Risk in Policy-Making
Managing the Risks of Risk Governance

Report for the Department for Environment, Food and Rural Affairs

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1. INTRODUCTION

1.1 Risk in Policy-making

1. ‘Risk management’ has become central to decision-making across government. A number of initiatives and reviews within government have recommended that departments adopt ‘risk-based’ approaches to policy-making (e.g. Hampton 2005; Cabinet Office 2002). Indeed, the Prime Minister’s Office has held that risk management is ‘central to the business of good government’ (Blair 2002).

2. Risk is a multi-faceted concept, however, and is used in many different ways in relation to the activities of government, from the management of threats to the environment and public, to the management of threats to the business of government itself, such as threats to project delivery and financial control. Even within the technological domain, regulators are conceiving policy problems within ever more differentiated categories of risk, such as recasting ethical dimensions of the biosciences in terms of ethical risks, or public anxieties in terms of reputational risks. Managing and taking account of that diverse range of risks presents a series of inevitably complex challenges that in recent years government has sought to address through a range of risk management tools and processes.

3. Within that context, Defra has recognised the need for a better understanding of the many forms that risk takes in policy-making, in order to improve policy decision-making, implementation and ultimately outcomes across the Defra family. Informal reports suggest that, within Defra, policy-makers handle risk unevenly, sometimes using informal and intuitive methods that tend not to be consistent, and which are neither recorded nor communicated adequately. Such reports point, for example, to considerable uncertainty about what risks need to be managed, and variations in risk culture and ‘appetite’ across the department. If policy-making is to be ‘risk-based’, therefore, then there is clearly a need for a better understanding of the factors that shape the handling of risk in Defra.

4. This report, therefore, was commissioned by Defra’s Better Regulation Directorate to improve understanding of the risks with which policy-makers deal, and how they are assessed, managed and communicated. In particular, the research on which this report was based set out to explore the important factors that shape the ‘risk choices’ policy-makers make across the policy-cycle. Moreover, the research set out to identify the opportunities and problems of developing a consistent, transparent and effective risk-based approach to policy making.

1.2 The Research Fellowship

5. The research for this report was the outcome of an eight month fellowship sponsored by Defra’s Better Regulation Directorate. It builds on previous work sponsored by Defra, in particular by Jones (2005), which
sought to bring social science insights to bear on issues of risk and governance. The fellowship was methodologically innovative in so far as the Research Fellow (Downer) was embedded within the Better Regulation Directorate three days a week on average. This model of research offered a number of valuable opportunities. For us, it offered an invaluable opportunity to ‘get close’ to policy-making over an extended period of time, during which it was possible for us to learn about, research and analyse at close-hand how policy-risks are conceived, assessed and managed within Defra. In particular, it was possible for us to study the critical factors that are shaping the emergence, meanings and practices of what has become known as ‘risk based governance’. For Defra, at least we hope, the fellowship offered the opportunity for numerous exchanges of ideas and reflections on practice during the course of the research, in addition to this final report.

6. A mixture of methodological approaches were adopted throughout the fellowship to gain better understanding of risk and policy making within Defra from a number of different perspectives. Three principal approaches were adopted. The first approach was the embedding of the Research Fellow in the Better Regulation Directorate within Defra who was able to learn about the issues at stake by observing the day to day workings of the Directorate. This quasi-ethnographic approach provided a wealth of informal opportunities for discussion and guided access to documentation that would not have been possible by interviews alone.

7. The second approach was designed to gain narrow but deep insights into how policy risks were conceived, assessed and managed within Defra through case study research. Time limitations constrained us to one case-study – Heather and Grass Burning – which was chosen in consultation with the Better Regulation Directorate because it was widely seen as an exemplary case of risk-based policy making. That case-study research comprised documentary analysis and in-depth discussions with relevant Defra personnel as well as a number of telephone interviews with delivery agents, (principally English Nature and the Rural Development Service -- both now amalgamated into Natural England -- as well as other stake-holders such as the RSPB.) The case study is the subject of a separate report, and a short summary is provided in the Appendix to this final report.

8. The third approach was designed to gain broad comparative insