only 0-2%. John Wakeham pointed out that, unlike the private sector, the nationalised industries had been unable to deliver on their commitments under Harold Wilson's planning agreements.<sup>15</sup> Furthermore, government was struggling to contain the collective bargaining power of the trade union movement. A civil servant in the Treasury, Gerry Grimstone, recalled a John Moore speech on privatisation that used a quotation from Herbert Morrison's address upon launching the post-war nationalised industry programme. "Morrison had made much of how employees in the public sector would accept lower wages and work in the public interest, but this belief was hard to square with the reality of poor industrial relations in the nationalised industries. Furthermore, there was a backlog of under-investment as ministers sacrificed higher external financing limits to protect more politically important programmes. One way in which this was manifested were the huge waiting lists for new telephone lines as British Telecom could not cope with exploding demand from the City. In the words of Baker, the producer-dominated operation meant *"there were hundreds of thousands of people waiting for an ordinary telephone connection because only one company could do it. They would send out their employees when it suited them, rather when it suited you."*<sup>17</sup>

Facing severe economic challenges, strong political momentum therefore developed in favour of denationalisation and accompanying policies of liberalisation with a number of ambitious ministers,

<sup>12</sup> Lawson, *View from No. 11*, p. 203.

<sup>13</sup> Interview with Kenneth Baker, 'Commanding Heights', PBS (19 September 2000), available at: [http://www.pbs.org/wgbh/commandingheights/shared/minitext/int\\_kennethbaker.html](http://www.pbs.org/wgbh/commandingheights/shared/minitext/int_kennethbaker.html)

<sup>14</sup> Statistics cited by Sir Nicholas Monck at IfG Policy Reunion.

<sup>15</sup> IfG Policy Reunion.

<sup>16</sup> John Moore was Economic Secretary to the Treasury during 1983 and then Financial Secretary to the Treasury until 1986.

<sup>17</sup> Interview with Kenneth Baker, op cit.

most notably Nigel Lawson, Keith Joseph, Geoffrey Howe, John Nott and David Howell, lined up behind the strategy. Within the civil service there was a general feeling that current policies were failing so badly that anything was worth trying, though there was little experience or knowledge of how to go about privatisation. Nevertheless, civil servants initially did not quite appreciate ministers' agenda. Nick Monck suggested to Nigel Lawson, who was Financial Secretary to the Treasury, that the department should prepare an estimate of the value of the industries remaining in the public sector versus their value outside. Lawson refused to commission such a study, arguing that the market would value them, and that this was beside the point anyway since their value was not the driver behind the change which was being undertaken for much more fundamental philosophical reasons. Monck has conceded that, in any case, officials would have underestimated the scope for efficiency gains in the nationalised industries.<sup>18</sup>

Since the policy was not highlighted in the manifesto, officials had done no pre-election preparation for an extensive privatisation programme nor indeed had the Tories while in opposition. As Lawson acknowledged, this created some initial difficulties since, *"to all intents and purposes, it had never been done before. This is remarkably rare in Whitehall. Whenever a Minister has what he thinks is a new idea, the chances are that it is nothing of the sort."*<sup>19</sup> However, it turned out this was an area officials wanted to work on – it was seen as exciting – and John Wakeham acknowledged that the success of the privatisation programme came from ministers and civil servants working highly effectively together to make the changes happen – he was struck by how *"helpful"* civil servants were.<sup>20</sup> In the view of Lawson, officials *"found that while pioneering was hard work, it was actually much more enjoyable than re-treading a well trodden path."*<sup>21</sup> Although empirical evidence for the efficiency benefits of private versus public ownership were inconclusive, not least because the public sector often carried out some non-commercial activities, the government remained steadfast in its determination that privatisation would improve economic performance.<sup>22</sup>

## Initiation

Understanding the success of privatisation as a policy lies in large part in appreciating how it grew from a piecemeal approach into something more comprehensive. It was the initial successes of relatively small scale sell-offs and modest liberalisations that emboldened the government to go further.

Though not discussed in the manifesto, the first few announcements of privatisation plans came in 1980 and a Ministerial Sub-Committee on the Disposal of Public Sector Assets E(DL) began meeting

<sup>18</sup> IfG Policy Reunion.

<sup>19</sup> Lawson, *View from No. 11*, p. 198.

<sup>20</sup> IfG Policy Reunion.

<sup>21</sup> Lawson, *View from No. 11*, p. 198.

<sup>22</sup> For a discussion of the contemporary academic evidence on public and private sector ownership, see J. A. Kay and D. J. Thompson, 'Privatisation: A Policy in Search of a Rationale', *The Economic Journal*, vol. 96 (March 1986), pp. 18-32.

at the end of May 1931.<sup>23</sup> The new government's first disposal of assets included shares in British Petroleum (BP), but this came on the back of a sale by the previous government in 1977. This was followed by the denationalisation of bodies such as British Aerospace in February 1981 (which had only been in the public sector since 1977) and Cable & Wireless in November 1981. These were treated as discrete sales whose aim was to raise revenue for the Exchequer. Yet, they proved to be an important learning experience for ministers and officials involved. In particular, Lawson regarded the sale of Amersham International in February 1982, which was 30 times oversubscribed and opened with a more than 30% premium, as a fairly disastrous experience.<sup>24</sup> Having significantly undervalued the sale, the media and opposition accused the government of squandering taxpayers' assets and rewarding the party's supporters in the City.

Gerry Grimstone saw one of the major turning points as the privatisation of Britoil, overseen by Lawson as Energy Secretary, which nearly failed because it was priced at the upper limit of what was saleable.<sup>25</sup> It was at this point that ministers stopped regarding privatisations as a series of discrete sales, to be judged each on their own merits, and began to look on them instead as part of a programme that also embraced the sale of council houses and measures to increase share ownership. This was made easier by the fact that the Treasury was already seen as having an overall lead on government policy on nationalised industries, setting the framework within which sponsor departments managed the relationships with their industries. The programme, as it developed into one, also had ministerial coordination from the beginning, through the Cabinet Sub-Committee on the Disposal of Public Sector Assets, which monitored the progress of the policy.

However, in understanding how these early moves developed into the policy success as we perceive it today, the most important privatisation was British Telecom (BT). In this case, ministers were particularly keen to look at ways of liberalising the market and introducing competition into the sector. Due to the sheer infrastructure costs associated with the industry, telecoms had long been considered a so-called 'natural monopoly'.<sup>26</sup> However, new technologies were beginning to reduce the capital investment required for entry into the market and the prospect of greater competition became feasible. In July 1977, the Carter Committee report had recommended the separation of telecommunications from the Post Office, but this measure was not implemented until the change of administration.<sup>27</sup>

The British Telecommunications Act 1981 finally provided for the removal of BT from the control of the Post Office. It also enabled the Secretary of State for Trade and Industry to licence other operators to run telecommunication systems. This ended the monopoly that had existed since the nationalisation of the industry in 1912. The next stage was to develop the market. The Thatcher

<sup>23</sup> The National Archives, CAB 134/4339, 'Ministerial Committee on Economic Strategy: Sub-Committee on Disposal of Public Sector Assets: Meetings 1-8', Papers 1-18 (31 May 1979 – 19 December 1979).

<sup>24</sup> Lawson, *View from No. 11*, pp. 208-10.

<sup>25</sup> IfG Policy Reunion.

<sup>26</sup> See Yair Aharoni, *The Evolution and Management of State-Owned Enterprises* (Cambridge, MA: Ballinger Publishing, 1986), p. 264.

<sup>27</sup> For Keith Joseph's role in overseeing the separation of the postal service from telecommunications, see Morrison Halcrow, *Keith Joseph: A Single Mind* (London: Macmillan, 1989), pp. 142-3.

government set up an expert committee to look at ways of introducing competition into BT's value added services. In February 1982, a consortium of Barclays, BP and Cable & Wireless set up Mercury Communications in competition with British Telecom to meet some of the unmet demand for phone lines. However, Mercury only operated in this small niche market and did not act as a significant threat to BT's core business.

While the original intention was simply to open up the telecoms market to competition, the need to finance the modernisation of BT encouraged talk of privatisation. Concerns had been raised that future expenditure would bust the government's budget ceiling and, according to economist Jon Stern, denationalisation was "*driven in large part by the need to get BT's investment programme off the PSBR (Public Sector Borrowing Requirement).*"<sup>28</sup> It was also felt that market constraints would inevitably cut waste and increase profits. Key figures, such as John Moore who became Economic Secretary to the Treasury in 1983, later claimed previous failures to introduce stricter guidelines and control mechanisms demonstrated that governments could not drive through efficiency savings in public companies to the same extent as private management teams which had a clear profit motive.<sup>29</sup>

On 19 July 1982, the government formally announced plans to sell up to 51% of BT shares to private investors. Kenneth Baker, Minister for Industry and Information Technology, was keen to emphasise that the Bill offered corporate independence from the Treasury and ministerial control: "*It also gives freedom to BT to grow, to operate overseas, and to make acquisitions... the market is growing so quickly that BT can expand only by becoming a free, independent company*".<sup>30</sup> However, the announcement of the 1983 election caused the Bill to be withdrawn due to a lack of time to secure its passage through parliament. Privatisation was now a campaign issue and the Tory manifesto contained a list of the enterprises which it intended to return to private ownership including British Telecom.<sup>31</sup> On 10 June, the Conservative Party was re-elected with an increased majority and, having secured a second term in office, the Thatcher government reintroduced the Bill. As a number of those at our policy reunion emphasised, it was the fact that the government was able to build on earlier small scale denationalisations which saw privatisation develop into the successful programme it became.

<sup>28</sup> Jon Stern, 'What the Littlechild Report Actually Said', in Ian Bartle (ed.), *The UK Model of Utility Regulation* (Bath: University of Bath, 2003), p. 12; available at:

[http://www.bath.ac.uk/management/cri/pubpdf/Conference\\_seminar/31\\_Model\\_UTILITY\\_Regulation.pdf](http://www.bath.ac.uk/management/cri/pubpdf/Conference_seminar/31_Model_UTILITY_Regulation.pdf)

<sup>29</sup> John Moore, 'Why Privatised?', in John Kay, et al. (eds.), *Privatisation and Regulation: The UK Experience* (Oxford: Clarendon Press, 1986), p. 85.

<sup>30</sup> Kenneth Baker, *House of Commons Debate*, vol. 33, cc.31-113 (29 November 1982); available at <http://hansard.millbanksystems.com/commons/1982/nov/29/telecommunications-bill>

<sup>31</sup> Conservative Party General Election Manifesto (1983), available at: <http://www.conservative-party.net/manifestos/1983/1983-conservative-manifesto.shtml>

## Options

The UK's privatisation programme was unprecedented anywhere in the world. As such, decisions had to be made on the basis of what was deemed possible at the time, something that all participants at our policy reunion stressed. This proved, in the end, to be another key feature of the policy success, but it was not apparent at the time. The sale of British Telecom was of a size and a scale never tried before, and many questions emerged. Government needed to decide whether to restructure the company before selling it off, which might either be used to maximise revenue for the Treasury or promote liberalisation of the sector, and what regulatory mechanisms should be put in place post-privatisation. Working out the details of this as they went along may have led to missed opportunities (such as in setting a high enough share price), but importantly, it led to a model of privatisation that could then be applied to other industries.<sup>32</sup>

While the primary aim of denationalisation was to improve performance, it had a secondary benefit in the form of increasing public share ownership. This goal can be seen as an extension of the government's drive to promote home-ownership and a wider commitment to reduce the size of the state. Margaret Thatcher believed *"through privatization – particularly the kind of privatization which leads to the widest possible share ownership by members of the public – the state's power is reduced and the power of the people enhanced."*<sup>33</sup> More pragmatic motives also lay behind the move. Trade union leaders were opposed to denationalisation, but the government adopted a divide and rule tactic to overcome these concerns. BT employees were offered the right to pre-register for a tranche of free shares. Over 90% of the eligible work-force took advantage of the offer and this allowed the government to confront trade union leaders with the popularity of the sale among its own membership. In the general population, the proportion of share owners increased from 7 per cent in 1979 to 25 per cent ten years later. From a political perspective, Nigel Lawson also felt that the widest possible distribution of shares among the public would cement the transfer of these businesses to the private sector: *"For the more widely the shares were spread, the more people who had a personal stake in privatization, and were thus unlikely to support a Labour Party committed to renationalization. And if this forced Labour to abandon its commitment to renationalization, so much the better."*<sup>34</sup>

There were some conflicting goals among the principal players around elements of the privatisation design. While the government wanted to put as high a value on the company as was consistent with a successful share sale, the management (with their own merchant banking advisers) had a personal interest in talking down the value to ensure maximum upside for their share options. Indeed, in the later electricity privatisations, John Wakeham had to fire two chairmen due to their obstructive tactics.<sup>35</sup> Moreover, as Andrew Gamble has highlighted, it was necessary to secure the willing co-operation of the management of the nationalised industry and inevitably the management opposed the breaking up of their industry:

<sup>32</sup> IfG Policy Reunion.

<sup>33</sup> Thatcher, *Downing Street Years*, p. 676.

<sup>34</sup> Lawson, *View from No. 11*, p. 208.

<sup>35</sup> IfG Policy Reunion.

*In order to placate public sector managers, therefore, the Government gave less priority to the achievement of liberalization, and concentrated on the goals of raising money for the Exchequer and widening share ownership.<sup>36</sup>*

These concessions had to be made in order to gain management support and smooth transition from public to private ownership. In November 1983, Kenneth Baker, as Minister for Industry and Information Technology, set out a duopoly policy that limited the number of long-distance fixed-link operators to two (British Telecom and Mercury) for seven years.<sup>37</sup> This arrangement was agreed to allow Mercury's alternative network "a chance to get established."<sup>38</sup> Although the government announced further proposals to liberalise equipment supply and maintenance, commentators including Stephen Littlechild have argued that the duopoly approach stifled the development of competition.<sup>39</sup>

In the case of BT, the company's accounting system was such that it could not be broken up into individual profit centres so it had to be sold as a whole.<sup>40</sup> David Clementi, a director at Kleinwort Benson which advised the government on a number of privatisations, pointed out that the largest sale ever seen before was the \$500m sale of AT&T in the United States – British Telecom was valued at around £8bn – so a 51% sale, the amount necessary to sell if BT was to be moved outside the public sector, meant raising £4bn. The American banks were sceptical about the ability of the City to manage a sale of that size. Nick Monck said many people warned that it was "too big to sell", but the government knew BT simply could not be split up due to the poor state of its financial records.<sup>41</sup> Thatcher acknowledged that separating the company would have been preferable for the sake of competition, but "accounting and management systems were, by modern standards, almost nonexistent" and there was "no way in which the sort of figures which investors would want to see could have been speedily or reliably produced."<sup>42</sup> Rather than delay the sale by years, the privatisation process pushed ahead on the basis of maintaining the company intact. Having decided to ignore these concerns, one of the remaining issues with the British Telecom denationalisation was finding a way of moving an unprecedented amount of shares into the market. Here the government relied heavily on its City advisers. They needed to make the privatisation attractive to institutions and overseas investors, as well as mobilising individual shareholders on a massive scale in a country where only a small number owned shares. The government and its advisers spent two years working out how to manage such a large sale and conducting a marketing campaign.

Another of the key issues was the design of the regulatory regime. Although some work had been done by academics, this was an area where there was no prior direct experience to draw on for

<sup>36</sup> Gamble, 'Privatization, Thatcherism, and the British State', p. 12.

<sup>37</sup> Oftel, 'A Brief History of Recent UK Telecoms and Oftel'; available at: <http://www.ofcom.org.uk/static/archive/oftel/about/history.htm>

<sup>38</sup> Interview with Kenneth Baker, op cit.

<sup>39</sup> See Stephen Littlechild, 'The Birth of the RPI-X and Other Observations', in Bartle (ed.), *UK Model of Utility Regulation*, p. 41-44.

<sup>40</sup> Ibid, p. 41.

<sup>41</sup> IfG Policy Reunion.

<sup>42</sup> Thatcher. *Downing Street Years*, p. 680.

ministers and officials. In particular, there was a clear tension between the toughness of the regulatory regime and the value of the company. The government commissioned economist Stephen Littlechild to investigate ways of regulating BT's profitability. His report, published in February 1983, proposed an RPI-X formula for price setting that would maintain price increases at a fixed level below the rate of inflation for a number of years. This model of price capping had initially been suggested in discussions about the Buzby Bond in the form RPI-2 and Littlechild realised it could be generalised into RPI-X and provide an alternative to US style rate of return regulation:

*This idea [an RPI-X price cap] could be adapted to present circumstances, by incorporating a condition in BT's licence requiring it not to increase tariffs on monopoly services by more than RPI-X per cent, i.e. to reduce these tariffs by X per cent in real terms. There are several details to be settled: to which services should tariff reduction apply? Should the guarantee apply to each service separately or to a basket of services? At what level should X be set?<sup>43</sup>*

Since RPI-X meant prices would be set below the rate of inflation, increased profits could only be generated by reducing waste and inefficiencies. Although calculating the value of X over time would prove challenging, Littlechild's report only envisioned the need for temporary regulation as it argued that sufficient competition would emerge within a few years to remove the price cap mechanism:

*Competition is indisputably the most effective – perhaps the only effective means – of protecting consumers against monopoly power. Regulation is essentially the means of preventing the worst excesses of monopoly; it is not a substitute for competition. It is a means of 'holding the fort until competition comes.'<sup>44</sup>*

In order to achieve this objective, Littlechild recommended a review by the Monopolies and Mergers Commission after five years. In the end, RPI-X was adopted by the government not only for BT, but also subsequent privatised utilities and became a standard mechanism. Thatcher acknowledged that this innovation turned out to be an influential departure: *"it has since been adopted overseas, for example in the United States."*<sup>45</sup> As with all major policy processes, the eventual form that privatisation took in each case was the result of discussions between key players on the inside and outside of government about how best to meet the multiple and at times contradictory objectives.

## Decision

Participants at our policy reunion stressed that the key determinants of decisions were the practicality of the proposals and what would allow the momentum of the overall programme to be maintained. The Treasury had been given responsibility for co-ordinating privatisation, but departments played an important role in sustaining the required pace of change. In the case of

<sup>43</sup> Stephen Littlechild, *Regulation of British Telecommunications' Profitability* (London: Department of Industry, 1983), Para 15.5.

<sup>44</sup> *Ibid*, Para 4.11.

<sup>45</sup> Thatcher, *Downing Street Years*, p. 681.

British Telecom, decisions on the sale were determined by the need to create enough demand for the offer. This encouraged a gradual process that would ensure the stock market could absorb an unprecedented share issue and allow the government to maintain the support of BT's management. The sale was therefore structured with three part payments and a full dividend which made it a must buy for institutional shareholders. Ministers had to be comfortable with a valuation that they could defend to the House of Commons. Again, it was the need to develop workable solutions that saw the programme develop mechanisms and ways of working that could be replicated.

Having a credible regulatory regime was seen by the investment banks and others involved in the flotation as crucial in securing investor confidence in the sale.<sup>46</sup> On 12 April 1984, the Telecommunications Act removed BT's monopoly in running telecommunications and established the Office of Telecommunications (OfTel) as a non-ministerial government department to promote competition in the telecoms industry and protect the rights of consumers. Under the terms of Act, BT had to provide universal provision across the UK and retain unprofitable activities such as the 999 emergency service number. In July, Bryan Carsberg was appointed Director General of OfTel and one month later the communications regulator was officially established. The original intention had been to hand the responsibility for telecoms to the Office of Fair Trading (OFT), but the organisation's Director General, Gordon Borrie, felt this was too large an additional undertaking for the OFT. Instead, the government established OfTel and decided it should be under the control of a single Director General in the same fashion as the OFT. This model was chosen because it was thought to give greater clarity than having a board and became the standard for regulatory authorities.<sup>47</sup> Having decided to adopt Littlechild's RPI-X recommendation for price controls, the Department of Trade and Industry (DTI) set up a working party to try to agree what 'X' in the formula should be. The working party consisted of three civil servants, three people from British Telecom, an independent chair from Coopers and Lybrand, and Bryan Carsberg. The latter recalled that BT obfuscated to such an extent that the committee could not reach agreement and, in the end, the Secretary of State simply had to impose a formula of RPI-3% for the first five years of privatisation. Carsberg as DG of OfTel realised the degree of fat that could be cut out in the newly privatised company and the rate was increased to RPI-4.5% in 1989 and eventually ratcheted up to RPI-7.5% in 1993.<sup>48</sup>

In November 1984, more than half (50.2 per cent) of British Telecom shares were sold to the public. The government authorised a huge marketing campaign before the issue of the shares in order to inform the public and to create interest in the shares. Although the share offer was significantly oversubscribed, the flotation was regarded as a great success. More than three million ordinary shares were offered for sale and by the 28 November, when the offer closed, the shares had been 3.2 times oversubscribed. Dealing in the shares began on 3 December at a purchase price of 130p (50p on application and the rest to be paid in instalments). The total amount raised was £3,916

<sup>46</sup> Stern, 'What the Littlechild Report Actually Said', p. 12.

<sup>47</sup> IfG Policy Reunion.

<sup>48</sup> OfTel, 'A Brief History of Recent UK Telecoms and OfTel'; available at: <http://www.ofcom.org.uk/static/archive/oftel/about/history.htm>

million and nearly 96 per cent of eligible BT employees became shareholders in the company.<sup>49</sup> There was some criticism in the media that shares had been priced lower than market rate, but the government responded that this had been done in order to promote widespread share ownership. Indeed, according to Nigel Lawson, “*the maximization of proceeds, despite what many commentators said, was never the main objective.*”<sup>50</sup> Furthermore, since BT was the first major utility to be sold off, the government had implemented a cautious approach that transferred the company to the private sector in several stages. A second issue of shares in December 1991 reduced the government’s stake in BT to around 25 per cent and, in July 1993, the state sold almost all of its remaining stock. Each of these subsequent share issues boosted the Treasury’s accounts by around £5 billion.<sup>51</sup>

## Consensus

The story of the BT privatisation, and the subsequent impact on British Gas privatisation, also highlights one other factor in the policy success – that of building an external consensus and perception of what would be acceptable, if not highly desired, policy in this area. As Peter Riddell has commented, privatisation was the “*most striking policy innovation*” of Thatcherism and came to represent “*the Jewel in the Crown of the Government’s legislative programme, around which all shades of Tories can unite.*”<sup>52</sup> However, at the time, denationalisation was far from universally popular. The Labour Party was instinctively opposed and strongly resisted every single privatisation. The Liberals, as well as the Social Democratic Party (SDP), were against both privatisation and any further nationalisation since it was their belief that industries risked being destabilized by repeated switching between the public and private sectors.<sup>53</sup> The media and the public were also hostile to the idea of privatisation and continued to be unreceptive in the run-up to each individual sale. Antagonistic trade union leaders and reluctant management boards also had to be dealt with. In the case of British Telecom, there were concerns about the impact of liberalisation of the market on some of the suppliers who depended on their contracts with BT and this meant slowing down the pace of change to give them time to adapt.

Moreover, elements within the government needed to be persuaded it was a necessary course of action and could be practically implemented. In the words of one Treasury official, “*it was not that privatisation was not desirable, but that we were not sure that it was possible.*”<sup>54</sup> In 1982, the government had considered a less radical option, known as the Buzby Bond, which would have allowed BT to raise finance capital on the bond market. However, those behind the scheme could not convince the Treasury that purchasers of these bonds would bear a genuine element of risk and transfer any financial burden from the state. In the assessment of economic commentator Samuel

<sup>49</sup> BT Archives Information, ‘Privatisation’; available at:

<http://www.btplc.com/Thegroup/BTHistory/Privatisationinfosheetissue2.pdf>

<sup>50</sup> Lawson, *View from No. 11*, p. 237.

<sup>51</sup> BT Archives Information, ‘Privatisation’; available at:

<http://www.btplc.com/Thegroup/BTHistory/Privatisationinfosheetissue2.pdf>

<sup>52</sup> Peter Riddell, *The Thatcher Decade: How Britain Has Changed During the 1980s* (Oxford: Basil Blackwell, 1989), p. 88.

<sup>53</sup> John Kay and David Thompson (eds.), *Privatisation and Regulation: The UK Experience* (Oxford: Clarendon Press, 1986), p. 76.

<sup>54</sup> Richard Heffernan, ‘UK Privatisation Revisited: Ideas and Policy Change, 1979-92’, *Political Quarterly*, vol. 76:2 (2005), p. 265.

Brittan, *"the failure of the Buzby project gave privatisation a shot in the arm."*<sup>55</sup> Indeed, Lawson recalled that he *"was originally in quite a small minority"* in arguing for denationalisation, but the *"failure of these attempts to square the circle helped to swing Whitehall opinion behind privatization."*<sup>56</sup> Externally these plans were controversial, but government pushed ahead and gradually public opinion altered as privatised utilities became an accepted feature of economic policy.

The privatisation programme was paradigm changing, not just affecting specific industries, but altering accepted wisdom about the relationship between state and market. The sale of BT was an important spur for driving forward the government's reform agenda, particularly as it spanned the government's first and second term, and 'popular capitalism' provided a narrative which has proved to have continuing resonance. In particular, the successful denationalisation of a huge corporation such as BT cleared the way for a number of other high profile privatisations and Thatcher set a challenge to implement a sale with more than 5 million private shareholders before the next general election. With this target in mind, the only option was to privatise British Gas. This sale was conducted as a refined version of the BT model. Again it was decided to privatise the company as a single entity, not least because breaking up British Gas would have added three years to the timetable. However, the privatisation programme was given its biggest test with the 1987 sale of BP shares. The stock exchange collapsed immediately after the sale was given the go-ahead and it was only the then Chancellor Nigel Lawson's decision to create a floor price that allowed the sale of shares to proceed. By the time of the 1992 election, around two-thirds of public industries, employing some 900,000 people, had been transferred to the private sector.<sup>57</sup>

## Reflections

Privatisation was a programme that developed over a long period and gained impetus after starting small. Building the process step-by-step turned out to be advantageous, as Kenneth Baker has remarked: *"If we had had great ideological confrontation at the beginning of the Thatcher years, [if we said] we want to privatise all these industries, none of them would have been privatized."*<sup>58</sup> The government had initially been very cautious and it was only once denationalisation had been shown to be practicable and the Conservative Party won re-election that momentum built for the scheme. In Thatcher's later appraisal, the *"depth of the recession meant that there was not much prospect of successful privatization in the early years, due to low market confidence and large nationalized industry losses"*.<sup>59</sup> Nevertheless, the government was committed to reforming industrial relations and, having piloted the sale of a few small publicly-owned industries, *"ministers began to realize that the principle could be extended."*<sup>60</sup> In this respect, the denationalisation of BT became the breakthrough

<sup>55</sup> Samuel Brittan, 'Public Private Partnerships – A Temporary Landmark for the Third Way', speech delivered on 13 November 2001; available at: [http://www.samuelbrittan.co.uk/spee21\\_p.html](http://www.samuelbrittan.co.uk/spee21_p.html)

<sup>56</sup> Lawson, *View from No. 11*, p. 205.

<sup>57</sup> *Ibid.*, p. 197.

<sup>58</sup> Interview with Kenneth Baker, *op cit.*

<sup>59</sup> Thatcher, *Downing Street Years*, p. 678.

<sup>60</sup> Gamble, 'Privatization, Thatcherism, and the British State', p. 4.

high profile sale that gave momentum to the privatisation programme and *“showed to the rest of Britain it could be done.”*<sup>61</sup>

Participants at the policy reunion agreed that, given the uncertainty about the scale of the endeavour beforehand, the actual process still looked pretty good in hindsight. The only significant criticism levelled against privatisation was the initial failure to introduce effective competition. In the case of telecoms, the government maintained statutory restrictions on market entry and BT remained a virtual monopoly since Mercury was a comparatively small provider. Indeed, economists John Kay and David Thompson have questioned the rationale for privatising firms with such monopolies and concluded: *“Privatisation will tend to improve performance in a company only if supported by liberalisation; and if the two conflict, liberalisation is decidedly to be preferred.”*<sup>62</sup> Bryan Carsberg suggested the omission of customer service in a regulatory regime that focussed on price meant that quality of service suffered, especially as consumers could not easily transfer to an alternative provider.<sup>63</sup> However, it must be remembered that this type of sale had never been done before and the government was concerned that trying too much too soon might stall the process. Nigel Lawson was adamant that *“it was important to privatize as much as possible as quickly as possible; and this would itself set up pressures for more competition and other structural changes.”*<sup>64</sup> John Wakeham has also suggested that momentum and tight timescales were vital, as this put an onus on ministers to be decisive and drive the process as hard as it could go.<sup>65</sup> As such, privatisation benefitted from an iterative model of learning after each new sale, continual reassessment and then pushing further, which helped avoid mistakes in order to keep moving the policy in the right direction.

Although the programme achieved a decisive shift in the boundary of the state, the continued pursuit of the policy depended critically on the defensibility of the last sale. There was also a need to balance the complex and often competing objectives of a smooth transition of assets to the private sector, popular capitalism and market competition. Privatisation created millions of new shareholders, including many utility employees, and in the view of Kenneth Baker this changed popular perceptions of the accessibility of share ownership: *“When we came into office, there were about three million people who owned shares in Britain. By the end of the Thatcher years, there were 12 to 15 million shareholders, and this had largely been achieved by the privatization of the great monopolies.”*<sup>66</sup> However, there was a failure to make wider share ownership stick since most subscribers sold relatively soon after the privatisations. A side effect of privatisation was the impact it had upon the City. According to Simon Linnett of Rothschilds, the boost of managing the massive

<sup>61</sup> Interview with Kenneth Baker, op cit.

<sup>62</sup> John Kay and David Thompson, 'Privatisation: A Policy in Search of a Rationale', *The Economic Journal*, vol. 96 (March 1986), p. 25.

<sup>63</sup> IfG Policy Reunion.

<sup>64</sup> Lawson, *View from No. 11*, p. 239.

<sup>65</sup> IfG Policy Reunion.

<sup>66</sup> Interview with Kenneth Baker, op cit.

share sales was the foundation for pushing London alongside New York and Frankfurt to become the world centre of financial services.<sup>67</sup>

Since the government decided to legislate separately for each privatisation, rather than take a general enabling power, the process could be adapted and departments were able to adjust to changing circumstances. While the Treasury oversaw the process, there was a premium on rapid ministerial decision-making and mechanisms were developed to drive delivery including the establishment of the E(DL) Cabinet Sub-Committee. As the programme developed, there was a good degree of continuity among the ministers involved in different roles, among the civil servants (Gerry Grimstone worked on over 20 privatisations) and among the advisers (David Clementi worked on privatisations at Kleinwort Benson from 1979-1992). This helped foster a high level of effective collaboration between policy makers who had to develop solutions that worked within new constraints and pressing timescales. Although civil servants were outside their comfort zone, the perception that privatisation was an exciting policy area to work on, with regular ministerial exposure, attracted in high calibre people. Furthermore, in the words of Nigel Lawson, privatisation *“was an exercise in which Government found itself a financial innovator to an extent which is rare indeed.”*<sup>68</sup> In the case of denationalising BT, Stephen Littlechild’s pricing formula RPI-X proved a successful innovation and provided a useful tool for regulating future privatised utilities. As this example demonstrates, the policy did not simply develop within the boundaries of Whitehall. Drawing on external sources of expertise, academics such as Littlechild and City advisers like Clementi informed discussions and played an important role in making sure the terms of the offer were right; though, ultimately, ministers still had to make some vital judgement calls.

Privatisation succeeded by striking the balance between ideological commitments and a hard-headed appraisal of what is likely to work in practice. Objectives morphed and so did the techniques used as policy makers built upon what had gone before. As Margaret Thatcher later contended, the *“privatization programme was constantly breaking new ground”* and therefore each flotation raised separate issues: *“It is one of the disadvantages of being in the vanguard of reform – as the British who pioneered the industrial revolution know well – that the only experience you can learn from is your own.”*<sup>69</sup> Indeed, while government reforms are usually restrained by earlier initiatives and electoral interests, privatisations showed that politicians can push ahead of public opinion and redefine what is perceived to be politically possible.

## List of Participants at Policy Reunion

Name	Role during this 'Policymaking Process'
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<sup>67</sup> IfG Policy Reunion.

<sup>68</sup> Lawson, *View from No. 11*, p. 237.

<sup>69</sup> Thatcher, *Downing Street Years*, pp. 678-9.

Lord Wakeham	Parliamentary Under-Secretary of State, Department of Industry (1981-82), Minister of State, HM Treasury (1982-83), Government Chief Whip (1983-87), Secretary of State for Energy (1989-1992, responsible for privatisation of electricity industry)
Sir Nicholas Monck	Under Secretary, HM Treasury nationalised industries' group
Sir David Clementi	Director, Kleinwort Benson (1981-94)
Sir Bryan Carsberg	First Head of Oftel (1984-1992)
Gerry Grimstone	Assistant Secretary Public Enterprises Division, HM Treasury,
Professor Andrew Gamble	Cambridge University – Academic Discussant

# The introduction of the National Minimum Wage (1998)

## Starting point

A national minimum wage for the UK had been under debate in the Labour Party for decades. However, in much of that time it was not only opposed by business, but also was a source of controversy – or apathy – within the labour movement. The commitment to introduce a national minimum wage featured in Labour's 1992 manifesto, but was a source of vulnerability rather than a winning policy. Yet, two decades later, the machinery for setting the minimum wage established in the early years of the Labour government survived a change of government and came top of our poll of political studies academics for best policy of the last 30 years. This case study looks at how this policy turnaround was achieved.

## Policy background

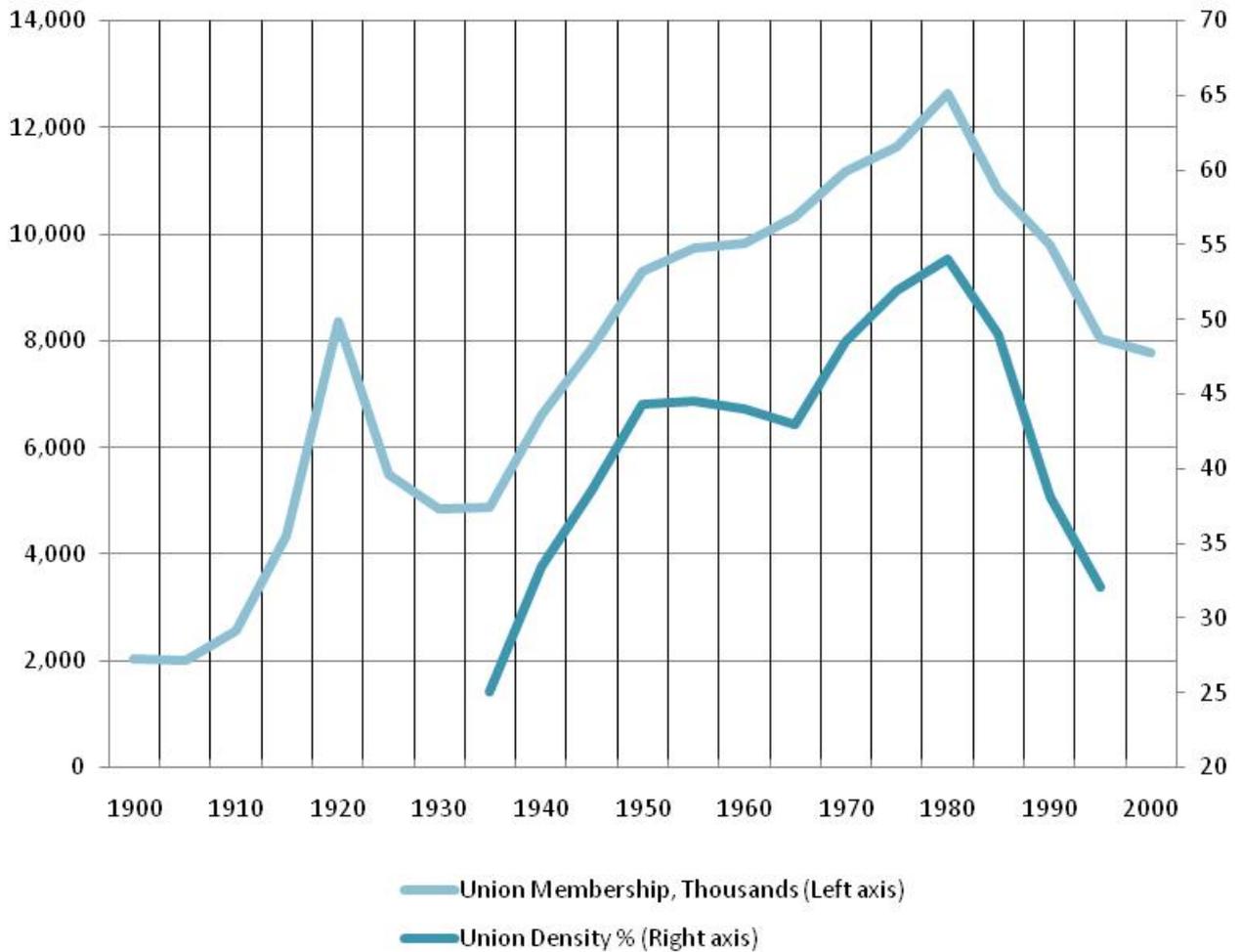
Wage regulation goes back to the 1890s. Trade Boards were established to underpin wages in so called 'sweated' or 'badly organised' industries and, after the Second World War, these morphed into Wage Councils, but this apparatus was always regarded as secondary to more general collective bargaining. Government also attempted to influence wages through Fair Wage Resolutions using its own buying power to set wage floors. At its peak, 3.5 million workers were covered by the wage councils.<sup>1</sup> Unionisation also increased and peaked in 1980 when 54% of eligible employees were members of unions. The cornerstone of union strength was collective bargaining and both governments and unions regarded wage regulation as a last resort.

The Thatcher government reformed wage regulation as part of more general labour market liberalisation, starting with the removal of the Fair Wage Resolutions in 1983. This went alongside more general reforms to rein in the trade unions – something which had been attempted by the earlier Wilson and Heath governments but had not been seen through. Wages Councils were finally abolished by the Major government in 1993.

From the middle of the 1980s onward there was a marked increase in the number of people in low income households. The number living in households with an income less than 40% of the median doubled between 1985 and 1993. This coincided with the rapid decline of union coverage from its peak. According to economist Stephen Machin, the reform of the *"two institutions that have traditionally propped up wage levels at the bottom end of the wage distribution... played an important*

<sup>1</sup> David Metcalf, *The British National Minimum Wage* (LSE, 1999), p. 1; available at: [http://eprints.lse.ac.uk/20229/1/The\\_British\\_National\\_Minimum\\_Wage.pdf](http://eprints.lse.ac.uk/20229/1/The_British_National_Minimum_Wage.pdf)

part in the rise in wage inequality in Britain.<sup>2</sup> Gosling and Lemieux also conclude that the labour market reforms of this period were to blame for the increase in wage inequality.<sup>3</sup>



Source: IfG, based on data from James Achur, 'Trade Union Membership 2010' (2011), National Statistics, available at: <http://stats.bis.gov.uk/UKSA/tu/TUM2010.pdf>

In the early eighties, trade unions harboured considerable concerns about the effects of a minimum wage. At the policy reunion, Ian McCartney, who was in charge of opposition preparations for the

<sup>2</sup> See Stephen Machin, 'The Decline of Labour Market Institutions and the Rise in Wage Inequality in Britain', *European Economic Review*, vol. 41 (1997), pp. 647-657.

<sup>3</sup> See Amanda Gosling and Thomas Lemieux, 'Labour Market Reforms and Changes in Wage Inequality in the United Kingdom and the United States', *NBER Working Paper No. 8413* (2001).

national minimum wage, commented on the Transport and General Workers' Union (TGWU) position at the time: *"They were worried about jobs, they were worried about differentials... but beyond that there was a general collective bargaining fear for a number of trade unionists. They said 'If you legislate, what price trade union organisation? It would disappear.'"*<sup>4</sup> But that view was not universal. The National Union of Public Employees led the charge within the union community and Chris Pond from the Low Pay Unit think tank led the way in policy circles. Both emphasised the lack of support for the idea. Rodney Bickerstaffe recalled one minimum wage campaign event which drew only nine people, seven of whom were his staff. Chris Pond put it more bluntly: *"I can tell you, back in the eighties, the minimum wage wasn't controversial at all. Nobody thought it was a good idea."*<sup>5</sup>

However, attitudes began to change in the mid-1980s. The Scottish Trade Union Congress passed a resolution in favour of a minimum wage in 1984 and, two years later, the Trades Union Congress (TUC) voted for the same principle. In 1985, the Labour Party passed a conference motion supporting a minimum wage of two thirds of male median earnings. It was not until 1992, however, that the Labour Party included a commitment in their manifesto to introduce a minimum wage of half male median earnings, eventually rising to two thirds. This policy proved to be an electoral liability for Labour since the Conservative Party were able to claim that the minimum wage, which would have been the highest in the developed world, would be disastrous for employment.<sup>6</sup> Michael Howard famously claimed in a Tory press release that it would destroy between 750,000 and 2,000,000 jobs.<sup>7</sup> Labour Party leader Neil Kinnock had trouble explaining, let alone defending, the inconsistently formulated half male median earnings proposal.

## Initiation

After the 1992 election defeat, two things then happened which saw the beginnings of the policy that Labour took into government in 1997. First, the academic discourse surrounding the minimum wage started to change. Several scholars began publishing research which challenged the consensus that the minimum wage would destroy jobs, at least for adult workers. Pioneering empirical work by David Card and Alan B. Krueger in the US found no effect on employment for those over 25 and only a small effect for those under 25, which was small if they were subject to a lower minimum

<sup>4</sup> Institute for Government, Policy Reunion on the National Minimum Wage (1 February 2011); details available at: <http://www.instituteforgovernment.org.uk/our-events/91/policy-reunion-national-minimum-wage>

<sup>5</sup> IfG Policy Reunion.

<sup>6</sup> David Coats, *The Minimum Wage: Retrospect and Prospect* (The Work Foundation, 2007).

<sup>7</sup> Conservative Party press release, 'Michael Howard warns Labour Minimum Wage Fiasco "could double unemployment"' (22 April 1991). This estimate was based on the unrealistic assumption that differentials would remain the same throughout the wage distribution, that is, everybody would get a pay rise due to the NMW. In reality, knock on effects were largely absent above the tenth percentile of the pay distribution, partly explaining why there have been only small employment effects; see Alan Manning and Richard Dickens, *The Impact of the National Minimum Wage on the Wage Distribution, Poverty and the Gender Pay Gap* (Centre for Economic Performance, London School of Economics and Political Science, 2002).

wage.<sup>8</sup> In the UK scholars analysed the effect of the abolition of wage councils and concluded that they had not reduced employment.<sup>9</sup> The evidence from Europe was also consistent with these findings. At our policy reunion, Dan Corry (Special Adviser at DTI from 1997-2002) stressed the importance of this work in breaking down the opposition amongst the newspaper commentariat.

The change in academic thinking was accompanied by a significant tactical shift in the Labour Party. Neil Kinnock had been exposed by the unrealism of the level of the minimum wage to which the party had committed itself in 1992. Three days before the sudden death of the Labour leader John Smith, employment spokesman John Prescott announced the decision not to set a specific level until at least the next election: *"There will come a time when we have to set the rate, but let us argue about the principle first."*<sup>10</sup> In 1995, the Labour Party committed to having a Low Pay Commission, made up representative of employers, employees and independents, which would set the rate after the election.

But simply having a commitment was not enough – preparations were begun to pave the way for a new government to introduce a minimum wage. In order to work up the practicalities, two groups were set up to develop the proposals between 1994-6, headed by Ian McCartney; the first met weekly to deconstruct all issues relating to implementation (including details such as the treatment of babysitters and au pairs) and a second group looked at mechanics (coverage and how to ensure compliance).

At the same time, the Labour Party began to build the political case for the minimum wage. They started with the business case – that low pay undermined the ability of companies to compete and that high turnover brought high costs in training and recruitment. This enabled them to appeal to good employers who risked being undercut by cowboys. They also started to reposition the national minimum wage to put it in the wider economic context of welfare reform and making work pay. In parallel, Labour built the political case through their 'fat cats' campaign to highlight the unfairness of the treatment of people at the bottom end of the pay scale in contrast with boardroom excess, focussing in particular on British Gas Chief Executive Cedric Brown, alongside 'horror stories' of the abuse of low paid workers. At our policy reunion, political scientist Martin Lodge thought this political campaign and the reframing of the minimum wage as a broader welfare issue was critical in changing the context within which the policy was developed.

The result of all this preparatory work was that, by 1997, the national minimum wage had become a relatively non-controversial proposition and the Confederation of British Industry (CBI) was prepared to lend its support. As late as 1995, the CBI had been arguing *"that even a low minimum wage would reduce job opportunities and create major problems for wage structures in a wide range of companies"* whereas by the time of their submission to the early work of the Low Pay Commission

<sup>8</sup> See David Card and Alan B. Krueger, *Myth and Measurement: The New Economics of the Minimum Wage* (Princeton, NJ: Princeton University Press, 1995).

<sup>9</sup> Richard Dickens, Stephen Machin and Alan Manning, 'The Effects of Minimum Wages on Employment: Theory and Evidence from Britain', *Journal of Labor Economics*, vol. 17:1 (1999), pp. 1-22.

<sup>10</sup> Barrie Clement, 'Labour delay on minimum wage rate', *The Independent* (10 May 1994), available at: <http://www.independent.co.uk/news/uk/politics/labour-delay-on-minimum-wage-rate-1434866.html>

(LPC) the CBI had changed track claiming “that the appropriate and feasible purpose for the NMW is to create a ‘floor’ to the labour market.”<sup>11</sup> By 1997, the Labour manifesto explicitly made the case for a minimum wage:

*Every modern industrial country has a minimum wage, including the US and Japan... Introduced sensibly, the minimum wage will remove the worst excesses of low pay (and be of particular benefit to women), while cutting some of the massive £4 billion benefits bill by which the taxpayer subsidises companies that pay very low wages.”*<sup>12</sup>

## Options

The preparation in opposition gave ministers, in the words of Geoffrey Norris (a special adviser to the No. 10 policy unit at the time), “an enormous advantage in terms of getting on and implementing it. And I think that’s a very important policy lesson.”<sup>13</sup> Ian McCartney had been able to give civil servants detailed advance notice of the proposals, which meant legislation could be announced in the Queen’s speech just two weeks after the election. Indeed, being able to move quickly on the national minimum wage allowed the Labour Party to make the most of their large mandate from the landslide election victory. In contrast to 1992, the 1997 manifesto pledged new machinery to set the minimum wage “decided not on the basis of a rigid formula but according to the economic circumstances of the time and with the advice of an independent low pay commission, whose representatives will include representatives of employers, including small businesses, and employees.”<sup>14</sup>

Another key factor, which has also been seen in other policy successes, was in having an authoritative body separate from the political fray that was able to examine the detail of how the policy should be implemented. Before the 1997 general election, the decision was made to have a Low Pay Commission with three employer representatives, three labour representatives and three independents. According to Geoffrey Norris, having a commission was “critical in getting the CBI on board.” Norris commented at our policy reunion that the social partnership model and “the fact that when George and his colleagues reported... that the TUC and CBI were signing off has helped the LPC and the minimum wage have very, very deep roots in British society” and noted how “doing that can create very robust policy.”<sup>15</sup> This view has been echoed by John Cridland, then Human Resources Director at the CBI and a member of the LPC:

<sup>11</sup> David Metcalf, ‘The British National Minimum Wage’ (1999), available at: [http://eprints.lse.ac.uk/20229/1/The\\_British\\_National\\_Minimum\\_Wage.pdf](http://eprints.lse.ac.uk/20229/1/The_British_National_Minimum_Wage.pdf)

<sup>12</sup> New Labour, ‘Because Britain Deserves Better’ (1997), available at: <http://www.labour-party.org.uk/manifestos/1997/1997-labour-manifesto.shtml>

<sup>13</sup> IfG Policy Reunion.

<sup>14</sup> New Labour, ‘Because Britain Deserves Better’ (1997), available at: <http://www.labour-party.org.uk/manifestos/1997/1997-labour-manifesto.shtml>

<sup>15</sup> IfG Policy Reunion.

*We had fought that battle of principle, that was now behind us, the battle had been lost and there was going to be a minimum wage... and given that all the signals were that the minimum wage was going to be set at a reasonable level, the judgement was we would be better off inside the tent.<sup>16</sup>*

The appointment of academic George Bain as chair was seen as crucial to the success of the Commission, though there were big debates within government on who to appoint. The independents were able to influence deliberations by being able to threaten to side with the other grouping if either one were unreasonable, but the Chair was absolutely clear that unanimity was crucial to the Commission's success. But final decisions often came back to an old-fashioned negotiation between Bill Callaghan for the TUC and John Cridland for the CBI. Both were highly pragmatic, skilled negotiators and, as they were not leaders of their organisations, their hands were not tied by external commitments.

#### Initial composition of the Low Pay Commission

- **Professor George Bain (Chairman)** President and Vice-Chancellor, The Queen's University of Belfast
- **Professor William Brown** Professor of Industrial Relations, University of Cambridge
- **Bill Callaghan** Chief Economist, Trades Union Congress
- **John Cridland** Director of Human Resources Policy, Confederation of British Industry
- **Lawrie Dewar, M.B.E.** Chief Executive, Scottish Grocers' Federation
- **Rita Donaghy, O.B.E.** UNISON Executive Council
- **Paul Gates** General Secretary, National Union of Knitwear, Footwear and Apparel Trades
- **Professor David Metcalf** Professor of Industrial Relations, London School of Economics
- **Stephanie Monk** Director of Human Resources, Granada Group plc

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Source: *The National Minimum Wage: First Report of the Low Pay Commission* (1998).

The Commission's first report was the product of a huge research effort. The LPC received 580 evidence submissions, met with or visited 233 different interested parties all over the UK and listed references for more than 350 pieces of literature which informed their report. The Commission was bounced by Peter Hain, then Parliamentary Under-Secretary of State at the Welsh Office, into incorporating a strong regional visits element into its work programme, visiting more than 200 places – but this proved hugely beneficial both in terms of getting buy-in and bringing the Commission together. The Commission uncovered a lot of real abuse – for instance an

<sup>16</sup> Interview with the author (July 2011).

advertisement for a night-watchman at £1 an hour for a 100 hour week where the employee had to bring their own dog.

The members of the Commission who came to the policy union were agreed that this process was crucial to the success of the LPC. It allowed them to go through, in the words of one commissioner, “a shared and mutual education” and in doing so build trust and strong working relationships with each other.<sup>17</sup> A programme of visits was planned with the assistance of organisations including Federation of Small Business and the Citizens Advice Bureau to ensure that all stakeholders had a chance to contribute to the process.<sup>18</sup> Dan Corry commented:

*I think the social partnership model of the Low Pay Commission was a great success... The fact that they went round the country, going into work places, all around, really was tremendously important... because everybody realised everybody's issues were being thought about. It really helped when it got down to the sticky issues.<sup>19</sup>*

The LPC presented its first report to the Prime Minister on the 18 June 1998. It made a total of 24 recommendations including how to define the wage; that young people (between 16 and 17) and apprentices should be excluded from the minimum wage; that there should be a reduced rate for 18 to 20 year olds; that the rate should start at £3.60 an hour in April 1999, rising to £3.70 per hour in June of 2000; and the enforcement and review mechanisms. Members of the Commission were determined to reach unanimous conclusions – to avoid handing the initiative back to government.

## Decision

The minimum wage was established in the National Minimum Wage Act, which came in to force on 31 July 1998. The act gave a broad definition of an eligible worker, stipulated that there would be no regional variation in the rate, gave workers the right to recover any past underpayment and specified financial penalties for firms which did not comply. Crucially, it also put the Low Pay Commission on a permanent statutory footing with an ongoing remit to make recommendations on the NMW, a move that was initially opposed by the Treasury which wanted to take over the right to set the minimum wage in the future.

Having established the Commission, decisions had to be taken on what to do with its recommendations. Margaret Beckett, President of the Board of Trade at the time, commented at the reunion that it “*was the soundness of the work that the Low Pay Commission did that was so crucial to how easy it was or was not to convince everybody in government...that this was a policy that we could pursue as well as should pursue.*” Beyond the practicalities, Beckett also explained the report’s political role in keeping a lot of proverbial cans of worms closed:

<sup>17</sup> The Low Pay Commission, *The National Minimum Wage: Making a Difference: The Next Steps. Third Report of the Low Pay Commission* (2001).

<sup>18</sup> William Brown, ‘The Operation of the Low Pay Commission’, *Employee Relations*, vol. 24:6 (2002), pp. 595-605.

<sup>19</sup> IfG Policy Reunion.

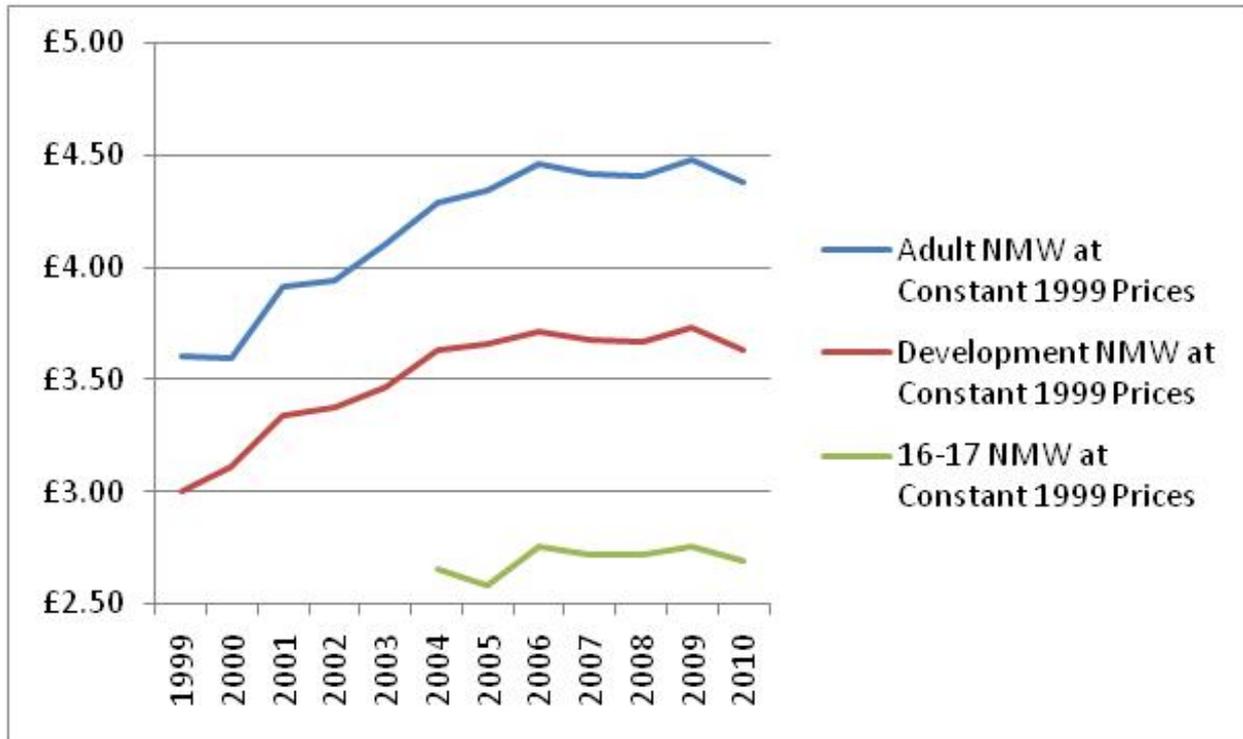
*I did my utmost to persuade my colleagues that we should put through the Low Pay Commissions report entirely unamended. It seemed to me that that was the simple straight forward political choice and it meant that none of my colleagues needed to get involved in the detail...to any great degree. You could say 'the Low Pay Commission has done the work, and they say that this will work, and that's why we have this figure etc etc.'<sup>20</sup>*

The most controversial issue was the youth rate. This was an area where evidence suggested that there could be employment impacts and anything showing that the minimum wage was destroying jobs for young people would be politically disastrous. The intervention of Peter Mandelson, who was a minister in the Cabinet Office at the time, saying that people were “not old” until they were 25 brought the Commission together to assert their independence, but the youth rate proved to be the one area where concessions had to be made to the Treasury. The minimum wage, set at £3.60, and with a rate for workers aged 18-21 of £3.00 finally came into force on 1 April 1999, but there was no minimum wage set for those aged 16-17.

## Implementation

The LPC has now produced 11 annual reports and there have been a series of adjustments to the rates, as well as an introduction of the new 16-17 year old rate in October 2004 and a separate apprentice rate in October 2010. Putting the Low Pay Commission onto a permanent basis meant the minimum wage could evolve over time. At our policy reunion, David Metcalfe, who served on the commission for ten years, noted how the arrangements meant the initial rate could be set low and then increased as it became clear that it was not having damaging effects on the labour market. As the below graph shows, the minimum wage was ratcheted up significantly over time in real terms. Indeed, due to a measurement error in the data being used to make the decision, the original level for the minimum wage turned out to be too low. Initial prediction had been that the £3.60 starting rate would affect two million people. As it happened, when recalculated with better data after the initial introduction of the NMW, only one million were affected. According to Paul Gregg, on the council of economic advisers at the time, Brown's team at the Treasury pushed hard for the adult rate to be increased in the light of this new information. They were influenced in this by the strength of research evidence showing there was little effect on adult employment rates.

<sup>20</sup> IfG Policy Reunion.



Source: Institute for Government – Data from <http://www.statistics.gov.uk/StatBase/tsdataset.asp?vlnk=7172&More=Y>

The national minimum wage made a significant impact at the bottom of the income scale – particularly to women who comprised 70% of the beneficiaries and who were not covered by existing collective bargaining agreements.<sup>21</sup>

The biggest implementation challenge has been on enforcement, which can either be pursued by individual employees or by compliance officers from HMRC. According to Richard Croucher and Geoff White, the Labour government was wary of creating another layer of bureaucracy to enforce the NMW, a “*vast new inspectorate*” in the words of Barbara Roche (PPS to Beckett at the time).<sup>22</sup> Consequently, enforcement efforts are not particularly well resourced. Information on levels of compliance are not available because data sets on pay do not include the relevant information to determine eligibility for the NMW.<sup>23</sup> The best evidence about the extent of non-compliance therefore comes from data on complaints received and enforcement efforts.

<sup>21</sup> Low Pay Commission, *Making a Difference: Third Report of the Low Pay Commission*, vol. one, p. vi.

<sup>22</sup> Richard Croucher and Geoff White, ‘Enforcing a National Minimum Wage: The British Case’, *Policy Studies*, vol. 28:2 (2007), pp. 145-61.

<sup>23</sup> ONS, *Low Pay Estimates* (2010); available at: <http://www.ons.gov.uk/ons/rel/ashe/low-pay/april-2010/index.html>

	2003/2004	2004/2005	2005/2006		2009/2010
Complaints	1,963	1,909	2,100		2,900
Arrears identified	2.5 million	3.7 million	3.3 million		4.4 million

Source: Institute for Government – Data from DTI and Inland Revenue, *National Minimum Wage Annual Report 2004/5* (2005); BIS and HMRC, *Delivering Results: National Minimum Wage Compliance 2009/2010* (2010); and BIS, *National Minimum Wage Compliance Strategy* (2010).

The Employment Act 2008 introduced automatic fines for non-complying businesses. Other recent innovations include a three year £6m awareness campaign and a unified employment rights helpline. At our policy reunion, participants thought there was a missed opportunity to join up enforcement as bad employers in this regard tended to be bad employers across the board.

## Consensus

The Conservative Party bitterly opposed the original minimum wage legislation in acrimonious debates on the floor of the House of Commons. They first signalled that they were planning to drop their opposition to the minimum wage just a month after the NMW came into force; apparently as a part of an attempt to secure the resignation of John Redwood from the shadow cabinet.<sup>24</sup> On 2 February 2000, the Conservative Leader, William Hague, reshuffled his cabinet, removing John Redwood entirely and making Michael Portillo Shadow Chancellor. His first act was to reverse his party's opposition to both the NMW and independence of the Bank of England.<sup>25</sup> Portillo said the party should not be concerned with the NMW *"at the modest level at which it has been set by the government... The minimum wage has caused less damage to employment than we feared"*, pledging instead to improve the way it was administered.<sup>26</sup> The 2001 Conservative Party manifesto, however, made no mention of the minimum wage and it was not until the 2005 election, under the leadership of Michael Howard, that the party made a manifesto pledge to retain the NMW. In the same year, David Cameron, then shadow Secretary of State for Education and Skills, commented that the NMW had *"turned out much better than many people expected, including the CBI"*.<sup>27</sup>

The wider business community also came round to the NMW. In 2000, an Ipsos Mori publication entitled *Business on Blair* included results from a poll of 210 employers, which suggested the

<sup>24</sup> Nicholas Watt, 'Redwood out in the cold as Tories back minimum wage', *The Guardian* (29 May 1999), available at: <http://www.guardian.co.uk/politics/1999/may/29/uk.politicalnews1>

<sup>25</sup> 'Tories deny Portillo-Hague deal', *BBC* (9 February 2000), available at: [http://news.bbc.co.uk/1/hi/uk\\_politics/636384.stm](http://news.bbc.co.uk/1/hi/uk_politics/636384.stm)

<sup>26</sup> Patrick Barkham, 'Portillo transforms Tories' economic outlook', *The Guardian* (3 February 2000), available at: <http://www.guardian.co.uk/politics/2000/feb/03/thatcher.uk3>

<sup>27</sup> Cited in Alan Manning, *The UK's National Minimum Wage* (2009); available at: <http://cep.lse.ac.uk/pubs/download/cp290.pdf>

minimum wage was supported by 53% of businesses.<sup>28</sup> By 2006, a survey found three quarters of employers were in favour of the minimum wage.<sup>29</sup>

When asked about what could have been done better, participants at our policy reunions identified some important issues. First was the treatment of London, where the minimum wage was “irrelevant” (a fact now reflected in the campaign for a London living wage). Another concern was that although the NMW put a “*plimsoll line*” floor under the labour market (and was a critical enabler of the attack on poverty and of the introduction of tax credits), it did nothing to tackle the issue of people stuck on low wages – one effect of the NMW was to remove or reduce the possibility of progression. There were also issues about the poor quality of the data on which decisions had to be made. It was also notable that the social partner model on which the Low Pay Commission was based was not extended to other areas such as the Working Time Directive. More generally, there was a concern about the risk that the NMW may be eroded in coming years despite apparent consensus with pressure for regionalisation or exemption of small businesses or a reduction in enforcement.

## Reflections

There are a number of interesting lessons for policy makers from the introduction of the national minimum wage:

The first is the importance of creating a context for action. The extended public campaign by the Low Pay Unit, National Union of Public Employees (NUPE) and others changed attitudes within the labour movement. It was a sign of the times that the Labour Party’s ‘fat cats’ campaign resonated with people and helped create wider support for action on low pay. This was backed up by academic research which not only highlighted the low pay in various occupations, but also dispelled the Conservative Party’s concerns about the impact on jobs.

The second is the willingness to learn from history. Labour had been burned over the national minimum wage in 1992 with an inflexible formula that laid it open to charges of economic irresponsibility. The new more flexible approach was important both to getting important groups on board before the election, but also reduced its vulnerability on the issue.

The third notable feature is the extensive preparation done in opposition by the Labour front bench team to both prepare the detail of the proposals and be able to capitalise on the political momentum of the Labour victory and also to prepare the political ground which paved the way for business support. This included the reframing of the issue into a wider economic and social justice context and positioning low pay as an issue about abusive employment practices which undermined other businesses. This preparation not only meant the minimum wage was not a

<sup>28</sup>All the businesses in the sample had more than 200 employees. For further details, see: <http://www.ipsos-mori.com/researchpublications/researcharchive/1475/Business-On-Blair.aspx>

<sup>29</sup>IfG Policy reunion.

contentious issues in 1997 in the way it had been in the 1992 election, but also enabled the government to get legislation establishing the Low Pay Commission into their first Queen's speech.

The move from a commitment to a specific level for the national minimum wage, the institutional innovation of the creation of an independent Commission, with high quality Chair, commissioners and secretariat, allowed the minimum wage to be set in a consensual way. It defused potential opposition in advance of the election – and then made it easier to implement the proposals when made. This was underpinned by the strength of the analytic base it developed. Moreover the decision to put the Low Pay Commission on a permanent statutory basis enabled it to adopt an incremental and adaptive approach as it could solve issues over time and could start with relatively modest proposals and see the impact and then adjust. The Commission also allowed the many difficult technical issues to be dealt with over time. John Cridland told us that this adaptive approach was crucial for the business community because it would stop the minimum wage becoming a “*political football*”, which might be subject to large and unpredictable movement on the basis of political considerations.<sup>30</sup>

Ministers at the Department of Trade and Industry also played a very significant role in driving through the initial proposals and then protecting the integrity of the Commission's proposals, not least preventing too much interference by their colleagues. That gave the LPC credibility and independence. What was notable too was the division of labour between DTI ministers – with Ian McCartney focusing on the detail and Margaret Beckett as Secretary of State playing a more strategic role with her colleagues.

George Bain, Chair of the Commission, had previously served on the decidedly unsuccessful Bullock Committee on industrial representation in the 1970s. Reflecting on the differences between the Bullock Commission, which ended in failure and the success of his own, he drew out the critical success factors that made all the difference.<sup>31</sup> The first is that there was consensus among the unions for the LPC report, but not for Bullock, which was an important precondition for achieving broader inter-group consensus. The second crucial difference was that the LPC had incentives to agree a unanimous line to maximise the chances of having their report accepted by the government; the alternative being that the Treasury set the minimum wage more or less unilaterally. The reunion participants noted how George Bain would carefully remind them of this during periods of real disagreement. The third difference was that fewer of the commissioners were leaders of their organisation, meaning they were not rigidly bound by a corporate line.

Over a period of thirty years, the minimum wage went from an intervention unwanted by most of the labour movement and employers into a policy accepted by all major political parties and both sides of industry, which has benefitted significant numbers of the lowest paid workers.

<sup>30</sup> Interview with author (July 2011).

<sup>31</sup> George Bain, *The Bullock Committee and the Low Pay Commission: Some Reflections* (2001); available at: [http://www.instituteforgovernment.org.uk/pdfs/sir\\_george\\_bain\\_minimum\\_wage\\_speech.pdf](http://www.instituteforgovernment.org.uk/pdfs/sir_george_bain_minimum_wage_speech.pdf)

## List of Participants at Policy Reunion

<b>Name</b>	<b>Role at the time</b>
Rt. Hon. Margaret Beckett MP	President of the Board of Trade 1997-1998
Sir George Bain	First Chair of the Low Pay Commission, (1997-2002)
Sir Ian McCartney	Shadow Employment Minister (1994-1997), Minister at Department for Trade and Industry (1997-1999)
Rodney Bickerstaffe	President of TUC (1992), General Secretary of UNISON (1995-2000)
Dan Corry	Senior Economist IPPR 1992-1997, Special Adviser DTI and DTLR (1997-2002)
Geoffrey Norris	Special Adviser (Business), Number 10 Policy Unit (1997-2008)
Sir Bill Callaghan	Chief Economist and Head of the Economic and Social Affairs Department at the Trade Union Congress, Commissioner, Low Pay Commissioner (1997-2000)
John Rhodes	First Secretary of the Low Pay Commission
Chris Pond	Director of the Low Pay Unit (1980-1997), Chair, Low Pay Unit (1997-1999)
Dr Martin Lodge	Department of Government, LSE – Academic Discussant

# Scottish Devolution (1997-9)

## Starting Point

According to the philosopher George Santayana's well-known maxim, "*those who cannot remember the past are condemned to repeat it*".<sup>1</sup> More than most, politicians and civil servants are often thought to be weak at learning the lessons of past failures, but in the case of Scottish devolution there was a real determination not to repeat the experience of the late 1970s. While the failure of the policy had acted as the catalyst that brought down the Callaghan government, twenty years on, Scottish devolution became one of the big successes of the Blair government. Rather than starting from scratch, policy makers reflected on not only what must be done differently, but also what elements should be retained from previous attempts. It was a process that heeded another Santayana phrase: "*progress, far from consisting in change, depends on retentiveness*".<sup>2</sup> Although no policy development was undertaken on devolution by the government during the eighteen years of Thatcher-Major rule, this time was used by supporters of devolution led by the opposition Labour and Liberal Democrat parties to develop a blueprint that was effectively implemented after the change of government. This case study looks at how the proponents of Scottish devolution prepared the ground and turned an opposition commitment for major constitutional change into a practical and durable policy success.

## Policy background

While there had been repeated calls for devolution in Scotland, resentment at being governed from London tended to fluctuate. Post-war decline of industry, along with the break-up of an Empire that had helped forge a sense of Britishness, provided impetus to the political fortunes of the Scottish National Party (SNP). Having seen support grow considerably during the 1960s, the SNP made a significant electoral breakthrough when Winnie Ewing won the 1967 Hamilton by-election. At the time, Ewing famously declared: "*Stop the world, Scotland wants to get on.*"<sup>3</sup> More generally, the fortunes of the SNP appeared to be on the rise; while the party had won 16% of the vote and gained 23 seats at the May 1967 municipal elections, it claimed a 30% vote share and more than 100 seats at the following year's local council elections.<sup>4</sup> These results not only raised the SNP's profile, but also led both the Conservative Party and the Labour Party to reassess their views on Scottish devolution.

<sup>1</sup> George Santayana, *The Life of Reason*, vol. one (1905), cited in John McCormick, *George Santayana: A Biography* (New Jersey: Transaction Publishers, 2003), p. 144.

<sup>2</sup> Ibid.

<sup>3</sup> Winnie Ewing, *Stop the World: The Autobiography of Winnie Ewing* (Edinburgh: Birlinn, 2004), p. 276.

<sup>4</sup> J. G. Kellas, *The Scottish Political System* (Cambridge: Cambridge University Press, 1989), p. 133.

The changing electoral fortunes in Scotland and the election of Plaid Cymru's first MP in 1966 persuaded Prime Minister Harold Wilson to set up the Royal Commission on the Constitution (also known as the Kilbrandon Commission) in April 1969. Its remit was to consider a wide range of options for the future structure of UK government. During this period, even the Conservative Party flirted with the idea of devolution. Edward Heath's speech to the Scottish Conservative Conference at Perth, in May 1968, proposed a directly elected Scottish assembly. But, once in power, the party changed tack. When the final report of the Kilbrandon Commission was published in October 1973, it rejected independence or a federal solution, but did recommend devolved assemblies in Scotland and Wales elected by a system of proportional representation, as well as regional advisory boards for England. However, the recommendations of the Commission were not unanimous and two members published a minority report that advocated more powers to be invested in the proposed assemblies. Despite these pro-devolution verdicts, Heath's government decided against taking any of the proposals further.

The discovery of significant oil and gas fields in the North Sea in the 1970s reinforced electoral support for Scottish nationalism. This allowed the SNP to counter the argument that Scotland benefitted economically from the Union, in effect being subsidised by English taxes, and helped make the argument that an independent Scotland could be economically viable. The SNP adopted the slogan "*It's Scotland's oil*" at the October 1974 general election. It proved a successful campaign strategy and the party secured 839,000 votes, coming second in the popular vote, not far behind Labour, who received a million votes, and ahead of the Conservative's 681,000.

In the wake of these developments, there were divisions within the Labour Party about how to proceed. Labour's Scottish Executive Committee voted against a set of proposals for an elected assembly by six votes to five, but this was overturned by a conference of the UK wide Labour Party in August 1974. So, while devolution had not featured in Labour's February 1974 manifesto, it did appear in Labour's October 1974 election manifesto. Although there had always been an element of the Labour Party who had favoured devolution, as James Mitchell has suggested, this was a significant and controversial change in policy: "*Electoral pressure and expediency led Labour to support Scottish home rule which sat uneasily with the party's support for a strong central state, central demand management, and the provision of equal rights and benefits across the state.*"<sup>5</sup> By the time James Callaghan became Prime Minister, in April 1976, he felt a significant shift in attitude had taken place: "*A seemingly unstoppable sentiment developed that Whitehall decision-making should be replaced by Scottish control of Scotland's economy, achieved through devolution of power from Westminster to Edinburgh.*"<sup>6</sup> Callaghan's government introduced a Scotland and Wales Bill, but it faced considerable opposition in Parliament and the legislation became mired in a series of amendments designed to scupper the whole bill. On 22 February 1977, the government introduced a guillotine motion to bring proceedings on the bill to a close. However, the government lost the vote by twenty-nine votes and, in response, the bill was withdrawn.

<sup>5</sup> James Mitchell, 'The Creation of the Scottish Parliament: Journey without End', *Parliamentary Affairs*, vol. 52:4 (1999), pp. 649-650.

<sup>6</sup> James Callaghan, *Time and Chance* (London: Collins, 1987), p. 504.

Despite this embarrassing defeat, devolution remained a government priority as it represented a key area of agreement with the Liberal Party. When Labour lost its majority in the Commons, it found a short-lived solution by signing the Lib-Lab Pact in March 1977. The devolution package was reintroduced, although this time as separate Bills for Scotland and Wales, at the beginning of the following parliamentary session in November 1977. In the interim, detailed negotiations were carried out between John Smith, Minister of State at the Privy Council Office, and David Steel, the leader of the Liberal Party. Yet, when the new Bills were introduced to Parliament, the government was soon facing more difficulties. George Cunningham, a Labour MP who was opposed to devolution, successfully introduced an amendment that decreed if the consultative referendum resulted in less than forty per cent of the electorate backing devolution, then the Secretary of State for Scotland would be required to lay an order before Parliament that withdrew the whole Act. This provision proved decisive when the referendum was eventually held, as a majority voted in favour but failed to clear the forty per cent threshold.<sup>7</sup> According to Vernon Bogdanor, the Cunningham amendment “*has some claim to be the most significant backbench initiative in British politics since the war for it played a crucial part in securing the repeal of the Scotland Act, depriving the Scots of an Assembly for which a majority had voted*”.<sup>8</sup> It also precipitated the downfall of Callaghan’s government, as a motion of no-confidence was placed before the House and carried by one vote. At the subsequent general election, the Conservative Party secured victory. One of Margaret Thatcher’s first acts as Prime Minister was to repeal the Scotland and Wales Acts.

Despite the debacle of the referendum, disenchantment north of the border and talk of devolution did not disappear. Eighteen years of Conservative government at Westminster only heightened the sense of Scottish difference and public demand for a new constitutional settlement. In particular, the introduction of the Poll Tax in Scotland before the rest of the UK was hugely divisive. The resulting demonstrations and non-payment not only hastened the demise of this policy, but also galvanised opposition to Tory rule in Scotland. The Conservatives saw a rapid decline in the party’s number of Scottish MPs (from 22 in 1979 to 10 in 1987) and many disgruntled Scots felt the party had no mandate to govern their country. In her memoir, Margaret Thatcher acknowledged that her policies had rarely been welcomed in Scotland: “*There was no Tartan Thatcherite revolution.*”<sup>9</sup>

Under Thatcher’s leadership, the Conservative Party had reasserted its staunch Unionist position, ruling out any form of devolved regional assembly, and there was no change in direction when John Major took over as Prime Minister. He was particularly concerned about Scotland “*sliding away to independence through the halfway house of devolution.*”<sup>10</sup> Indeed, in 1992, Major decided “*to make the defence of the Union the key theme of the election campaign*”.<sup>11</sup> After securing what had seemed an unlikely electoral victory, in which the Tories increased their Scottish representation from nine to eleven MPs, Major launched a listening exercise that resulted in the 1993 White Paper *Scotland in the Union: A Partnership for Good*. These proposals fell short of establishing a Scottish Parliament,

<sup>7</sup> On the same day, the Welsh voted decisively by 80% to 20% against devolution.

<sup>8</sup> Vernon Bogdanor, ‘The 40 per cent rule’, *Parliamentary Affairs*, vol. 33:3 (1980), p. 249.

<sup>9</sup> Margaret Thatcher, *The Downing Street Years* (London: Harper Collins, 1993), p. 618.

<sup>10</sup> John Major, *John Major: The Autobiography* (London: Harper Collins, 1999), p. 415.

<sup>11</sup> *Ibid*, p. 424.

but they did recommend devolving more functions to the Scottish Office and more powers to the Scottish Grand Committee in order to provide more parliamentary time for Scottish bills and challenge contentious legislation. Meanwhile, for Labour, the party's attitude to genuine devolution was still being keenly discussed, especially since it was seen as important in fending off the potential threat from the Scottish National Party. But key figures within Labour had already recognised that this time the process had to be built from the ground up and would have to be done differently to in 1979.

## Initiation

After the defeat of devolution in the 1970s, it was recognised that any attempt to revive the process needed to be led from Scotland rather than Westminster. In particular, the Scottish Constitutional Convention (SCC) played a leading role by creating a blueprint for change that was developed in Scotland and was "*strongly rooted in the elite of Scottish civil society*".<sup>12</sup> The SCC grew out of the Campaign for a Scottish Assembly, a cross-party organisation set-up on the first anniversary of the failed referendum. The Convention was a broad-based coalition that included representatives from political parties, local authorities, trade unions and small businesses, Churches, Women's Forum Scotland and the Racial Equality Council. This approach was important for fostering a spirit of inclusion, democratic dialogue and consensus building. In the words of John Smith to the Constitutional Convention, a Scottish Parliament would reflect the "*settled will of the Scottish people*".<sup>13</sup> However, the Conservative Party refused to take part and, although initially supportive of the proposal, the SNP withdrew before the Convention's first meeting on the grounds that independence was not being discussed as an option. At this inaugural gathering on 30 March 1989, the members signed a 'Claim of Right', which declared the sovereign right of the Scottish people to determine the form of government in their country and pledged to devise a scheme for a Scottish Assembly or Parliament. Over the next seven years, the SCC produced several reports outlining the principles and practicalities of Scottish devolution, and these efforts culminated with the publication of *Scotland's Parliament. Scotland's Right* in 1995.

Despite the broad membership of the Convention, politicians remained integral to the process. The SCC's diversity was in many ways the campaign's greatest strength, but it also created difficulties in gaining a consensus and moving the discussion forward. When the Convention could not reach an agreement on key issues, Labour and Liberal Democrat leaders would come together outside to fashion a compromise. While the Convention was a truly Scottish initiative, the Labour leadership in London were also kept in touch with the process. Indeed, devolution was a key project for many leading Labour figures – Donald Dewar had been working on it for decades; it was close to the heart of John Smith as Labour leader and the commitment was kept intact as part of the "*inheritance*" when Tony Blair became leader – a contrast to many other areas where there were fundamental policy reviews. The political commitment of all these figures was crucial in sustaining momentum and then finally bringing the policy to fruition. Furthermore, according to Wendy Alexander (who

<sup>12</sup> Institute for Government, Policy Reunion on Scottish Devolution (30 March 2011); details available at: <http://www.instituteforgovernment.org.uk/our-events/97/policy-reunion-scottish-devolution>

<sup>13</sup> Cited in Gary Hassan, *The Scottish Labour Party* (Edinburgh: Edinburgh University Press, 2004), p. 47.

was working as an adviser to Donald Dewar at the time), there was a sense throughout the process "that everybody was playing to their strengths."<sup>14</sup>

In the 1997 general election campaign, John Major was once again determined to turn the potential breakup of the Union into a central issue. As his autobiography reveals, Blair held some reservations about devolution, but viewed a Scottish Parliament as a necessity:

*I was never a passionate devolutionist. It is a dangerous game to play. You can never be sure where nationalist sentiment ends and separatist sentiment begins. I supported the UK, distrusted nationalism as a concept, and looked at the history books and worried whether we could get it right. However, though not passionate about it, I thought it was inevitable.*<sup>15</sup>

Despite these reservations, Blair made devolution a flagship policy of his new administration. Unlike other major policy areas, where Blair used the run up to the election to go through and change policies which opened up potentially vulnerable flanks, he had accepted devolution as an aspect of the legacy from John Smith's tenure. The fact that John Major delayed the election to the last possible date, May 1997, allowed time for six months of talks between Labour's Robin Cook and the Liberal Democrat Bob McLennan, which laid the ground for cross-party agreement on how to proceed. Pat McFadden, an adviser who worked on devolution while Labour was in opposition and then at No. 10, has suggested Blair liked the fact that devolution was essentially a Lib-Lab project. The process appealed to his pluralistic tendencies, as it demonstrated that rival parties could work together in areas of common interest and on subjects of national importance.

As Labour committed itself to a radical programme of constitutional reform, the party looked for expert advice on how to put such changes into practice. The Constitution Unit (CU), staffed predominantly with former civil servants, analysed the proposals emerging from the SCC and set about making them implementable. The CU's report *Scotland's Parliament: Fundamentals for a New Scotland Act*, produced in June 1996, did a lot of detailed work on areas including the intergovernmental machinery, how to manage intergovernmental relations and on the EU. It was given extra credibility due to the fact that a Scottish Advisory Committee chaired by Sir William Kerr Fraser (a former Permanent Secretary to the Scottish Office) and Professor Gavin McCrone (a former government economist) acted as advisers. The CU work led to two big changes being put on the agenda – the idea of a pre-legislative referendum, driven by separate work the CU were doing on Wales (where devolution had failed by such a wide margin in 1979 that it did not seem worth the effort of producing detailed legislation if it was going to again be rejected by the electorate) and, secondly, the idea that the devolution legislation should mirror the 1920 Government of Ireland Act, which set out the powers reserved to Westminster and devolved everything else. The CU networked these proposals extensively with the Scottish Office, the Cabinet Office and government lawyers.

The civil service preparations for devolution were well advanced even before Labour's landslide victory. In part this was a result of the work done by the CU, but the civil service were also well

<sup>14</sup> IfG Policy Reunion.

<sup>15</sup> Tony Blair, *A Journey* (London: Hutchinson, 2010), p. 251.

aware that they needed to prepare for what was a major policy commitment of the likely next government. The Scottish Office, under Secretary of State Michael Forsyth, spent a lot of time on devolution as he was in the vanguard of opposition to it – and that meant they became very familiar with the issues. Indeed, the then Permanent Secretary, Muir Russell, had been in charge of the Cabinet Office preparations for devolution in the event of a change of government in 1992. By the time of the next election, the CU's report *Scotland's Parliament* was much read in the Cabinet Office where Kenneth Mackenzie and Bill Jeffrey in the secretariat "*carved it up into manageable chunks*" to start working out how they would take the issues through Whitehall.<sup>16</sup> In particular, reflecting on the CU's significant contribution, Muir Russell pointed out that the reserved powers proposal guaranteed that the eventual settlement amounted to "*real and sustainable devolution*".<sup>17</sup>

## Options

As plans were drawn up for a new constitutional settlement, debate centred on how much of the Convention's blueprint would be translated into the final legislation and what measures were necessary to successfully implement this policy. The SLP did not see a need for any referendum, regarding a manifesto commitment and election victory as sufficient mandate for action. However, Tony Blair regarded it as crucial, both to entrenching the policy but also demonstrating that devolution was not a threat to the Union. In June 1996, he proposed a twofold departure, not only pre-legislative endorsement by the Scottish people in a referendum, but also that tax varying power (of up to three pence on the basic rate of income tax) should be included as a separate question in the referendum. The effect of this commitment was to diminish the force of devolution as an election issue. However, in Scotland, the announcement of the referendum was considered a sudden U-turn. As Pat McFadden recalled, "*this was viewed as something of a betrayal because of the history of the George Cunningham amendment*" and the referendum was "*seen not as a way of endorsing the package but of stopping it*".<sup>18</sup> George Robertson, Shadow Secretary of State for Scotland at the time, described the decision to go for a referendum as "*one of the worst periods of my political existence*".<sup>19</sup> Yet, Tony Blair regarded it as a critical protection for him and for the government. As he later acknowledged, it was designed to ease the passage of the Bill through the House of Lords: "*The strategy was clear: to devolve after a hundred years of waiting. The tactic was obvious: get the people to say yes, then the Lords could not say no.*"<sup>20</sup> An additional benefit of this approach was that having secured the explicit backing of the Scottish people for this fundamental constitutional change, it would be politically inconceivable to reverse without holding another referendum.

A further difference within the Labour Party related to how much of the devolution package should remain open for debate. Wendy Alexander pointed out that the difference could be summed up as the SLP believing the 1997 general election constituted a vote for "*the*" Scottish Parliament

<sup>16</sup> IfG Policy Reunion.

<sup>17</sup> IfG Policy Reunion.

<sup>18</sup> IfG Policy Reunion.

<sup>19</sup> Interview with IfG (March 2011).

<sup>20</sup> Blair, *A Journey*, p. 252.

whereas Tony Blair and Donald Dewar took the election result as an endorsement of “a” Scottish Parliament, with the detail still up for discussion and needing scrutiny through normal Westminster processes, though Donald Dewar would see his role as maintaining the integrity of the SCC scheme in those discussions. There were other issues which were hard for some Labour members to accept, such as the adoption of a form of proportional representation (which meant that having waited for power, Labour was making it unlikely it would ever have a majority in Holyrood) and the reduction in Scottish representation at Westminster. These measures showed the extent to which Dewar and Blair “were both Labour pluralists” and did not want devolution to be viewed as “a tribal payoff to the Scots for sticking with Labour for all those years”.<sup>21</sup> With this in mind, George Robertson saw as critical the decision not to subject the Convention’s blueprint to the normal national policy forum process:

*Getting the national party to agree that they would not change or even suggest they would look at the package from the Convention... was one of the biggest successes of all. If I had lost that battle... it would have been seen to have the London stamp on it, it would have undermined the integrity of the process we had done.*<sup>22</sup>

Nevertheless, while the principles from the Convention remained largely intact, details about the implementation were inevitably influenced by party dynamics. Devolution was the subject of Labour’s only formal Shadow Policy committee, which included many who were sceptical about the proposals and provided an internal forum in which to hammer out a consensus on a range of contentious questions. Outside expertise also played a vital role. When considering the need for a referendum and discussing the benefit of reverse powers, in the view of Wendy Alexander, the “Constitution Unit helped build an understanding of the issues involved”.<sup>23</sup> Indeed, the CU’s activities filled a gap of experience on the workings of the machinery of government that was inevitable for a party that had been in opposition for eighteen years. Following the release of the CU’s report, Labour published the *Road to the Manifesto* two days later with the inclusion both of the pre-legislative referendum and the reverse powers proposal.

One of the most striking things about Scottish devolution was what was left out. In the words of Jim Gallagher, a senior civil servant in the Scottish Office, there was a “willingness to tolerate small, unanswered questions and a capacity to leave some things untidy”.<sup>24</sup> In particular, the West Lothian question was sidelined by the decision to reduce the number of Scottish MPs at Westminster from 72 to 59. This measure was considered a partial solution to Scotland’s historic over-representation, but it did not represent a solution to the intrinsic problem posed by Tam Dalyell’s original question about Scottish MPs being able to vote on English laws when the reverse would no longer be possible. In terms of funding, the Barnett formula that determined the annual Scottish block grant was left untouched. In addition to this settlement, the Scottish Parliament was given the ability to raise the basic rate of income tax by three pence in the pound, but no power over other taxes levied by central government. However, there was still a need to produce a lasting settlement and not risk

<sup>21</sup> IfG Policy Reunion.

<sup>22</sup> Interview with author (March 2011).

<sup>23</sup> IfG Policy Reunion.

<sup>24</sup> IfG Policy Reunion.

a recurring debate over these same issues. In contrast to 1979, the Bill outlined those powers which were to be reserved for Westminster decision-making. While previous attempts had become bogged down when attempting to list the powers to be transferred, legislation listed only the areas that Westminster retained control over such as the constitution, macroeconomic management, foreign affairs and defence.

## Decision

In the build up to the 1997 general election, with a Labour victory looking increasingly likely, Whitehall had set about planning how best to implement devolution. A decision had been made in 1992 that any devolution proposals would be led by the territorial departments, the Scottish and Welsh Offices, but driven through from the centre with a strengthened Cabinet Office. The groundwork done in 1992 laid the foundations for what was set in place in 1997 and the Cabinet Office also looked into what went wrong on devolution in the 1970s. In possible anticipation of devolution being a key topic for a newly elected government, a Scot, Kenneth MacKenzie had been put in charge of the Cabinet Office's Economic and Domestic Affairs secretariat in the mid-1990s. He had already established his Whitehall credentials by handling the BSE crisis. In his view, Whitehall's managing of devolution had to strike a careful balance: "*this was not to be run from the centre, on the other hand, it wasn't to be encouraged to run very far from the centre.*"<sup>25</sup>

There was no devolution team in place under the Conservatives, but the Cabinet Office held informal talks in the weeks before the election to identify people who would move over to the Cabinet Office to work on devolution in the event of a Labour victory. This group, described by Lord Irvine as "*the brightest and the best*" in Whitehall, were sworn to secrecy and did not meet until after the election.<sup>26</sup> In the lead up to the election, there was an assumption within the civil service that there would be great difficulties getting this legislation through Parliament. According to Robin Butler (Cabinet Secretary at the time), the "*whole area of devolution was a tremendous source of anxiety to us*".<sup>27</sup> Given the protracted difficulties encountered in the 1970s, this was hardly surprising, especially as few would have foreseen the size of Labour's eventual majority. Moreover, although there had been internal civil service preparations, there had been relatively little opportunity to engage on the subject with the Labour Party and a good working relationship with incoming ministers would prove essential to the next stage of the process.<sup>28</sup>

When Labour took power in 1997, there was still no guarantee that commitment to devolution would smoothly translate into legislation. Skilful and dedicated leadership was now required. Overseeing the delivery of the policy was Donald Dewar, who was appointed Secretary of State for Scotland and acted as a strong advocate of devolution within the Cabinet. In this respect, Dewar's

<sup>25</sup> IfG Policy Reunion.

<sup>26</sup> IfG Policy Reunion.

<sup>27</sup> IfG Policy Reunion.

<sup>28</sup> Peter Riddell and Catherine Haddon, *Transitions: Preparing for Changes of Government* (London: Institute for Government, 2009), pp. 46-48; Peter Jones, 'His Obedient Colleagues', in Wendy Alexander (ed.), *Donald Dewar: Scotland's first First Minister* (Edinburgh: Mainstream Publishing Company, 2005), pp. 119-24.

previous experience as Chief Whip was hugely valuable. On his first day as Secretary of State, Dewar was presented with a black book of key decisions to be made that weekend, to prepare him for the first meeting of the Cabinet Committee on Devolution to Scotland, Wales and the English Regions (DSWR) on the following Tuesday. Over the coming months, Dewar forged an effective partnership with Derry Irvine, the Lord Chancellor, who chaired the DSWR, which he had been asked to chair along with the other constitutional reform Cabinet Committees. His instruction was to get devolution through quickly; if possible, by the summer. He had conveyed the same instruction to Robin Butler at a meeting that took place a few days before the General Election. Decisions were taken at such speed that departments were taken off guard.

According to those present at our policy reunion, what happened was a “*guerrilla raid on Whitehall*” with the Scottish and Welsh Offices, for whom this was the top policy priority, working with the Cabinet Office secretariat to push decisions through before the naysayers in the rest of Whitehall could start to mount objections. All in all, the Committee, which comprised a large number of secretaries of state and important junior ministers, had 15 meetings, lasting two hours each, in 11 weeks and considered 39 papers in that period. It needed to get agreement on every detail of the referendum, and then of the legislation. The Scottish Office saw its role as continually “*rolling the pitch*” with Whitehall to enable pace to be maintained though there was still a feeling in Whitehall that they should not “*be letting the Scots get away with this*”. The Cabinet Office Secretariat also maintained strong links into No.10 through Pat McFadden.<sup>29</sup>

The Committee had to consider the nature of devolution; whether the legislation should provide a Unionist sop of a declaration that the power of Westminster was undiminished, as well as settling the issues of dispute resolution, the West Lothian question, EU relations, tax varying powers and budget issues. Some Scots on the Committee were “*sotto voce*” in voicing departmental concerns. DSWR was unwilling simply to rubber stamp the Convention blueprint and both Donald Dewar and Derry Irvine saw merits in getting endorsement from a UK government cabinet committee – and Irvine thought that that process produced a “*superior product able to withstand Parliamentary scrutiny*” though George Robertson saw the big success as maintaining the integrity of the SCC package. The two departures from the Convention were on the holding of a pre-legislative referendum and the inclusion of a separate question about tax varying powers. The positive referendum results gave considerable momentum to implementing the legislation as it was easy to point to the declared will of the Scottish people.

## Consensus

During eighteen years of Conservative rule, when discussion of Scottish devolution could have easily disappeared off the political radar, the Scottish Constitutional Convention acted as the principle forum for building consensus around the subject. By bringing together a wide range of political and organisational actors, who had their own specific priorities, the SCC inevitably involved compromise on all sides and this helped legitimise the process. Nevertheless, partisan

<sup>29</sup> IfG Policy Reunion.

politics continued to play a part in proceedings. The Conservative Party refused to join the SCC as a matter of principle and designated themselves as defenders of the Union. Meanwhile, the SNP quickly pulled out of the Convention on the grounds that independence was not being considered and, moreover, seeing devolution as a Labour ploy designed at reducing their support. The remaining representatives managed to agree the principles of an initial devolution package in 1990, but a number of issues still remained unresolved by the 1992 General Election.

Yet, after the further setback of John Major's victory, there was disillusionment with no immediate prospect of significant constitutional reform, the SCC lost momentum and did not meet for a year. Once re-established, the Convention began detailed negotiations over contentious issues such as the electoral system and the gender balance of a future Scottish Parliament, as well as the constitutional relationship that would exist between parliaments in Edinburgh and Westminster.<sup>30</sup> In particular, by agreeing that a form of proportional representation should be used in elections, Labour signalled their commitment not only to work with other parties in the short-term, but also to establish a new type of politics in Scotland, where 'power-sharing' – later formalised as one of the four guiding principles of the Scottish Parliament – would be the norm.<sup>31</sup> However, although the SCC promoted a less partisan approach, political considerations were still evident. Indeed, any electoral system designed so no single party was likely to form a majority government, it could be argued, was simply intended to prevent the SNP from gaining outright control and pushing through a referendum on independence. Of course, the 2011 Scottish election results demonstrated that any such calculations were misconceived.

Labour's landslide victory in 1997 allowed devolution to ride on the new government's wave of optimism, but arguments still had to be won inside government. While acknowledging the historical importance of the SCC, Derry Irvine has noted that "*there was, in fact, no seamless transition from Convention to Statute*" and "*every detail was debated closely*" in the DSWR.<sup>32</sup> Yet, as John Sewel has explained, Donald Dewar managed to build a consensus within the Cabinet and drafted a White Paper that made a convincing case for devolution "*which in essence would survive all the way through to the final Act.*"<sup>33</sup> By the time the referendum was held in September 1997, the SNP had come on board; having decided that devolution could provide a stepping stone to full independence. The final results showed the majority of Scottish people were in no doubt about self-government, as 74.3% voted in favour of a Parliament and 63.5% endorsed tax-varying powers (with a very healthy 60.4% turnout). When Dewar launched the Bill in Glasgow, two months later,

<sup>30</sup> For an overview of the Convention during this period and an account of these deliberations, see Peter Lynch, 'The Scottish Constitutional Convention, 1992-5', *Scottish Affairs*, vol. 15 (1996), pp. 1-16.

<sup>31</sup> The SCC proposed to establish a Scottish Parliament with 129 SMPs, with 73 elected by first by the post and a further 56 elected proportionally on the basis of regional lists.

<sup>32</sup> IfG Policy Reunion.

<sup>33</sup> John Sewel, 'Getting the Act Together', in Wendy Alexander (ed.), *Donald Dewar: Scotland's first First Minister* (Edinburgh: Mainstream Publishing Company, 2005), p. 132.

he described it as a “*genuinely historic document*” and he drew particular attention to clause one, subsection one: “*There shall be a Scottish Parliament.*”<sup>34</sup>

## Reflections

Looking back on Scottish devolution, the critical success factors stem from a willingness to learn lessons from the failure of devolution in the 1970s. These were, firstly, that the Bill proposed in 1979 was seen as a scheme that had been developed exclusively in Whitehall. Secondly, the nature of devolution proposed – with specific powers only devolved – had been viewed by some as too limited. In addition, the decision to opt for endorsement through a referendum after legislation had passed proved costly. The process was seen in Scotland as too top down, Westminster and Whitehall driven, and therefore to be lacking legitimacy. Three ministers were responsible at different times, which compounded the political problem, and it was seen as highly party political which contributed to the referendum failure. More generally, devolution was the act of a government that had lost its majority and was coming to the end of its term. In the words of George Robertson: “*The referendum campaign was a miserable campaign: the Scottish [Labour] Party wasn’t united... key people were opposed to it and campaigning against it... People were voting against the Government as well as against devolution.*”<sup>35</sup>

In contrast, the positioning of devolution in the 1990s as a Scottish project, developed by Scottish civil society through the Constitutional Convention on a cross-party basis, was a key step. As George Robertson noted: “*The actual achievement of getting agreement in the Scottish Constitutional Convention cannot be underestimated... People felt they were part of the process, and when it was signed, it was owned by people. That was a great lesson for me. It was hugely difficult, time consuming and laborious, but ultimately it was a guarantee of success.*”<sup>36</sup> Nonetheless, outside expertise also played an important role. The Constitution Unit worked with both politicians and the civil service to come up with options to make devolution more palatable north and south of the border. Tony Blair’s judgment to resist the Scottish Labour Party and insist on a referendum, and the decision to go for a pre-legislative referendum which gave political momentum to the eventual Bill, were both astute strategic moves that paid dividends in the long-term. Meanwhile, detailed preparations in opposition, including the Cook-McLennan talks, enabled the new Labour administration to move into action immediately after it was elected.

While the new constitutional settlement has been generally accepted, it is noticeable that some difficult issues were left unresolved. In part, this stemmed from a willingness to seek consensus and ignore potential discord. Moreover, in Pat McFadden words, “*some dogs didn’t bark*” at the time. In particular, the chance to resolve concerns over perceived Scottish overprovision and put funding on a more sustainable basis were not taken. With the benefit of hindsight, this now appears a missed

<sup>34</sup> Murray Ritchie and Robbie Dinwoodie, ‘There Shall be a Scottish Parliament Consensus’, *The Herald* (19 December 1997), available at: <http://www.heraldscotland.com/sport/spl/aberdeen/there-shall-be-a-scottish-parliament-consensus-1.363999>

<sup>35</sup> Interview with the author (March 2011).

<sup>36</sup> *Ibid.*

opportunity to tackle the financial settlement in relatively benign economic circumstances. In the current era of declining expenditure, this thorny issue may well introduce new tensions between London and Edinburgh, and is undoubtedly a “doorstep issue” with voters in England. The question of tax raising powers, which was controversial at the time, remains controversial despite the fact that this provision still has not been used. Furthermore, it was pointed out at our policy reunion that devolution was not been accompanied by an improvement in economic performance in Scotland and some have suggested that this is a consequence of the nature of the devolution settlement.<sup>37</sup> The Scottish government receives no benefits from policies to boost growth or to reduce welfare as these revenues flow back to London. Indeed, judging by the nature of its successes, devolution has been essentially a political not an economic project.

Nevertheless, Scottish devolution has proved to be an innovative and effective policy. Looking back, the relatively smooth legislative process was achieved through a combination of years of planning and the fact that devolution was a priority project for a newly elected government with a huge popular mandate; the ideal conditions for any policy. As such, there was clear commitment by the Cabinet Office and the Scottish Office to devote the resources required to enable ministers to make decisions on a rapid timetable and deliver one of the government’s flagship policies. There were hugely detailed preparations that underpinned the effective working of the Cabinet Committee process and the excellent working relations between civil servants in London and Scotland and their ministers. In Derry Irvine’s assessment, “the whole enterprise was superbly staffed”, represented “an amazing speed of delivery” and “should be a blueprint for future policy developments”.<sup>38</sup> During the legislative phase, the personal commitment and integrity of Donald Dewar was always to the fore. In particular, he had to withstand very hostile press reaction in Scotland during the early months of the new government since many expected to see even faster progress and thought he was selling out. Yet, he stayed true to his convictions and saw his vision prevail.

Our policy reunion took place before the May 2011 elections which produced a majority SNP government for the first time. This has put the nature of the devolution settlement back onto the political agenda – with the prospect of a referendum on independence or further devolution during the current term of the Scottish Parliament.

**List of Participants at Policy Reunion**

Name	Role during this 'Policymaking Process'
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<sup>37</sup> IfG Policy Reunion.  
<sup>38</sup> IfG Policy Reunion.

Rt. Hon. Lord Irvine of Lairg	Lord Chancellor and Chair of Cabinet Committee on devolution 1997-2003
Rt. Hon. Lord Butler of Brockwell	Secretary of the Cabinet and Head of the Home Civil Service (1988-98)
Sir Muir Russell	Permanent Under-Secretary of State, Scottish Office (1998-99) and Permanent Secretary to the Scottish Executive (1999-2003)
Rt. Hon. Pat McFadden MP	Policy Adviser to Rt. Hon. Tony Blair MP on constitutional matters and devolution (1994-2001)
Wendy Alexander MSP	Special Adviser to Rt. Hon. Donald Dewar MP (1997-98)
Kenneth Mackenzie	Head of Cabinet Office Constitution Secretariat (1997-98)
Ken Thomson	Principal Private Secretary to Rt. Hon. Donald Dewar MP Secretary of State for Scotland (1997-99) and First Minister of Scotland (1999)
Jim Gallagher	Head of Local Government and Europe Group, Scottish Office (1996-99)
Professor Robert Hazell	Director, Constitution Unit, University College London (1995-)

# Pensions reform: The Pensions Commission (2002-6)

## Starting point

In the early 2000s, the future of occupational pensions appeared in the balance: final salary schemes were closing and there was a rising concern about default risk. The Prime Minister, Tony Blair, felt this was an issue where the government needed to act. But the Chancellor, Gordon Brown, was reluctant to open up pensions issues to wider examination. He had focussed on improving the lot of the poorest pensioners through increasing the means tested pensions credit, as the relative value of the state pension, which had been linked to prices not earnings, continued to decline. The costs of both public and private pensions were rising as life expectancy increased and the system which had been reformed incrementally had become, in the words of the *Daily Telegraph*, “*astonishingly complicated*.”<sup>1</sup> In this case study, we look at how the work of the Pensions Commission charted a new direction in UK pensions policy and gained widespread agreement to changes that, at the time of the establishment of the Commission, were regarded as unthinkable.

## Policy background

In 1948, the Labour government established a simple state pension based on flat-rate contributions and benefits, and a separate safety net for those unable to contribute. The state pension was broadly linked to earnings growth, but increasing numbers of people had access to separate occupational pensions. Before the Second World War, 1.8 million people had occupational pensions and, by 1975, this number had risen to around 12 million.<sup>2</sup> That year, to improve the pensions prospects for ordinary workers and provide better pensions for women, the Labour government passed the Social Security Act which introduced an additional ‘second-tier’ State Earnings Related Pension Scheme (SERPS). This pension was funded by earnings related National Insurance contributions and paid benefits equivalent to 25% of an employee’s average earnings in the best twenty years of their career. One of the first acts of the new Conservative government in 1979 was to link the state pension to prices, not earnings, and a series of reforms during the 1980s made SERPS less generous.

New Labour made two main reforms to the state pension provision that aimed to help poorer pensioners. The first was to replace SERPS with the State Second Pension, which was tilted in

<sup>1</sup> Liz Dolan, ‘The pitfalls of Pickering’, *The Telegraph* (17 July 2002), available at: <http://www.telegraph.co.uk/finance/personalfinance/pensions/2768152/The-pitfalls-of-Pickering.html>

<sup>2</sup> Pensions Commission, *Pensions: Challenges and Choices. The First Report of the Pensions Commission* (2004); available at: <http://image.guardian.co.uk/sys-files/Money/documents/2005/05/17/fullreport.pdf>

favour of lower earners who had contributed, and the second was the introduction of the pension credit which succeeded in lifting nearly two million pensioners out of poverty.<sup>3</sup>

## Initiation

The Prime Minister, Tony Blair, became concerned with the collapse of final salary pension schemes in the summer of 2002 and, after a series of meetings with DWP and the Treasury in the autumn, became convinced that this was an area in which he needed to get closely involved. By late November, the Treasury had come round to Blair's idea of a commission to look at the issue from the ground up but still wanted the review to be Treasury dominated.

On 17 December 2002, the government published a Pensions Green Paper following the Pickering Commission report on the simplification of the pension system. The green paper reaffirmed the government's commitment to what it called the "*voluntarist approach*", but also announced the establishment of another commission to keep this under review.<sup>5</sup> Although the Prime Minister would have preferred a wider remit, looking at the entirety of pension provision, the Treasury was only prepared to agree to the Commission on the basis of a restricted remit which excluded the state pension – though it secured the right to look at "*the impact of the state pension on private savings*." The negotiations over the remit went on for so long that in the end they were only inserted at the printers once the final draft of the green paper had been signed off. At the Chancellor's behest, the Commission was given an unusually long timetable with its final report not due until well after the 2005 election – seen as a way of "*kicking the issue into the long grass*".<sup>8</sup>

The final purpose of the commission was settled as being:

*To keep under review the regime for UK private pensions and long-term savings, taking into account the proposals in the Green Paper, assessing the information needed to monitor progress and looking in particular at current and projected trends in:*

- *the level of occupational pension provision:*
  - *trends in employer and employee contributions;*
  - *trends in coverage of occupational pension;*
- *the level of personal pension savings, including:*
  - *take-up of stakeholder and personal pensions;*
  - *contributions to stakeholder and personal pensions; and*

<sup>3</sup> Nicholas Barr, 'Turner gets it right on pensions', *Prospect* (22 January 2006); available at: <http://www.prospectmagazine.co.uk/2006/01/turnergetsitrightonpensions/>

<sup>4</sup> See Anthony Seldon, *Blair Unbound*, (London, Simon and Schuster, 2007), pp. 129-31.

<sup>5</sup> See *Simplicity, Security and Choice: Working and Saving for Retirement* (DWP, 2002).

<sup>6</sup> Institute for Government, Policy Reunion on the Pensions Commission (9 December 2010); details available at: <http://www.instituteforgovernment.org.uk/our-events/77/policy-reunion-pensions-commission>

<sup>7</sup> Seldon, *Blair Unbound*, p. 130.

<sup>8</sup> IfG Policy Reunion.

- *the levels of other saving:*
  - *financial assets, for example Individual Savings Accounts, housing, businesses, savings, and other assets of partners.*

*On the basis of this assessment of how effectively the current voluntarist approach is developing over time, to make recommendations to the Secretary of State for Work and Pensions on whether there is a case for moving beyond the current voluntarist approach.<sup>9</sup>*

There were some disputes over the composition of the Commission. Originally it was proposed that it have just a single commissioner; the Treasury, however, wanted many commissioners and it was eventually settled that there would be three: one nominated by the Prime Minister (Adair Turner), one by the Chancellor (Jeannie Drake) and one by the Secretary of State for Work and Pensions, Andrew Smith (John Hills).

#### **Members of the Pensions Commission**

##### **Adair Turner (Chairman)**

Adair Turner was Vice-Chairman at Merrill Lynch at the time. Turner had taught economics at Cambridge and the LSE, worked at McKinsey and Company from 1982 to 1995 and had been Director General of the CBI from 1995 to 1999.

##### **Jeannie Drake**

Jeannie Drake was the Deputy General Secretary for the Communication Workers Union and President of the Trades Union Congress and is a Labour life peer.

##### **John Hills**

John Hills was, and still is, Professor of Social Policy and Director of the Centre for Analysis of Social Exclusion (CASE) at the London School of Economics.

The Commission's secretariat was largely drawn from the lead department, the Department of Work and Pensions (DWP). The first Secretary of the Commission remained in his role as head of analytic services at DWP, for example, and firewalls had to be established to make the arrangement work. The secretariat remained very small with only 6 analysts in total. The department established its own parallel internal team to advise ministers on the work of the commission.

The working style very much reflected Adair Turner's McKinsey heritage, with a strong emphasis on going back to original data, building models from scratch and drawing in international expertise (e.g. on the macroeconomics of pensions). John Hills described another distinctive feature of the approach, Turner's "*laser-beam focus on the key assumptions underlying particular projections, and so*

<sup>9</sup> Pensions Commission, *Independent Pensions Commission Workplan* (2003); available at: <http://www.webarchive.org.uk/wayback/archive/20070801230000/http://www.pensionscommission.org.uk/publications/2003/pc-workplan.pdf>

on – several times prompting the response, 'I've always been a bit worried about that...'.<sup>10</sup> The Commission became expert in issues such as population dynamics and they built up data in areas which had not been previously analysed like pension provision among ethnic minorities. The officials supporting the team were impressed by the readiness of the Commissioners to engage with the data.

At our policy reunion, the members of the Commission commented on how the small size of the official group allowed them to quickly build close relationships with each other. The three members of the Commission would take it in turns to have the other two members over to their house for dinner to discuss progress and ask themselves “*what do we now believe?*” on the questions they were grappling with. This allowed a shared sense of trust to develop between the Commissioners that allowed them to focus on the problem solving and analysis required to unpick the pension problem rather than manoeuvring to try and steer the committee in one direction or another.

## Options

The Commission knew that pension policy was a highly charged political issue. As such, they set about their work with a strategy for building consensus and depoliticising the debate. Early on, the Commission made a conscious decision to split their work into two reports. The first would try to establish the relevant facts in order to forge a consensus on the analysis of the state of UK pensions and what needed to be taken into account in adapting policy. In the words of Adair Turner:

*I think if you look at the first report of the Pensions Commission... what you find is a voluminous fact base... we were trying to make sure that people could not disagree on this analysis... I think it's very useful in these processes... to see if everybody agrees on the prognosis of what will happen if policy does not change.<sup>11</sup>*

The first report of the Commission, published in October 2004, was a formidable piece of analysis. The Pensions Commission were the first large scale users of the PENSIM 2 model, still used by DWP today, and original datasets were created. The report was 346 pages long and contained more than 250 graphs, tables and diagrams. The need for in-depth analysis became clearer with time as the Commission discovered that their analysis seemed to overturn some of the received wisdom, for example, on life expectancy projections.

The Pensions Commission's first report painted a stark picture of the problems of the pensions system. Traditionally, the UK had relied on a highly developed private pensions system offsetting a relatively ungenerous public system. The proportion of men in occupational pensions, however, had declined from a high of 58% 1958 to 34% in 1995.<sup>12</sup> Relatively generous Defined Benefit (DB)<sup>13</sup>

<sup>10</sup> Personal correspondence with author (September 2011).

<sup>11</sup> IfG Policy Reunion.

<sup>12</sup> Pensions Commission, *Pensions: Challenges and Choices* (2004); available at: <http://image.guardian.co.uk/sys-files/Money/documents/2005/05/17/fullreport.pdf>

private pensions had survived until the late nineties on the unsound foundations of a stock market boom and inaccurate forecasts of life expectancy increases.<sup>14</sup> Between 1995 and 2004, the Commission estimated that there had been a 60% reduction in the number of active members in private sector DB schemes, with further reductions predicted.<sup>15</sup> There had also been a shift to less generous Defined Contribution schemes (DC).<sup>16</sup>

*millions of employees (United Kingdom)*

	Private		Public		Proportion of employees with	
	Total	Total	Total	Total	DB	DC
1975	6.0	5.4	48%	1%		
1979	6.1	5.5	49%	1%		
1983	5.8	5.3	51%	2%		
1987	5.8	4.8	47%	2%		
1991	6.5	4.2	44%	4%		
1995	6.2	4.1	42%	5%		
2000	5.7	4.4	37%	4%		
2004	4.8	5.0	35%	5%		
2006	4.4	5.1	34%	4%		

DB = Defined Benefit; DC = Defined Contribution.

It is assumed that all public sector schemes are DB

Government Actuary's Dept Surveys of Occupational Pension Schemes 1975 to 2005 (2005 Private sector only)

ONS First Release *Occupational pension schemes survey 2006* 10 July 2007

Source: adapted from House of Commons library Research Paper 07/94, p. 10; available at: <http://www.parliament.uk/documents/commons/lib/research/rp2007/rp07-094.pdf>

Due to increasing life expectancy and a low predicted birth rate, the Commission predicted that the percentage of the population aged over 65 would double by 2050, putting further strain on the pension system. However, perhaps the most shocking finding was that 60%, a clear majority, of employees over 35 were on course to have inadequate pensions.<sup>17</sup>

<sup>13</sup> A type of pensions scheme distinguished by the fact that it promises a given monthly benefit on retirement, usually determined by a formula based on some feature of the employees earning history, e.g. final-salary.

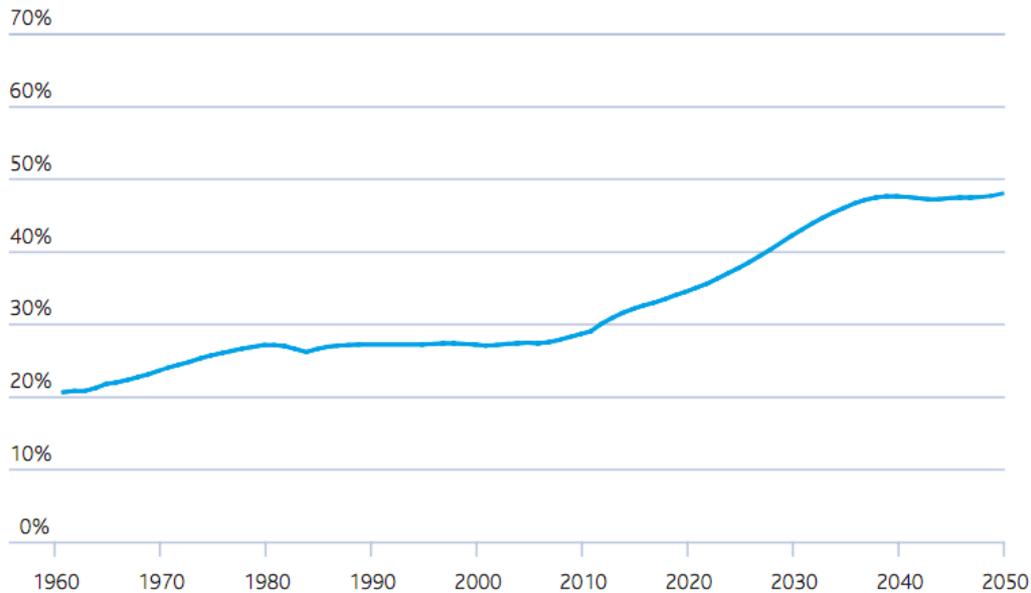
<sup>14</sup> In 2005, the Government Actuary's Department projected that life expectancy for women reaching 65 in 2050 would be a further 25.9 years. In 2001, the projection was 21.9 years.

<sup>15</sup> In 2006, the average employer contribution by employers to open DB schemes was 14.2% and to DC schemes was 5.8%; see ONS, *Occupational Pension Schemes Survey 2006* (2007).

<sup>16</sup> A type of pension scheme that specifies a particular monthly contribution to a pension pot. The monthly benefit on retirement is then determined by the amount saved and the return on those savings.

<sup>17</sup> Pension Commission, *Pensions: Challenges and Choices*, p. 160.

**Figure 1.6** Old-Age Dependency Ratio: All 65+: 20-64, UK



Source: GAD 2002-based principal population projection, UK  
ONS Population estimates unit, UK

Source: Reproduced from *Pensions: Challenges and Choices: The First Report of the Pensions Commission* (2004), p. 7.

Private savings were not responding on anything near the scale required to offset these developments and were, in any case, highly unequally distributed. The combined result of all this was that, on a business as usual path, pension accrual was “*both deficient in total and increasingly unequal.*”<sup>18</sup>

The report established what Adair Turner referred to as three “*killer facts.*”<sup>19</sup> The first of these was that the proportion of UK private sector workers relying entirely on the state sector pension was 46% in 1995 and had risen to 54% by 2004. This powerfully illustrated the failure of private sector pensions and the weight of responsibility under which the state pension was labouring. The second ‘killer fact’ was that only about 0.5% of people make pension saving decisions on a rational basis of the type economists use to model and predict behaviour, taking into account interest rates, discount rates and the net present value of their assets. Rather, they enter into pension arrangements if they are compulsorily enrolled by the state, if they are automatically entered into a scheme as a by-product of employment or if a pension provider goes to them direct to sell them a pension. The third fact was that it was impossible for small and medium sized enterprises to offer

<sup>18</sup> Ibid, p. xi.

<sup>19</sup> IfG Policy Reunion.

occupational pensions without administrative fees so high that they ended up consuming a punitive proportion of the employee's contributions. The cost of a pension scheme for a small employer was 1.5-2.0% a year – compared to 0.1% for a Unilever – that ate up 30% of the potential pensions entitlement for an employee.

The central thrust of the first report was to make it quite clear that the nation faced an unavoidable choice between four possible options: stick with the business as usual option and allow pensioners to become poorer relative to the rest of society; increase the amount of tax revenue devoted to pensions; increase private savings; or raise the average retirement age. The report argued that the first option seemed unattractive and, given that the proportion of GDP transferred to pensioners would have to rise from 10% to 15% to maintain pensioner's living standards, none of the other options would be able to shoulder the load on their own. This analysis helped define the problem in a very different way to the government's initial intent – from being an issue of the divide between those with defined benefit versus defined contribution, the Commission's analysis showed that the real cliff edge was between those in the private sector enrolled in an occupational scheme of any sort and those with no provision at all. The analytic base in the first report provided a powerful case for the need for reform. The *Economist* wrote that "*Denial is government's first response when pensions policy goes wrong... But a landmark report this week from the government-appointed Pensions Commission has made denial impossible.*"<sup>20</sup> Before the Pensions Commission report came out, the state pension age was unmentionable, but the evidence in the report made discussion of it unavoidable. Including the pension age in the policy mix opened up the option of a better pension at a later age.

Consensus building and depoliticising of the issue were still at the forefront of the Commission's strategy. Though the team had become clear on the overall direction of travel by the summer of 2004, a little over a year after its establishment, they stuck to the two stage process.<sup>21</sup> The Commission wanted to build proposals which, in the words of Jeannie Drake, "*would hold*" in the long term.<sup>22</sup> The Commission was careful to avoid pointing the finger at anyone in particular for the current state of private sector pension policy, instead stressing the cumulative effects of past policies. But their analysis meant that the state pension had to come into play to prevent spreading means testing becoming too strong a disincentive to private savings. It also meant that new approaches were needed to change the default on private pensions provision and the Commission's "*big idea*" was to use the insights of behavioural economics to understand why people saved so little and to frame proposals for auto-enrolment in employer schemes, "*the last piece in the jigsaw*".<sup>23</sup>

The Commission spent a lot of time and effort on high risk strategies to build consensus on the way forward. The Commission organised a large meeting at the Excel centre with ninety of the major stakeholders, including industry bodies and the relevant NGOs, divided into one and a half hour

<sup>20</sup> 'Harsh Choices', *The Economist* (14 October 2004), available at: [http://www.economist.com/node/3291534?story\\_id=E1\\_PNJTVPO](http://www.economist.com/node/3291534?story_id=E1_PNJTVPO)

<sup>21</sup> IfG Policy Reunion.

<sup>22</sup> IfG Policy Reunion.

<sup>23</sup> IfG Policy Reunion.

slots to take people through the analysis and the options. DWP held events across the UK, each attended by around 300 people, testing citizen's responses to the report's findings. Even the DWP Permanent Secretary participated in one. Significantly, pre-polling showed that 80% of participants were averse to raising the state retirement age at the start of the day; whereas, at the end of the day, having been taken through the analysis, attitudes were "*fundamentally different.*" The department found it "*fascinating*" to see how people reacted to the proposals.<sup>24</sup>

The Commission were careful to consult with the Shadow Cabinet Minister for Work and Pensions, David Willetts, as well as the Liberal Democrats, the CBI and TUC. The Commission also had a very effective media strategy – particularly engaging Nick Timmins on the FT who followed the work of the Commission very closely – to head off ill-informed or adverse press comment.

## Decision

The Commission's second report, published in November 2005, made recommendations for reform that went well beyond its initial limited remit.<sup>25</sup> The first recommendation was the creation of a low cost, nationally funded pensions saving scheme which individuals would all automatically be enrolled onto, with the option of opting out. This would help overcome the problem of inertia and the inefficiency of small and medium enterprises provided occupational pensions. The second was to make the system less means tested, in order to minimise disincentives to saving, financed partly by an increase in taxes devoted to pensions. Lastly, the Commission recommended re-linking the basic state pension to average earnings growth financed in part by a steady increase in the state pension age designed to keep the proportion of life spent in retirement constant. In 2005, John Hills delivered the Beveridge memorial lecture to the Royal Statistical Society. In his conclusion, Hills warned:

*There may have been queues round the Stationery office when Beveridge's report was published... But the queues were probably longer for the film 'Casablanca' that was released a week earlier. Those who have seen it will remember the moment when Humphrey Bogart explains to Ingrid Bergman why she must get on the plane with the dull but important Victor Lazlo, rather than staying with him. We are in the same position on pensions reform. As Bogart might have put it, if we miss the opportunity we have now to construct a way forward, we shall regret it... for the rest of our (hopefully lengthening) lives.*<sup>26</sup>

The participants at our policy reunion paid tribute to the representative bodies who recognised the importance of pensions reform and supported a policy which was likely to antagonise many of their members. In Adair Turner's words, "*We had tremendous leadership from a lot of stakeholders really*

<sup>24</sup> IfG Policy Reunion.

<sup>25</sup> Pensions Commission, *A New Pensions Settlement for the 21st Century* (2005).

<sup>26</sup> Lecture published as John Hills, 'From Beveridge to Turner: Demography, Distribution and the Future of Pensions in the UK', *Journal of the Royal Statistical Society*, vol. 169:4 (2006), pp. 663-679

*putting their necks on the block to bring their groups along.*<sup>27</sup> Getting approval from the TUC was likely helped by having Jeannie Drake on the committee, but sacrificing the sacred cow of increasing the retirement age still proved very controversial. James Purnell described their support as “very brave”, pointing out that their members passed several resolutions against the proposals at the TUC conference that year.<sup>28</sup> The CBI objected to the Commission’s recommendation, in the second report, that employers should be made to contribute to the new funded pensions, but largely welcomed the report. Sir Digby Jones, then Director of the CBI, commented: “*The CBI has supported the Pensions Commission’s analysis of the UK’s pensions system, which marks a watershed in the public’s understanding of the looming pensions crisis and the need for long-term reform.*”<sup>29</sup> Other organisations, such as the Engineering Employers’ Federation, representing smaller employers were also cooperative and James Purnell noted the helpful role of the Women’s Pensions Network in characterising women’s pensions entitlement as a moral issue.

The Pensions Commission also created space for measures that had previously been seen as unthinkable – like raising the state pension age. At the policy reunion, James Purnell noted that:

*Raising the state pension age is one of things which you kind of think ‘Oh my god, if you say this everybody is going to go crazy.’ But you said it lots and lots of times in a series of controlled explosions and it went from page one of the paper, to page three to page five. And by the end it was ‘Oh yeah, everybody knows they’re raising the retirement age.’*<sup>30</sup>

However much external consensus the Pensions Commission succeeded in creating, there were still difficult divisions within government to be overcome. As Adair Turner noted at our policy reunion, an independent commission can only take issues so far – it can set out problems and depoliticise them, but final decisions have to be for ministers. The Commission had deliberately ensured its independence by keeping drafts from ministers until they went to the printers.

In the run up to the publication of the commission’s second report a letter from Gordon Brown to Adair Turner was leaked to the FT in which the Chancellor suggested he would not be able to implement Turner’s proposals, specifically the recommendation for linking pension payments to earnings, for reasons of cost. According to the Bagehot column in *The Economist*: “*The letter’s purpose was to cast doubt on Lord Turner’s sums. As everyone in Westminster knows, Mr Brown has been quietly denigrating the commission for more than a year.*”<sup>31</sup> The Treasury produced an alternative state pension plan which Brown wanted to announce in the Budget just 9 days later. There followed a series of intense bilateral meetings between the key players which have been widely documented.<sup>32</sup> The Treasury won some concessions, but the Pensions Commission proposals survived broadly intact, which participants at our policy reunions attributed to the time and effort

<sup>27</sup> IfG Policy Reunion.

<sup>28</sup> IfG Policy Reunion.

<sup>29</sup> CBI, ‘Turner Report “most serious proposal for pensions reform yet”’ (30 November 2005)

<sup>30</sup> IfG Policy Reunion.

<sup>31</sup> ‘Gordon’s Way’, *The Economist* (1 December 2005); available at:

[http://www.economist.com/research/articlesBySubject/PrinterFriendly.cfm?story\\_id=5246691](http://www.economist.com/research/articlesBySubject/PrinterFriendly.cfm?story_id=5246691)

<sup>32</sup> See Seldon, *Blair Unbound*, pp. 401-4, 461-5.

the Prime Minister was willing to devote to the subject and the steadfastness of the new Works and Pensions Secretary, John Hutton, as well as the political skills of Adair Turner and the fact that the Commission were prepared to be flexible. At our policy reunion James Purnell explained what he thought distinguished the work of the Pensions Commission:

*In pensions, we had lots of initiatives and not many solutions, we had had stakeholder pensions, publicity campaigns, we had been going to companies to try and persuade them to get more people to take up pensions, we had initiative after initiative after initiative. But the combination here of being clear what the problem was, what the evidence was and then having a solution, makes this very hard to unpick.<sup>33</sup>*

### Implementation

In May 2006, the government published *Security in Retirement: Towards a New Pensions System*. The report signalled the government’s commitment to the Commission’s proposals and set the stage for two pieces of legislation to make them law.

Issue	Turner Report	White Paper
State Pension Age	Rising to 67-69 by 2050	Rising from 68 from 2044
State Pension	Linked to earnings by 2010	Linked to earnings, probably by 2012
National Pension Savings Scheme	Automatic enrolment if no work scheme	Automatic enrolment from 2012, but workers can opt out
Default Contributions	3% employers, 4% workers, 1% government	3% employers, 4% workers, 1% government
Help for Women	Full state pension to all over 75 based on residency not NI contributions	NI contributions reduced to 30 years
System of Regular Review	Successor body presenting a report every 3-4 years	No system of regular review

The 2007 Pensions Act was the first stage of the changes and included restoring the earnings link, raising the pensions age, reducing contributions requirements and ending the opportunity to opt out of the additional state pension. A second Act in 2008 put in place measures to address the lack of pension provision in the private sector including the creation of new low cost savings vehicles and an obligation on employers to enrol all employees.

<sup>33</sup> IfG Policy Reunion.

## Consensus

By the 2005 election, both the Conservative Party and Liberal Democrats had pledged to re-link the state pension to earnings. The Labour manifesto, on the other hand, made few if any specific proposals on further reform. Both the 2007 and 2008 Pension Acts enjoyed broad cross-party support though there was some criticism of the means-tested elements in the 2008 Act. Since the election, the coalition Government has continued with the reforms (most of which are due to take effect in 2012), but has accelerated the raising of the state retirement age taking account of the increase in life expectancy from the projections on which the Commission's recommendations were based.

The actual impact of the changes will not be seen until they are finally implemented – in particular, it is not yet clear how far very small employers are aware of their new pension obligations. The state of the stock market has undermined the value of many people's pension savings and, as a policy reunion participant pointed out, perhaps brought into question the wisdom of tying people into the stock market. The Pensions Commission only looked at the state pension and private pensions: although the last government made some attempts to reform public sector pensions, the coalition Government set up a review – under the newly ennobled Lord Hutton – to look at their future. The Independent Public Service Pensions Commission published a final report in March 2011 that recommended existing pensions should be changed from a final-salary basis to a scheme based on average pay over a worker's career. The Government has accepted this proposal, along with the report's call to raise the age at which people are entitled to draw their public service pension to the same as the state pension.

## Reflections

The story of the Pensions Commission is rich with lessons for policy makers:

First and foremost, it is a powerful example of when and how independent commissions are valuable. Pension reform was a politically sensitive, analytically complex and widely consequential issue. The personal chemistry between the Commissioners worked well and the decision to have three Commissioners worked effectively, to allow them to reflect different interests but forge a common view. Key to its success was finding an effective Chair who could manage both the analysis and the politics. Also important was maintaining its independence from government, an impression which was underlined by media reports of Treasury unhappiness with the first report when it came out.

Splitting the process into the diagnosis and prescription stages helped to further depoliticise the debate and allowed the Commission to consult with the broad range of people who had an interest in pension policy. Securing agreement on the facts ensured the Commission's arguments had been properly stress tested and gave them additional authority. The rigour of the Commission's approach (and the Commissioners' ability to engage with the analysis) gave its recommendations authority.

Another feature was the emphasis on the openness of the process. The Commission actively sought engagement – and used deliberative techniques to get a public perspective on the changes it was proposing. Rather than shy away from the media, it had an active communications strategy.

Another major lesson is the importance of time in the policy making process. The long time period allowed significant analytical and consultative work to be undertaken by the commission. The length of the Commission's work also allowed it to break some significant taboos. The quality of the analytic work undertaken was key to the reports persuasive power. At our policy reunion, Gareth Davies, social security adviser at the No. 10 policy unit at the time, observed that *"There were lots of reviews in my time at No. 10 that didn't go anywhere... the amount of time the Commission had... gave them the time to build the analytic base and consensus that something needed to be done."*<sup>34</sup>

Another big lesson is the importance of political leadership. From 2002 onwards, Tony Blair gave significant attention to pensions, a remarkable five to six hours a week in the run up to the final negotiations. At our policy reunion, Gareth Davies stressed the importance of this point: *"No. 10 is never short of recommendations about how it can improve the world. The real question is where PMs want to spend their time and effort, their currency."*<sup>35</sup> Ministerial political leadership was also crucial at several points, not least when John Hutton was made Secretary of State at DWP only four weeks before the report was published. At the time, the Treasury were putting pressure on DWP to water down the Commission's proposals, but Hutton stood behind the original set of recommendations despite being relatively new to the issue.

Finally, the Pensions Commission was successful because it carefully managed the trade-offs between the different stakeholder groups which meant it couldn't be branded 'pro-business' or 'pro-labour'. All the major groups stood to lose something from the process: businesses had to make compulsory contributions; the TUC accepted workers would have to wait longer before they could retire and government was agreeing to reverse a big fiscal win in terms of not agreeing to earnings up-rating. This allowed the TUC and the CBI to support a controversial measure. Though they were all set to lose, they could see that everybody was giving something up in order to achieve a better situation overall. Indeed, Dr Leandro Carrera from the LSE commented at our policy reunion that this is a common feature in successful pension reforms.

<sup>34</sup> IfG Policy Reunion.

<sup>35</sup> IfG Policy Reunion.

## List of Participants at Policy Reunion

<b>Name</b>	<b>Role during this 'Policymaking Process'</b>
Lord Adair Turner	Chairman of the Pensions Commission (2002-06)
Baroness Jeannie Drake	Commissioner (2002-06)
Rt. Hon. James Purnell	Member of Select Committee on Pensions (2001-03); Minister of State for Pensions (May 2006)
Gareth Davies	Adviser, Number 10 Policy Unit
Trevor Huddleston	Head of the Pensions Commission Secretariat and Analytical Team (2002-06)
Phil Wynn Owen	Financial Sector HM Treasury (2003-04); Director-General, Strategy and Pensions, DWP (2004-9)
Dr Leandro Carrera	LSE Public Policy Group – Academic Discussant

# The Ban on Smoking in Public Places (2007)

## Starting Point

For over forty years, government public health policies have increasingly focused on reducing the toll of death and disease from tobacco use. These initiatives have reduced smoking prevalence from 70% of men in 1962 (the year the Royal College of Physicians published their groundbreaking study that concluded smoking was a cause of lung cancer) to 24% in 2005.<sup>1</sup> But smoking still accounted for around a hundred thousand deaths a year, with passive smoking blamed for some eleven thousand of these deaths.<sup>2</sup> Moreover, smoking was increasingly shown to be a significant driver of health inequalities. Evidence on the health impacts of passive smoking (and declines in the proportion of the population who smoked) increased the focus on smoking in public places. In 1998, the Labour government published the first ever white paper dedicated to tobacco and continued the tradition of relying on a voluntary approach to control smoking in public places. By the early 2000s, it was clear that levels of compliance with the voluntary ban were low and there was increasing pressure inside government and outside to move to a statutory ban. But this would constitute a step change in government willingness to regulate private behaviours and risked considerable opposition in parliament and beyond. The Labour Party's 2005 manifesto proposed only a partial ban. Now the full ban on smoking in public places is widely accepted and general compliance is high. The case study looks at how this particular landmark in the decades-long effort to reduce smoking rates was achieved, despite deep ambivalence within government.

## Policy background

Efforts to determine the health implications of smoking had begun before World War Two, but the breakthrough came when Richard Doll and Austin Bradford Hill conducted the first large-scale study into the link between smoking and lung cancer.<sup>3</sup> In September 1950, they published their preliminary findings in the *British Medical Journal*, based on a survey of lung cancer patients in 20

<sup>1</sup> See Nicholas Wald and Ans Nicolaidis-Bouman (eds.), *UK Smoking Statistics* (Oxford: Oxford University Press, 1991); and ONS, *General Lifestyle Survey 2009: Smoking and Drinking Among Adults* (2011).

<sup>2</sup> See Konrad Jamrozik, 'Estimate of Deaths Attributed to Passive Smoking among UK Adults: Database Analysis', *British Medical Journal*, vol. 330 (2005), p. 812.

<sup>3</sup> For the background on Doll and Bradford Hill's pioneering research and a discussion of smoking policy in the 1950s, see Charles Webster, 'Tobacco Smoking Addiction: A Challenge to the National Health Service', *British Journal of Addiction*, vol. 79 (1984), pp. 7-16; and Virginia Berridge, 'Public Health in the 1950s: The Watershed of Smoking and Lung Cancer', in Virginia Berridge, *Marketing Health: Smoking and the Discourse of Public Health in Britain, 1945-2000* (Oxford: Oxford University Press, 2007), pp. 23-51.

London hospitals, which confirmed the link between smoking and lung cancer for the first time. In a follow up report, published in December 1952, they concluded that "*the association between smoking and carcinoma of the lung is real*".<sup>4</sup> Despite growing medical evidence about the dangers of smoking, the government was reluctant to intrude into what was perceived as an issue of personal responsibility. In an internal Ministry of Health memorandum from May 1956, Rab Butler, Lord Privy Seal, articulated the reasons why direct government action was ruled out:

*From the point of view of social hygiene, cancer of the lung is not a disease like tuberculosis; nor should the government assume too lightly the odium of advising the general public on their personal tastes and habits where the evidence of the harm which may result is not conclusive.*<sup>5</sup>

However, the medical establishment was moving to recommend a more active policy stance. In March 1962, the Royal College of Physicians published *Smoking and Health*, which noted that 70 per cent of men and 43 per cent of women smoked, and went on to argue that "*there can be no doubt of our responsibility for protecting future generations from developing the dependence on cigarette smoking that is so widespread today.*"<sup>6</sup> *Smoking and Health* reviewed the evidence from more than 200 epidemiological and biological studies, and concluded that smoking is a cause of lung cancer, bronchitis and probably contributes to coronary heart disease. In order to curb the rising consumption of tobacco, it recommended tougher laws on cigarette sales, advertising and smoking in public places.

The medical profession and others began pushing for a comprehensive strategy to reduce smoking prevalence. In 1964, the Cohen Report on Health Education, produced by the Central and Scottish Health Services Council, marked a shift in the nature of public health from local information giving to a greater degree of central publicity, using habit-changing campaigns and social surveys, as well as advocating a rethinking of the profession of health educators as persuaders. The Cohen Report also called tobacco advertising "*propaganda*" and argued that it had to be countered. When Labour took power in 1964, Health Minister Kenneth Robinson, a former GP, introduced legislation to ban cigarette advertising on television, which came into effect on 1 August. During the 1970s, health activism steadily increased and the government responded with more initiatives designed to curb smoking's appeal. There was a twin track strategy for smoking policy during the decade. This consisted of harm reduction (safer cigarettes and product modification), an approach that had public health and industry support, and the promotion of outright abstinence, which became the public health strategy par excellence by the end of the decade.<sup>7</sup> In 1971, the Royal College of Physicians established Action on Smoking and Health (ASH) as a 'ginger group' to put pressure on the government and educate the public about the dangers of smoking. Government health

<sup>4</sup> Cited in Stephen Lock, Lois Reynolds and E. M. Tansey (eds.), *Ashes to Ashes: The History of Smoking and Health* (Amsterdam: Rodopi, 1998), p. 166.

<sup>5</sup> Ministry of Health papers, MH 55/2232, 'Memorandum by Lord Privy Seal' (1 May 1956), cited in Berridge, *Marketing Health*, p. 46.

<sup>6</sup> Royal College of Physicians, *Smoking and Health: Summary of a Report of the Royal College of Physicians of London on Smoking in Relation to Cancer of the Lung and Other Diseases* (London, 1962).

<sup>7</sup> See Virginia Berridge, 'The Rise of Health Activism in the 1970s: The Health Pressure Group', in Berridge, *Marketing Health*, pp. 161-84.

warnings were introduced on all cigarette packets sold in the UK, following an agreement between the government and the tobacco industry.

Under the 1979-97 Conservative government, the emphasis was on voluntary measures and taxation as the means of reducing tobacco use. In 1983, a Royal College of Physicians report outlined the dangers of passive smoking for the first time. In 1986, new advertising and promotion guidelines were agreed, including the banning of tobacco advertising in cinemas and a range of new health warnings. In 1988, a report by the Independent Scientific Committee on Smoking and Health concluded that non-smokers have a 10-30% higher risk of developing lung cancer if exposed to other people's smoke. In the 1993 Budget, the Conservative government introduced a tobacco duty 'escalator' that committed them to raising tobacco duties by at least 3% per year in real terms.

During this period, several government funded agencies used their funds to promote action outside the government – for example, the Health Education Authority during the 1990s funded a QC to draft a private members bill to ban tobacco advertising that Labour MP Kevin Barron promoted. Civil society organisations such as ASH, set up to help make the public case for action on tobacco, were funded by government. One of the distinguishing features of the Anglophone countries who tended to be in the lead on tobacco control measures was the leadership role assumed by medical professionals – in countries where doctors continued to smoke there was much less action. In the 1950s, the cigarette manufactures had enjoyed very strong links to top officials in the Department of Health, but these were long since gone. By the 1990s, experts saw their role as providing evidence and synthesising public data to make the case for government action, against the pressure from the tobacco industry in the other direction.

The new Labour government had a mixed start on tobacco issues – it raised the tax escalator from 3% to 5% real annual increases, but had to back down on a proposal to exempt Formula 1 from the EU directive on tobacco advertising and sponsorship in a row over a donation from Formula 1 boss Bernie Ecclestone. Tessa Jowell, who was appointed as the UK's first Minister of Public Health in 1997, was a passionate campaigner on smoking (her father had been a chest physician) and she had an *"overriding ambition to tackle health inequality"*.<sup>8</sup> Smoking remained a huge driver of the differences in life expectancy between the north and the south. However, in the period 1997-2001, the government suffered from a *"terror of being seen as an agent of the nanny state"* and *"the curse of the Daily Mail"*.<sup>9</sup> So the emphasis in *Smoking Kills* (1998), the first government White Paper specifically on smoking, was on education, voluntary agreements and nicotine replacement therapy – all designed to make it easier for people to give up smoking, and to reduce the uptake amongst children and young people. These proposals were followed by a growing number of calls for government to act on the significant health gains of going smoke-free. The government appointed Scientific Committee on Tobacco and Health issued a report in 1998 stating that passive smoking is a cause of lung cancer and coronary heart disease in adults. In 2002, the British Medical Association (BMA) called for a ban on smoking in public places because of the threat to non-smokers. As far as

<sup>8</sup> Institute for Government, Policy Reunion on the Smoking Ban (9 May 2011); details available at: <http://www.instituteforgovernment.org.uk/our-events/101/policy-reunion-reducing-smoking-rates>

<sup>9</sup> IfG Policy Reunion.

tobacco policy was concerned, it was becoming clear that legislation on passive smoking was the next key battleground.

## Initiation

As evidence mounted about the risks of passive smoking, there was a reciprocal shift in public attitude. By the late 1990s, smoking had already been banned in many offices, as well as enclosed public places such as cinemas and transport, but only in a few pubs, bars and restaurants. As such, these hospitality venues became the focus of the debate over whether legislation was required to protect staff and customers from exposure to passive smoking. The government continued to favour industry self-regulation. In July 1999, the Health and Safety Commission proposed an Approved Code of Practice on passive smoking at work.<sup>10</sup> Although a code of practice was drafted, this approach was never implemented due to concerns from the hospitality industry and tobacco manufacturers about profits and job losses. Meanwhile, the Department of Health decided to work with the hospitality trade to draw up a voluntary agreement. Launched in September 1999, the Public Places Charter was signed by 14 industry associations. The agreement stated that 50% of all premises should adopt a formal smoking policy and 35% of these should restrict smoking to designated areas or introduce adequate ventilation. Yet, despite making progress towards these targets, the proportion of smoke-free venues only increased from 1% to 2% and no strategy was in place to extend these measures.<sup>11</sup>

The government's Chief Medical Officer, Dr. Liam Donaldson, wanted to use his position to make the case for stronger action. In June 2003, his annual report for 2002 was about to be published with a recommendation that the UK should move to a mandatory ban on smoking in public places, as voluntary agreements were not reducing the health risks from passive smoking quickly enough: *"Very serious consideration should be given to introducing a ban on smoking in public places soon."*<sup>12</sup> Not only was this a bold departure from government policy, but it also faced unforeseen difficulties. Donaldson has described the timing of the report as *"terrible"* due to the resignation of the then Health Secretary, Alan Milburn, on the eve of the intended publication date. Since the annual report was always independently compiled, it was only shown to ministers the night before publication. Donaldson had spoken to Milburn about the report, but that night the Secretary of State stepped down from government. John Reid was appointed in Milburn's place and there was a short delay in publication. However, the eventual release of the CMO's report meant it was inevitable that the issue of a ban had to be addressed in time for Labour's 2005 election manifesto.

The initial media reaction to the CMO's proposal was hostile on the leader pages, although the health journalists, who were briefed by the CMO on the evidence base, were supportive. His position was also championed by a strong and growing stakeholder movement with ASH and the RCP very prominent and backed up by the British Medical Association and other health charities.

<sup>10</sup> *Proposal for an Approved Code of Practice on Smoking at Work: Consultative Document* (1999).

<sup>11</sup> BMA, *Towards Smoke-free Public Places* (2002), pp. 18-19; and Deborah Arnott, et al. 'Comprehensive Smoke-free Legislation in England: How Advocacy Won the Day', *Tobacco Control*, vol. 16 (2007), p. 423.

<sup>12</sup> *Annual Report of the Chief Medical Officer 2002* (Department of Health, 2003), p. 24.

The public health activism of these organisations had built up since the 1970s and increasingly “assumed a high-profile, media-conscious stance, opposing any notion of risk reduction.”<sup>13</sup> Within government, Donaldson could use his network of regional Public Health directors, and the public Big Smoke debates, a series of regional consultations organised by local health commissions in partnership with the Department of Health, stirred up a lot of public interest. Department of Health economists were less convinced about the immediate benefits from reducing passive smoking compared to other public health interventions, but they did see potential for significant health gains if the effect of the ban was to discourage uptake especially among 16-18 year old workers. Government action could also be justified as a protection for all employees due to the dangers of exposure to second hand smoke. After all, the UK had signed up to the constitution of the World Health Organization that states “*enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being*”.<sup>14</sup> Making it more inconvenient to smoke also held out the prospect of encouraging people to quit and discouraging others from taking up the habit in the first place.

On the other hand, arguments against a ban were made by representatives of the hospitality trade and lobbyists for the tobacco industry. In particular, much attention was given to the potential impact on the hospitality industry with warnings about the damaging economic consequences. It was claimed that a ban would reduce the number of customers and lead other to spend less time and money in pubs. However, a review of 97 studies from around the world showed no evidence to support such fears.<sup>15</sup> At the time, while the exact economic consequences in the UK context remained contested, the regulatory assessment noted “*there is a lack of international evidence to support a prediction of a drop in sales in the hospitality industry*”.<sup>16</sup> It was also argued that comprehensive legislation would discriminate against smokers as it infringed their personal freedoms. Smokers’ pressure groups such as FOREST supported a policy of separate spaces for smokers and non-smokers. Anti-smoking campaigners pointed out that this was not necessarily practical for all venues, as some were too small or could not afford to introduce ventilation systems, and it did not resolve the issue of staff exposure to smoke. As smokers were still free to smoke elsewhere, the aim of legislation was couched in terms of protecting the health of non-smokers rather than stopping people from exercising their legal right to smoke.

As the debate raged on, there were two critical decisions in the process. The first was whether to go for legislation or not. It was clear that the existing voluntary approach was not working since only a handful of pubs had gone smoke-free. The failure of self-regulation forced ministers to adopt tougher measures. In this respect, ASH regarded the contribution of John Reid as critical, as only a minister with his degree of clout in the Cabinet could overcome resistance to legislation in this area. Reid had been a heavy smoker, only quitting 18 months before taking office, and he was

<sup>13</sup> Virginia Berridge, ‘Militants, Manufactures, and Governments: Postwar Smoking Policy in the United Kingdom’, in Eric A. Feldman and Ronald Bayer (eds.), *Unfiltered: Conflicts Over Tobacco Policy and Public Health* (Cambridge, MA: Harvard University Press, 2004), p. 129.

<sup>14</sup> Constitution of the World Health Organization; available at <http://apps.who.int/gb/bd/PDF/bd47/EN/constitution-en.pdf>

<sup>15</sup> See Michelle Scollo, et al. ‘Review of the Quality of Studies on the Economic Effects of Smoke-free Policies on the Hospitality Industry’, *Tobacco Control*, vol. 12 (2003), pp. 13-20.

<sup>16</sup> *Partial Regulatory Impact Assessment: Choosing Health White Paper* (2004), p.5

sceptical about calls for a comprehensive ban. Speaking at a Labour Big Conversation event in June 2004, Reid cast the issue in terms of class by suggesting people from “*lower socio-economic backgrounds have very few pleasures and one of them is smoking.*”<sup>17</sup> The widespread reporting of these comments proved an important turning point. As the media ran with the story, Deborah Arnott of ASH thought it became clear that not only did the public care about the issue, but also public opinion was running ahead of the politicians. ASH lobbied John Reid, who agreed to meet them and then decided to go for legislation. The next key decision was what should be in the legislation.

## Options

Although it had been agreed within Cabinet that action on smoking in enclosed public places was justified, the proportionality of the state’s intervention remained open to debate. The underlying contention concerned the extent to which the exercise of an individual’s rights should be allowed to impinge on the rights of others. There was no question of making smoking illegal; the issue was about how to minimise smoking’s capacity to injure others while it remained a lawful activity. There were constant discussions with the CMO on the extent of the ban. John Reid’s view was that there should be an exemption for private members’ clubs, as these organisations could vote and decide to allow members to smoke with other consenting adults in private. Furthermore, Reid was concerned that comprehensive legislation might lead people to smoke more in the home, increasing the exposure of children. The government therefore ended up with a hybrid proposal to exempt private members’ clubs and public houses that did not serve food. Reid thought this was a compromise that would be acceptable to the public. However, some in the Department of Health and outside doubted that this proposal was workable. Research also revealed that pubs that did not serve food were concentrated in poorer communities and the legislation therefore risked exacerbating health inequalities rather than reducing them. This was an area where a number of Cabinet ministers had sharply opposing views, not least because there were a large number of former health ministers who were sympathetic to the ban in other government departments.

During the course of 2004, a series of events kept smoking bans high on the political radar. In March 2004, in what Taoiseach Bertie Ahern described as “*landmark legislation*”, the Republic of Ireland introduced the toughest anti-smoking laws in Europe with a complete ban in workplaces.<sup>18</sup> In November, the UK government’s White Paper *Choosing Health: Making Healthy Choices Easier* appeared and proposed introducing a smoking ban in workplaces by 2008, with an exemption for pubs that do not serve food and private members clubs. The legislation would apply to England and Wales, but the Welsh Assembly stated that it would amend the Bill to create a comprehensive ban when it gained Royal Assent in England. During the following month, the UK ratified the World Health Organisation’s Framework Convention on Tobacco Control, the world’s first international treaty on public health. Anti-tobacco campaigners continued to make the argument that everyone

<sup>17</sup> Cited in Patrick Wintour and Colin Blackstock, ‘Let poor smoke, says Health Secretary’, *The Guardian* (9 June 2004; available at: <http://www.guardian.co.uk/uk/2004/jun/09/smoking.politics>)

<sup>18</sup> ‘Ireland Stubs Out Smoking in Pubs’, *BBC* (29 March 2004); available at: <http://news.bbc.co.uk/1/hi/3577001.stm>

should have the right to a smoke-free workplace and pushed the government to honour its international commitments.

The prospect of legislation was now inevitable. While the public health community was united in its message that there had to be a total ban, one of the effects of the partial ban plan was to divide the hospitality industry. The representative trade bodies were concerned at the proposal to exempt private members clubs and non-food establishments, as they wanted to see a level playing field. In the view of Deborah Arnott, the initial hybrid policy formation was critical in swinging the hospitality industry behind a total ban in a way which they would not have been if the government had, for example, proposed a smoking room option. Furthermore, environmental health officers, who would have to enforce the ban, were engaged by Department of Health policy officials in order to make sure the legislation was workable and they took the view that a partial ban would be difficult to implement.

Meanwhile, pressure for a comprehensive ban continued to build. In March 2005, a *British Medical Journal* report published the most authoritative data yet on the impact of passive smoking with research suggesting it killed 11,000 a year in the UK. Three months later, Members of the Scottish Parliament voted by 83 to 15 to introduce a ban on smoking in public places in Scotland from March 2006. Employers failing to enforce the ban could face fines up to £2,500 and smokers who defied the new legislation would be liable to pay a £1,000 penalty.<sup>19</sup> Meanwhile, discussions over the smoking ban in England broke down at Cabinet level, causing the Bill to be delayed. John Reid retained doubts about the wisdom of an outright ban. He continued to raise concerns that a total ban might simply transfer smoking into the home, with a knock-on negative effect for the health of children and believed individuals should have the option to choose to go to an establishment which allowed smoking. On the other hand, proponents of stricter measures pointed out the higher rate of smoking in predominately manual and working class areas of the country and that many of those pubs and private clubs unaffected by the legislation were located in these areas. As such, a uniform application of the law would not only provide clarity for the public and be easier to implement, but also prevent the policy from worsening health inequalities.

## Decision

The hybrid proposal appeared in the Labour Party's manifesto for the May 2005 general election. After Labour secured victory, John Reid was replaced as Health Secretary by Patricia Hewitt and she had to decide how to take the legislation through Parliament. The Cabinet itself was still split on the proposal and there was a strong external campaign running for comprehensive measures.

At the beginning of the new Parliament, Kevin Barron was appointed chair of the Health Select Committee. As he was a known longstanding advocate of measures to curb tobacco use, having sponsored a Private Member's Bills in the 1990s, Barron took his appointment as a signal from government to engage the Select Committee on the issue. He therefore decided to hold an inquiry

<sup>19</sup> 'Smoking ban law approved by MSPs', *BBC* (30 June 2005); available at: <http://news.bbc.co.uk/1/hi/scotland/4635029.stm>

into the legislation on smoking in public places while it was under consideration by Parliament. At the start of those hearings, a majority of the eleven members were not in favour of a complete ban. But the Committee took evidence in Ireland to see the ban in practice (including in a pub in Killarney) and during the hearings Northern Ireland announced it was going for a complete ban, which was a *"gift to the Committee"* and they brought in the Northern Ireland Secretary to give evidence.<sup>20</sup> They also took evidence from the CMO who said there should be a complete ban – and when a member asked Sir Liam if he would consider his position if this was not introduced, he said he would, which *"lit the blue touch paper"* – though he had not given prior thought to saying this at the hearing.<sup>21</sup>

On 27 October 2005, the Health Improvement Bill was published. As the compromise clause for private member clubs and non-food public houses remained, criticism came from both pro- and anti-smoking lobbies, although there was a growing consensus within the hospitality trade that restrictions should apply across the sector in order to ensure fair competition. Given the exemption, there was a fear that some pubs would simply stop serving food to avoid the ban. Patricia Hewitt appeared before the Health Committee on the day that the Bill was published and suggested that *"any way forward has both advantages and disadvantages"*. She admitted that the government faced a *"very difficult balance that we are trying to strike between protecting employees from second-hand smoke and respecting the rights of a minority of adults to do something that is perfectly legal"*. Furthermore, the Secretary of State acknowledged that *"the vast majority of people want a complete ban" and the trend of public opinion against smoking meant "it is only a matter of time before we do have a complete ban."*<sup>22</sup> By the time the inquiry reported on 19 December 2005, nine of the Committee's eleven members signed up to an amendment to get rid of the exemptions for private member clubs and non-food pubs. One effect of the Select Committee hearings was to establish a cross-party consensus for legislative action, which proved a crucial tipping point. Its timing and the fact that members' opinions moved was regarded by Liam Donaldson as *"absolutely perfect"*.<sup>23</sup>

Separately, and behind the scenes a coordinating group was meeting every Monday to plan tactics with Kevin Barron. The group, which included representatives from ASH and the All-Party Parliamentary Beer Group, produced a spreadsheet with the expected voting intention of every MP. Since the tobacco industry's key argument was economic, that legislation would harm the hospitality trade, evidence from New York and Ireland was used to show this was not the case. Advocates for the ban were keen to gain insights from those involved in introducing similar restrictions abroad, especially on how to sell the change publicly. The key messages were to frame the issue positively, 'smoke-free' rather than 'ban', and offer useful soundbites on the unsustainability of a partial ban. In the words of one New York official, *"you can't create a half-chlorinated swimming pool"*.<sup>24</sup> Yet, some lessons transferred better than others. The worker protection argument that was central to the debate in the US, with its highly litigious culture, was

<sup>20</sup> IfG Policy Reunion.

<sup>21</sup> IfG Policy Reunion.

<sup>22</sup> Examination of Witnesses: Rt. Hon. Patricia Hewitt and Sir Nigel Crisp, 'Minutes of Evidence', Select Committee on Health (27 October 2005); available at: <http://www.publications.parliament.uk/pa/cm200506/cmselect/cmhealth/623/5102702.htm>

<sup>23</sup> IfG Policy Reunion.

<sup>24</sup> IfG Policy Reunion.

thought by Liam Donaldson to have played less well in England. In contrast to collaborative approach of the anti-smoking lobby, what was notable on the other side was how the tobacco industry failed to build significant alliances.<sup>25</sup>

A key moment came when the opposition decided to give its members a free vote on the ban. This came at a moment when, within government, there was considerable restlessness over a number of difficult whipped votes. The Prime Minister indicated that he did not regard the smoking ban, even though a manifesto commitment, as being of the same importance as other controversial issues at the time and this opened the way for a free vote on the government side. The issue for the ban campaigners then became how to get a big enough majority in the Commons to withstand pressure in the Lords. On 14 February 2006, when the first vote was won, many MPs who had originally voted against the total ban ended up voting with the ayes for completely smoke free enclosed workplaces and public places in England by a majority of 200.<sup>26</sup> This enabled passage through the Lords, despite Lord Tebbit arguing in favour of reverting to the Labour manifesto commitment. The way in which Tony Blair and Gordon Brown voted was regarded as an important signal to others, and campaigners encouraged them to support the amendments on the grounds that otherwise they would end up having to implement a measure which they had voted against. In December, the government announced that a smoking ban in England would come into effect from 1 July 2007.

## Consensus

The final policy was the culmination of a popular consensus that government was right to intervene in matters of public health. A preference for direct measures had been built up over decades through incremental changes and the sustained efforts of campaigners. By 2006, public opinion appeared to strongly favour a comprehensive ban, with 90% supporting restrictions on smoking in restaurants, 85% at work and 66% in pubs. Even 79% of smokers were in favour of a ban in restaurants, but only just over a third supported the same measures in pubs. In contrast, 69% of ex-smokers and 80% of those who had never smoked were in favour of the ban in pubs.<sup>27</sup> Overall, when questioned about the new legislation, the ONS survey found 53% strongly agreed, 24% agreed, 7% neither agreed nor disagreed, 11% disagreed and 4% strongly disagreed.<sup>28</sup> As internal debate raged within Cabinet, the mobilisation of public opinion was paramount. Although there was growing support for regulation, there continued to be concerns raised about public opposition to the ban and fears of widespread non-compliance, which did not happen.

The Conservative Party had been long-term proponents of self-regulation, as the party's *Action on Health* manifesto (2005) stated: "*We do not believe that food producers are to blame if people eat unhealthily, or that pubs are to blame if people drink or smoke. There we shall seek voluntary, not*

<sup>25</sup> See Deborah Arnott, et al. 'Comprehensive Smoke-free Legislation in England: How Advocacy Won the Day', *Tobacco Control*, vol. 16 (2007), pp. 423-8.

<sup>26</sup> 'Smoking Ban in All Pubs and Clubs', *BBC* (14 February 2006); available at: [http://news.bbc.co.uk/1/hi/uk\\_politics/4709258.stm](http://news.bbc.co.uk/1/hi/uk_politics/4709258.stm)

<sup>27</sup> ONS, *Smoking-related Behaviour and Attitudes* (2006), p. 93.

<sup>28</sup> *Ibid*, p. 94.

*statutory solutions to public health problems.*<sup>29</sup> However, sensing the opportunity to embarrass the government, Tory MPs had been given a free vote on the Bill. Fearing a backbench rebellion, Labour followed suit and gave their MPs a free vote. Meanwhile, the Liberal Democrats had already made a commitment to support the passing of comprehensive smoke-free legislation in order to protect workers and tackle health inequalities. Although a majority of Conservative MPs still voted in favour of an exemption for private member clubs, such has been the perceived success of the policy that no party has seriously debated revisiting and revising the measures.

## Reflections

At the Institute's policy reunion, there was general agreement on the panel that the move to smoke-free public places was a victory for Parliament and showed the power of Select Committees in establishing a basis for political action. The process that led to the ban had created a tipping point in willingness to contemplate legislative action that was now being followed through in the coalition Government's tobacco plan which built on and even went further in some respects than earlier Labour proposals.

In particular, the introduction of a comprehensive ban on smoking was a move that went with the grain of public opinion. In other countries (for example, Ireland, Scotland and Turkey) government action had, through strong ministerial leadership, pushed ahead of public opinion, but in England the government had lagged behind the public. Countries such as Norway which had opted for the 'smoking room' route (which might have been enacted if the government had proposed it in England, as it would have been supported by the hospitality industry) have moved to a full ban – so the change may well have come to England, but later, even if 'smoking rooms' had been introduced initially. For anti-tobacco lobbyists, the example of earlier action in similar jurisdictions proved a useful. In particular, rather than far-off examples in California and Australia, the Republic of Ireland provided a pioneering case study of effective legislation that was on Britain's door-step. Meanwhile, Scotland, Wales and Northern Ireland demonstrated the potential for Westminster to gain policy insights from devolved administrations.

Nonetheless, it was vital that there was a robust evidence base for action, marshalled over the years by a unified public health community, and an effective framing of the issue. In particular, the leadership role of the Chief Medical Officer should not be underestimated. The CMO is a unique position in government combining internal management responsibilities within the NHS, and as an adviser to ministers, with the ability to take a public stance. The process was kick-started when Liam Donaldson published his annual report for 2002 that recommended the introduction of a ban. This was a critical factor in persuading ministers to accept that the voluntary approach favoured previously by the government had failed to deliver. The willingness of a powerful Secretary of State to push the case for legislative action was also hugely valuable.

<sup>29</sup> Cited in George Jones, 'Tories will "empower" young people to resist sex, drugs and drink', *The Telegraph* (17 February 2005); available at: <http://www.telegraph.co.uk/news/uknews/1483728/Tories-will-empower-young-people-to-resist-sex-drugs-and-drink.html>

Efforts to promote comprehensive legislation were further aided by the tactical use of the Health Select Committee under a committed Chair, which built a cross party consensus on the case for action. Effective campaigning by external pressure groups combined with the Health Select Committee and the Chief Medical Officer to apply pressure from various perspectives. A key turning point came when the hospitality trade shifted to support a comprehensive ban. In a case of unintended consequences, the government’s decision to adopt a model of legislative action based on exemption, rather than propose a uniform introduction of ‘smoking rooms’, threatened to unlevel the playing field in the hospitality industry. This proved decisive in getting them to support a full ban as a preferable option and therefore split the opponents of the ban. This coalition of interest groups and specialists helped move public opinion to a position where it was in advance of political opinion and created an environment to go further. At the same time, the tobacco industry failed to build any sort of effective alliance to oppose it.

More generally, the most effective action on smoking over the last forty years occurred in countries where there was a combination of leadership from the medical community, leadership from within the policy community – both committed civil servants and ministers, and from wider civil society, creating a public climate conducive to action. In some cases, such as the Republic of Ireland, individual ministers led public opinion and forced the pace of action; in others like England, ministers followed the movement in professional and public opinion. What changed was a growing confidence in government, its resolve stiffened by the health community and popular support, and a hardening of the evidence around the impact of passive smoking, whose effects had first been identified in the 1980s. It was the coming together of these factors that finally made a ‘whole of population’ intervention such as the smoking ban politically palatable.

**List of Participants at Policy Reunion**

<b>Name</b>	<b>Role during this ‘Policymaking Process’</b>
Rt. Hon. Lord Reid of	Secretary of State for Health, 2003-2005

Cardowan	
Sir Liam Donaldson	Chief Medical Officer, Department of Health, 1998-2010
Rt. Hon. Tessa Jowell MP	Minister for Public Health, 1997-1999, and Secretary of State at the Department of Culture, Media and Sport, 2001-2007
Rt. Hon. Kevin Barron MP	Chair of the Health Select Committee, 2005-2010
Deborah Arnott	Director, Action on Smoking and Health (ASH), 2003 to Present
Prof. John Britton	Professor of Epidemiology, University of Nottingham, and Chair of the Royal College of Physicians' Tobacco Advisory Group
Steve Woodward	Director of ASH Australia, 1981-93; Deputy Director, ASH UK, 1993-4

# The Climate Change Act (2008)

## Starting point

Climate change first began to impinge on policy making discussions in the late 1980s. The Rio Earth Summit in 1992 paved the way for the discussions that led to the agreement of the Kyoto protocol in 1997 which committed ratifying developed countries to binding reductions in greenhouse gas emissions for the period 2008-2012. The UK's 'dash for gas' in the 1990s put it on track to deliver its Kyoto commitments. But, determined to show leadership on climate issues, Labour had committed itself to a more ambitious domestic target for the major greenhouse gas (carbon dioxide) by 2010. However, by 2004, it became clear that the government was off track. The Department of Environment, Food and Rural Affairs (Defra), created in 2001, instigated a Climate Change Programme Review (CCPR) to get the UK back on track. But Defra's problem was that, while it owned the issue of climate change, other departments led on policy areas or sectors which would need to change if emissions were to be reduced – and that had not been solved by repeated reorganisations. The CCPR overran its timetable as officials and ministers failed to agree on measures to bridge the gap – and, when the final report was published two years later, the government admitted this failure. This was the position David Miliband inherited when he was appointed Defra's new Secretary of State in May 2006. The central puzzle which this chapter seeks to explain is how within two years the government moved to pass the immensely ambitious Climate Change Act that put UK targets emissions reduction targets into law with near universal support.

## Policy background

In 1992, the then Conservative government in the UK, along with almost all other countries, had signed up to the UN Framework Convention on Climate Change (UNFCCC). The new Labour government played a significant role in negotiating the subsequent Kyoto Protocol agreed at the third meeting of the UNFCC signatories in 1997. The Kyoto Protocol legally committed Britain to a reduction of 13% (based on 1990 levels) in emissions of greenhouse gasses by 2012. However, earlier decisions, notably the 1990s 'dash for gas', meant that meeting the Kyoto commitments was never going to be a significant stretch for the UK.

The 1997 Labour manifesto had committed the party to a tougher self imposed target of a 20% reduction in carbon dioxide (the major greenhouse gas) emissions by 2010. This target was not legally binding and relied on the department in charge of the environment portfolio at the time extracting policy commitments to cut carbon emissions from other departments on a piecemeal basis. Most carbon emissions arise from energy and fuel use – with principal emitters being industry, transport and buildings.

In 2000, the first Climate Change Programme (CCP) was published and projected that carbon dioxide emissions would be cut 19% by 2010.<sup>226</sup> In 2003, the Department for Trade and Industry (DTI) published *Our Energy Challenge: Creating a Low Carbon Economy*. This white paper included a foreword from Tony Blair in which the Prime Minister stressed the need for global action on climate change and promised to put the UK on track for a 60% reduction in carbon emissions by 2050. This proposal firmly established climate change as one of the pillars of government energy policy for the first time.

Despite these grand ambitions, delivery was falling well short. By 2003, the government's own sustainability watchdog was pointing out that the CCP was failing to reduce total carbon dioxide emissions and that the projection of a 19% cut had been wildly over-optimistic.<sup>227</sup>

The Climate Change Program Review (CCPR) was initiated in 2004 by Defra to try and secure a fresh range of policies across Whitehall which would put the UK back on track for its 2010 target. But, after two years of interdepartmental haggling, the final outcome fell well short of that goal. Carbon reductions had effectively stopped after 2000 and the measures scraped together in the CCPR were projected to only achieve a 10.6% reduction by 2010 – of which 5.6% had been achieved between 1990 and 1995. Even against its own somewhat modest objective of moving the UK “close to” achieving the 20% target, the CCPR had been a serious failure.<sup>228</sup>

There was no 'lessons learned' on the Climate Change Programme Review, but the reasons for this failure appear to lie both in the structure and implementation of the programme. The CCPR method was to try and predict energy demand (the analysis was done by the interdepartmental analysts group, led from DTI, not Defra) and therefore emissions, which produced an estimate of shortfall. The Defra leads would then ask departments to commit to ways of filling the gap. The projection methodology was itself subject to considerable criticism and was highly dependent on forecast of future relative energy prices. But it is clear that Defra – officials and ministers – failed to persuade other departments of the necessity of taking additional measures to reach the government's 2010 target. This was despite the commitment to long-term emissions reduction in both the energy white paper and the fact that the Prime Minister had publicly asserted the importance of domestic leadership, on the eve of the climate change review, in a major speech in 2004:

*What is now plain is that the emission of greenhouse gases... is causing global warming at a rate that began as significant, has become alarming and is simply unsustainable in the long-term... As I said earlier it needed global leadership to tackle the issue. But we cannot aspire to such leadership*

<sup>226</sup> DETR, *Climate Change: The UK Programme* (2000), p. 11; available at:

<http://www.leadsm.org/Files/Exco%20File%20Library/Country%20Publications/cclsumm.pdf>

<sup>227</sup> Sustainable Development Commission, *UK Climate Change Programme: A Policy Audit* (2003); available at: <http://www.sd-commission.org.uk/publications.php?id=51>

<sup>228</sup> HM Government, *Climate Change: The UK Programme 2006* (2006), p. 24; available at: <http://www.official-documents.gov.uk/document/cm67/6764/6764.pdf>

unless we are seen to be following our own advice... we have to do more to achieve our commitment to reduce carbon dioxide emissions by 20% by 2010.<sup>229</sup>

## Initiation

Climate change barely featured as an issue in the run-up to the 2005 election. The first question to consider is why climate change rose in political salience after the election – as shown by an analysis of broadsheet newspaper reporting that mentioned ‘climate change’ or ‘global warming’ during the period 2003 to 2006.

Boykoff

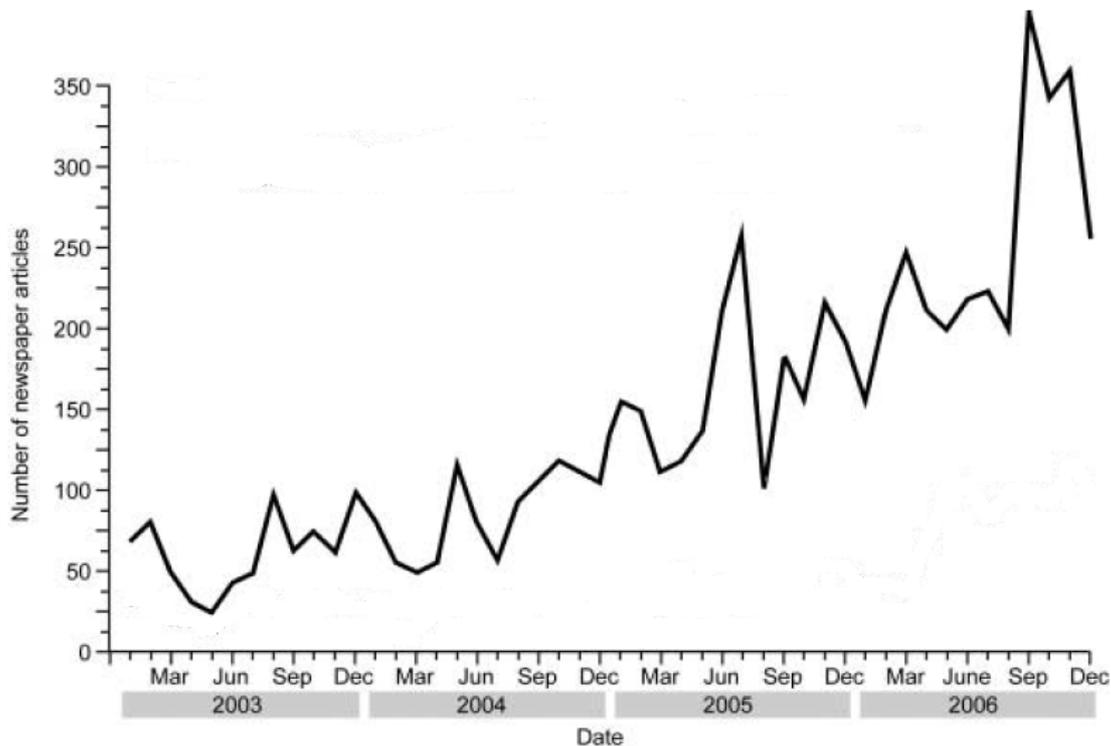


Figure 1 UK newspaper coverage of climate change

Source: Reproduced from Maxwell T. Boykoff, 'Flogging a dead norm? Newspaper coverage of anthropogenic climate change in the United States and United Kingdom from 2003 to 2006', *Area*, vol. 39:2 (2007), p. 4.

<sup>229</sup> Cited in Environmental Audit Committee, *Environmental Audit – Fifth Report* (2005), S. 2; available at: <http://www.publications.parliament.uk/pa/cm200405/cmselect/cmenvaud/84/8402.htm>

At our policy reunion, Tony Juniper (Director of Friends of the Earth between 2000 and 2008) explained how the 2004 Tony Blair speech sent climate change up the agenda and persuaded Friends of the Earth (FoE) to focus resource on a new flagship campaign:

*Before that moment it was seen as an environmental issue... it led to it moving from page 7 environment correspondent, to page 1 political correspondent. I think that then opened a whole load of possibilities that weren't there before, including opening the space for real political activism. It was in that period... that we had a long conversation at FoE about whether we should be prioritising our effort on climate change... so we closed down a lot of our other campaigns to run the Big Ask.<sup>230</sup>*

Although FoE led the way, for the first time more than a hundred NGOs including Action Aid; CAFOD; Friends of the Earth; The National Trust; Oxfam; RSPB; UNISON; the Women's Institute; and the WWF came together as part of the Stop Climate Chaos coalition .

The Big Ask campaign was launched in 2005 and sought to secure legislative commitment to a 3% annual reduction in carbon dioxide emissions. In May 2005, an Early Day Motion (EDM) was put down in parliament calling on the government to commit to this target.<sup>231</sup> Friends of the Earth, along with the other groups supporting the Big Ask, campaigned to get people writing letters to their MP asking them to support the EDM, and organised a programme of local and national events to raise awareness. In July 2006, Radiohead headlined the Big Ask Live concert in London. Both David Cameron (Conservative leader of the opposition) and the new Secretary of State at Defra, David Miliband, were in the crowd.<sup>232</sup> By November 2006, 412 out of 612 MPs had signed the motion, a remarkable achievement given that government ministers, PPS and whips (of which there were more than 150 in 2005) do not usually sign EDMs.<sup>233</sup> Indeed, only four other EDMs since 1939 have attracted more signatures.<sup>234</sup>

Views were also changing in the business community where a number of business leaders were beginning to see a need for action – and wanted a degree of certainty for their long-run investment decisions. According to John Cridland, who was Deputy Director General at the CBI at the time and is currently Director General of the same organisation, the business community became convinced of the evidence of climate change between 2004 and 2005: *“What really did it, in 2004 and early 2005, was the science. I think your average chief executive of a major company had a feeling in their gut [that] the UN scientists were right.”*<sup>235</sup> In the same year, a group of influential business leaders from companies including Shell, BP and HSBC (under the auspices of the Prince of Wales Business

<sup>230</sup> Institute for Government, Policy Reunion on the Climate Change Act (6 October 2010); details available at: <http://www.instituteforgovernment.org.uk/our-events/80/policy-reunion-climate-change-act>

<sup>231</sup> Early Day Motion 178 (2005-6); available at: <http://www.parliament.uk/edm/2005-06/178>

<sup>232</sup> 'The Big Ask Campaign: A Brief History of the Campaign for a New Climate Change Law'; available at: [http://www.foe.co.uk/resource/briefing\\_notes/history\\_of\\_the\\_big\\_ask.pdf](http://www.foe.co.uk/resource/briefing_notes/history_of_the_big_ask.pdf)

<sup>233</sup> Early Day Motion 178 (2005-6), available at: <http://www.parliament.uk/edm/2005-06/178>

<sup>234</sup> House of Commons Information Office, 'Early Day Motions', (2011), p4

<sup>235</sup> Interview with author (July 2011).

and Environment Programme) sent a letter to Tony Blair calling for a “*transition to a low carbon economy*.”<sup>236</sup>

The second factor that helped bring about the turnaround was David Cameron’s election as Conservative Party leader in 2005 and his decision to use climate change as an issue with which to ‘decontaminate’ the Tory brand. According to Nick Boles, an adviser to David Cameron and head of the Tory leader’s Implementation Unit (and a now a Conservative MP), the Conservative Party’s support was the product of a genuine change of opinion within the Westminster elite and influential Cameronites including Steve Hilton, Oliver Letwin and Greg Barker, as well as an opportunist attempt to give people’s perceptions of the party an “*eye catching yank into a new place*.”<sup>237</sup> The need to woo Liberal Democrat voters at the 2006 local elections also played its part in motivating the Conservative Party’s change of position. This set in chain a period of intense party political competition over climate change policy that had been lacking prior to 2005.<sup>238</sup> From the spring of 2006, Cameron began his policy of ‘greening’ the Conservative Party, switching to the new oak tree logo, visiting a melting glacier and cycling to work. The official Tory slogan at the 2006 local elections was “*Vote Blue, Go Green*.”

However, the really significant political intervention on Cameron’s part came, in September 2006, when the Conservative leader shared a platform with Friends of the Earth to call for a climate change bill to be included in the upcoming Queen’s Speech. Neil Carter and David Ockwell have presented extensive interview evidence showing there is considerable consensus that Cameron’s intervention stimulated party competition on the environment.<sup>239</sup> This view was confirmed by one of David Miliband advisers at our policy reunion: “*It’s only with Cameron’s election that the domestic agenda really took off and, frankly, you could say to Number 10 and the Treasury ‘look, you’re in a political race’ and that’s why you would win certain battles*.”<sup>240</sup> On the same day that Cameron made his speech calling for a climate change bill with legally binding emissions reductions, Chris Huhne (the Liberal Democrat’s environment spokesman) gave his support to the idea. A former aide to Miliband remembers him commenting that Labour could not get into the position of being the only major party not in favour of the proposed bill.<sup>241</sup>

The third factor leading to a new approach to climate change was the publication of two highly influential reports which together helped shift the terms of the debate. The first was the Friends of

<sup>236</sup> Cited in Neil Carter and David Ockwell, *New Labour, New Environment? An Analysis of the Labour Government’s Policy on Climate Change and Biodiversity Loss* (Friends of the Earth, 2007), p. 161; available at: <http://celp.org.uk/projects/foe/docs/fullreportfinal.pdf>

<sup>237</sup> Interview with author (July 2011).

<sup>238</sup> See Neil Carter, ‘Party Politicization of the Environment in Britain’, *Party Politics*, vol. 12:6 (2006), pp. 747-67. In this paper, written in 2004, Carter concludes that “party politicization of the environment in Britain is limited... While no party can afford to ignore the environment, the Conservative and Labour parties have both pursued a strategy of preference-accommodation, characterized by a reactive approach to public opinion, events and issues, but resisting competition over the environment.”

<sup>239</sup> See Carter and Ockwell, *New Labour, New Environment?*, pp. 152-4.

<sup>240</sup> IfG Policy Reunion.

<sup>241</sup> IfG Policy Reunion.

the Earth response to the Climate Change Program Review.<sup>242</sup> Bryony Worthington, the lead author, diagnosed the flaws in the original CCP and went on to suggest a new framework for climate policy which would require government to start taking action now rather than simply aiming at distant targets. The Friends of the Earth report recommended a more 'top down' approach. Recommendations for reform included a new focus on the total amount of emissions which appreciated, in the words of the report, "*that reduction pathways are as important as reduction targets.*"<sup>243</sup> This contrasted with the previous focus on the impact of individual emissions reduction policies and helped thinking within Whitehall, as those who wanted to see action on climate change were looking for a way forward after the failure of the CCP. At our policy reunion, Michael Jacobs (special adviser to the Chancellor on environmental issues at the time) stressed the new approach: "*The climate change program review... published in spring 2006 was a disastrous exercise in how not to do this effectively. The big insight from the [Friends of the Earth] report was that you had to do it top down.*"<sup>244</sup>

The second important document was Nick Stern's review of the *Economics of Climate Change*.<sup>245</sup> The report had been commissioned in 2005 by the Treasury and was designed to establish the economic, as opposed to the scientific or environmental, case for action on climate change. Stern was a well-respected figure within Whitehall and an ideal candidate for task. Having worked at the World Bank, he had come into the Treasury as Chief Economic Adviser. The *Guardian* newspaper commented at the time that "*Economists don't come with better credentials in their field than Nicholas Stern.*"<sup>246</sup> The resulting 700 page report was published in October 2006. It concluded that:

*Using the results from formal economic models, the Review estimates that if we don't act, the overall costs and risks of climate change will be equivalent to losing at least 5% of global GDP each year, now and forever. If a wider range of risks and impacts is taken into account, the estimates of damage could rise to 20% of GDP or more. In contrast, the costs of action – reducing greenhouse gas emissions to avoid the worst impacts of climate change – can be limited to around 1% of global GDP each year... The costs of stabilising the climate are significant but manageable; delay would be dangerous and much more costly.*<sup>247</sup>

The review was a turning point in the climate change debate because, although it did attract criticism, it was an authoritative and rigorous expression of the economic case for combating climate change, stressing that taking early action was the lowest cost policy option. As became clear at our policy reunion, the Stern review helped accelerate a change of opinion that was occurring inside the Treasury in 2006:

<sup>242</sup> Bryony Worthington, et al., *What the Government Should do to Tackle Climate Change* (Friends of the Earth, 2005); available at: [http://www.foe.co.uk/resource/consultation\\_responses/ccpr\\_foe\\_submission.pdf](http://www.foe.co.uk/resource/consultation_responses/ccpr_foe_submission.pdf)

<sup>243</sup> *Ibid*, p. 11.

<sup>244</sup> IfG Policy Reunion.

<sup>245</sup> Nicholas Stern, *The Economics of Climate Change* (2007), available at: [http://webarchive.nationalarchives.gov.uk/+http://www.hm-treasury.gov.uk/sternreview\\_index.htm](http://webarchive.nationalarchives.gov.uk/+http://www.hm-treasury.gov.uk/sternreview_index.htm)

<sup>246</sup> Victor Keegan, 'Profile: Nicholas Stern', *The Guardian* (31 October 2006); available at: <http://www.guardian.co.uk/politics/2006/oct/31/science.greenpolitics>

<sup>247</sup> Stern, *Economics of Climate Change*, pp. vi, vii.

*The Treasury at this point was slowly going through a bit of a rebirth and changing its thinking, driven largely by the Stern review, and this was happening inside the Treasury. I remember there being a very interesting moment in the very concluding phases of the discussions over the EU Emissions Trading Scheme, as to whether actually the Treasury was right to be going for a small cut because actually you know, if climate change was real and we should be thinking about this in an economic way then maybe... the Treasury should be rather keen on it.*<sup>248</sup>

The fourth and final factor responsible for the dramatic turn-around in climate change policy was the appointment of David Miliband as Secretary of State at Defra, in May 2006, following Labour's poor performance in the local elections. The appointment of one of Labour's rising stars to what had always been seen before as a low profile department may in itself have been a reaction to the increasing political salience of climate change. According to participants at our policy reunion, Miliband expected (or at least hoped) to be at Defra for no longer than a year (he ended up being made Foreign Secretary in June 2007) and wanted to make his mark at the department before moving on. Miliband launched a refresh of Defra strategy and identified action on climate change as his top priority. Some those who worked with Miliband emphasised his reforming energy, "*vigorous political leadership*", the way he energised the team around him and the quality of Miliband's relationship with Alistair Darling at DTI as key enabling factors.<sup>249</sup>

These four factors – the NGO campaign, political competition, a reframing of climate change as an economic issue, and an engaged political owner within government – came together to make the political environment more propitious for bold action on climate change than it had been earlier. But the government still had to decide what form that action might take.

However, the first priority was to create capacity within government to think about climate change in a different way if it was to be able to respond to the changing environment. The CCPR had sapped Defra's confidence about its ability to make an impact on other government departments and one of David Miliband's first acts on appointment to Defra was to write to the Prime Minister asking for permission to set up a new Office of Climate Change (OCC) in the Cabinet Office. The OCC was designed to provide a cross-departmental resource to consider climate change issues and provide ministers with a shared analysis – avoiding the interdepartmental wrangling which had beset the CCP process. The idea of a new central unit was opposed by the Cabinet Office and the final agreement was that the OCC could be established on the condition it was housed in Defra with a cross-departmental ministerial oversight board and elements of cross-government funding. It was finally set up in September 2006.

The OCC had other advantages too. It provided what one of our policy reunion participants referred to as a "*safe space*" in which talks could take place without people feeling like they were engaged in defensive inter-departmental negotiations:

*It was such a great opportunity to have this thing called the OCC which hadn't yet been defined... it was a blank space... to go round Whitehall saying we are here working for DTI and*

<sup>248</sup> IfG Policy Reunion.

<sup>249</sup> IfG Policy Reunion.

*for Treasury and for Defra, you don't have to be worried, this is a safe space in which we can deliver this radical policy. I think that was very important. If I had had a Defra hat on doing that first round of bilateral meetings there would have been a lot more scepticism from the Whitehall system which could have easily screwed it up. The OCC space made a big difference.*<sup>250</sup>

Second, the creation of the OCC allowed Miliband to build a fresh, properly resourced, team which was not suffering a crisis of self confidence nor lacking in credibility across Whitehall. Miliband and his advisers thought that Defra was seriously under-resourced on climate change policy, with a single director covering both domestic policy and the very time consuming international negotiations. At our policy reunion, Jonathan Brearley (architect and first director of the OCC) recalled how the old Defra team had become demoralised about the process: *"The whole sense of the organisation – Defra – I don't think really wanted this thing to happen and frankly a lot of the early conversations with the officials in the DG Environment were about what's not possible."*<sup>251</sup> The new team was able to take a fresh look at the issue and was not, in the word of Michael Jacobs, *"stuck in the tramlines of old policy."*<sup>252</sup> It was also very careful always to address serious concerns about the economy and cost.

## Options

The Big Ask campaign had put the issue of legislated targets on climate change on the agenda. Ministers had to decide whether they were prepared to back that approach – and, if they did, what form the targets should take and how to make them credible. Byrony Worthington was brought into government to look at the options and went to California in August 2006 to see how the state was proposing to introduce targets. David Miliband did not initially decide to go for a bill and his advisers were sceptical that this was the right option. But externally there was considerable momentum behind a legislated target approach and Miliband knew he needed an alternative if the government was not to be outflanked. Officials worked up an alternative to the straitjacket of FoE's annual targets – multi-year budgets – with an independent committee to assure compliance. The lead on the bill was located in the new OCC rather than in the formal Defra team. Miliband was determined to get a commitment to legislate in the November Queen's speech. But even after that commitment was gained, with Prime Ministerial support, there were a large number of detailed decisions that had to be made before the legislation could be drafted. However, once the in principle decision to legislate was made, it was easier to have a more substantive rather than a *"rubbish bill"*.<sup>253</sup>

<sup>250</sup> IfG Policy Reunion.

<sup>251</sup> IfG Policy Reunion.

<sup>252</sup> IfG Policy Reunion.

<sup>253</sup> IfG Policy Reunion.

## Decision

According to the participants at our policy reunion, there were three main issues which remained to be determined at the cabinet committee stage. The first was whether or not there should be a conditionality clause included in the bill (i.e. did it make sense for the UK to go out in front with this policy or should it make action conditional on action by others?). Voices from the Treasury and on the energy/industry side of No. 10 argued that it would be pointless for Britain to go it alone since the carbon intensive economic activity would simply move abroad and Britain would be stuck with all the costs of the policy and none of the benefits. Shriti Vadera, on the Treasury's Council of Economic Advisers at the time and a close ally of Chancellor Gordon Brown, was reported to be particularly vocal in her opposition to such a 'unilateralist' approach. The standard counter-argument was that Britain would be leading by example and could then leverage this to persuade others to adopt similar policies or make concessions on international treaties. The industry and energy policy adviser in No. 10 at the time was reportedly concerned that if Britain went it alone and the policy backfired it would achieve entirely the opposite, acting as an "anti-example" and deterring action from others.<sup>254</sup> Defra tried to make the case for first mover advantage from unilateral action even though there was no compelling evidence for this. In the end, the Defra view prevailed and the Climate Change Bill remained unconditional.

Second was the issue of how to design the carbon budgets in a way that would ensure that progress against a specific reduction path could be monitored, and policy makers held to account, on a more or less rolling basis. Significantly, the carbon budgets were for five year periods, rather than the annual reduction targets which the Big Ask had campaigned for, in order to allow for some flexibility in the face of uncontrollable events (e.g. a cold winter increasing fuel consumption). The aim of the climate change bill was to give a degree of certainty on future policy. So it was essential to back up the targets with compliance mechanisms. This was done by creating the Committee on Climate Change (CCC) which sets reduction targets and informs parliament on the government's progress towards meeting them. Creating this sort of independent watchdog can be a rod for the government's own back. When the Treasury came round to the idea that they needed to get serious about climate change they realised that an independent CCC would actually be helpful in bolstering their ability to take tough decisions on emissions reductions:

*The fundamental political choice was: is this a body which will be a ramp for the civil service for further policy which we don't really want to do...? Or, exactly the opposite, if we want to make a difficult decision it would be much better to have an independent body telling us to do it first, and we can say that's why we are doing it. And I remember saying to Gordon Brown: 'Look, we are going to have to make difficult decisions, and this will help us.'*<sup>255</sup>

There were debates about the remit and the powers of the Climate Change Committee. It was decided not to give them policy powers. In the government draft bill, the CCC was only given a remit on mitigation, not on the parallel question of adaptation to climate change. This was

<sup>254</sup> IfG Policy Reunion.

<sup>255</sup> IfG Policy Reunion.

amended in the House of Lords and the government accepted the change. Robin Mortimer (the lead on the bill in OCC at the time, but subsequently Director for Adaptation in Defra) noted that officials came to revise their view – and having powers for the CCC to oversee adaptation would prove hugely useful.

Furthermore, working up the bill into a state where it was ready to be introduced required rapid decision-making. The role of the OCC as bill lead was important. Unlike departmental officials, OCC members had privileged access across government:

*The OCC having a direct relationship with secretaries of state allowed them to brief the secretaries of state before cabinet committee to allow us to get our case across... It really made a difference to get ministers in that position... where they came to cabinet committee with common briefings, rather than being their own siloed departmental positions.<sup>256</sup>*

To maintain their credibility as a truly cross-departmental resource, rather than being seen as the campaigning arm of David Miliband's department, required the OCC to take extra care and ensure they came across as being as balanced as possible, always working up a range of options for ministers to choose from and presenting them in a neutral way. This was crucial in maintaining the trust of ministers. On each critical issue, the OCC would identify a weak option and an extreme option – consensus would usually emerge around a middle option. The formal cabinet committee process was facilitated by a fortnightly steering group and intense activity on the part of special advisers and senior officials among whom high levels of trust were built up. David Miliband played a particularly important role in securing buy in from other ministers and, critically, built good relations with Alistair Darling at the Department of Trade and Industry. The process of rapid drafting was helped by having a very good parliamentary draftsman who produced an “*elegant framework*” to a rapid timetable.

## Implementation

The Climate Change Act 2008 has the following provisions:

- **Carbon targets and carbon budgeting:** The act places the government under a legal duty to reduce greenhouse gas emissions by 80% below 1990 levels by 2050. There is also an interim target to reduce carbon dioxide emissions by 26% by 2020. The government must set out a series of five year carbon budgets which will begin to lay out the reduction pathway to 2050. The first three carbon budgets will run from 2008-12, 2013-17 and 2018-22. The government must prepare policies that will keep emissions inside these budgets.
- **The Committee on Climate Change:** The act establishes the Committee on Climate Change, an independent, expert body to advise government on the appropriate level for the targets, budgets, and on matters relating to mitigation and adaptation. The Committee will

<sup>256</sup> IfG Policy Reunion.

submit annual reports to parliament on progress towards the targets. The government must respond to this report.

- **Trading schemes:** The act gives the government power to introduce emissions trading schemes by secondary legislation.
- **Impact of (and adaptation to) climate change:** The government must publish regular reports on the risks to the UK from climate change and programmes for adaptation to respond to the risk identified.

The Climate Change Committee, under the Chairmanship of Lord Turner, was established and met for the first time in December 2008 with an adaptation sub-committee that was chaired by Lord Krebs. The Labour government published its Low Carbon Transition Plan in July 2009.

The coalition Government set out its own version in the Carbon Plan, published in March 2011. In May, the Government accepted the CCC's recommendations for ambitious reductions in the fourth budget period, implying 50% emissions over 1990 reductions by 2025 – something that was reported to be the subject of heated interdepartmental debate, but where the Department of Energy and Climate Change view prevailed (in contrast to the CCPR).

In its latest assessment of government progress, published in June 2011, the Climate Change Committee reported a mixed picture: the Government was undershooting the first budget period, largely due to the effects of the recession, but needed a step change if it was to be on trajectory for the fourth budget period.

Institutionally, the need to bring energy and climate change policy together was recognised in the decision by Gordon Brown's government in October 2008 to bring together the energy side of the (then) Department of Business, Enterprise and Regulatory Reform and the climate change mitigation side of Defra in a new Department of Energy and Climate Change (DECC). The OCC moved to be part of the DECC strategy team, but has now ceased to have a separate existence – perhaps a reflection that these sorts of units have a limited shelf life.

## Consensus

Unlike America, the need to act on climate change has never been a politically contentious issue in the UK. The final act was passed with a remarkable degree of political consensus. The bill started in the Lords. The third reading in the Commons took place on the 28 October 2008, and 483 MPs voted for the bill and just three voted against (Christopher Chope, Peter Lilley and Andrew Tyrie). Greg Clark, Shadow Secretary of State for DECC, noted the remarkable consensus that had formed around the bill: *"This Bill has attracted an unusual spirit of cross-party co-operation in both Houses. That is appropriate, because to succeed the Bill must lay foundations that endure from one Parliament*

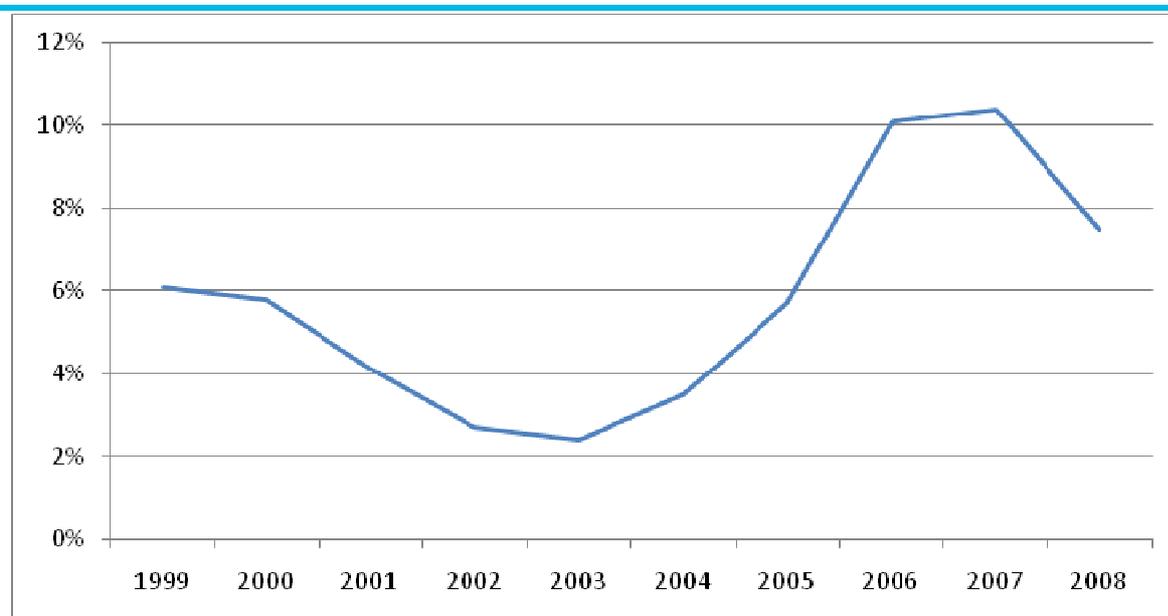
to the other and indeed, eventually, from one generation to another".<sup>257</sup> Business leaders also came out and made clear that they accepted the case for action.

What is less clear is whether the political agreement on the need to take tough measures to act on climate change is matched by public opinion. As the polling below shows, there was increasing concern that climate change was a serious problem and its salience increased (at least until the economic crisis of 2008). But, more recently, a number of sceptical voices have started to articulate the case against action on climate change – not least former Chancellor Lord Lawson, former Cabinet Secretary Lord Turnbull and former Shadow Home Secretary David Davis, among others on the Conservative backbenches.

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### Respondents agreeing that climate change is most serious issue facing the UK

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Source: Ipsos MORI Globescan

### Reflections

The Climate Change Act is remarkable both in its ambition and in its sharp contrast to the failure of the preceding Climate Change Review. With hindsight, those at the policy reunion wondered whether the UK could not have done more to leverage the potential for international influence – and whether the degree of consensus could have been taken further to create support for specific actions rather than simply the creation of a legal framework. But the representative from Friends of the Earth noted that the Climate Change Act marked a watershed: *“it moved climate change from*

<sup>257</sup> 'House of Commons Debates: 28 October 2008', *Hansard*, vol. 481, part no. 153, column 836; available at: <http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm081028/debtext/81028-0021.htm#0810294002909>

*political fashion to the permanent agenda*", and officials agreed that it changed the climate change question from "whether" to "how".<sup>258</sup>

What the story of the Climate Change Act does show is the vital role outside bodies and the opposition can play in creating an environment conducive to policy change – by raising the salience of issues – and how parliament can put pressure on government to act and, thereby, change the internal power balance within government. It also shows how policy innovation can happen outside government and set government thinking in a new direction.

Three key points were repeatedly made at the policy reunion:

The first is about the value of institutional innovation. The Office for Climate Change is an intriguing exercise in joined up government. Instead of trying to promote collaboration by redrawing departmental boundaries or merging departments, the Office of Climate Change facilitated cross-government action by providing a coherent flow of information to top decision makers in those departments. Decision making in government is closely bound up with advice giving and, by sensitively providing a unified and accurate body of advice to multiple ministers, the OCC made cooperation on a significant climate change bill possible. The establishment of the OCC also helped to secure progress by creating a new team of talented civil servants who were not labouring under the assumptions of the failed Climate Change Programme.

The second is about use of evidence. Although officials tried to build a case around the evidence for first mover action, it proved impossible to establish. However, the impact of the Treasury commissioned Stern review did create a change in internal attitudes to the issue – despite the focus of Stern being very much on global action. Reframing climate change as an economic, not an environmental, issue was important in bringing the Treasury on board (even though it appears to have been the political arguments that finally swayed the Chancellor).

A third factor was the importance of David Miliband's focus on the issue and the pace he injected. In part, this was simply a matter of good fortune. Defra secretaries of state are regularly required to manage responses to natural disasters or disease outbreaks. Miliband's successor in the position, Hilary Benn, had to deal with widespread flooding and a Bovine TB outbreak in his first few weeks at the department. The sustained attention Miliband was able to give the issue helped create the necessary agreement at the political level and gave the civil servants working on the bill the space and political stability to develop the details. This was complemented by the emergence of a network of officials, committed to making the policy happen, who helped navigate the bill through their colleagues. Many of them have stayed with the issue since in different roles.

<sup>258</sup> IfG Policy Reunion.

### List of Participants at Policy Reunion

<b>Name</b>	<b>Role during this 'Policymaking Process'</b>
Jill Rutter	Director of Strategy and Sustainable Development at Defra
Tony Juniper	Director of Friends of the Earth
Michael Jacobs	Special Adviser to the Chancellor
Tony Grayling	Special Adviser to the Secretary of State (David Milliband)
David Kennedy	Director of Energy Strategy at DTI
Robin Mortimer	Led the Bill team from October 2006-March 2011
Jonathan Brearley	Established and ran the Office of Climate Change
Rebecca Lawrence	Senior Treasury civil servant leading advice to Chancellor
David Thomas	Treasury lead on Climate Change Act.
Ravi Gurumurthy	Strategic Adviser and speechwriter to the Secretary of State (David Milliband)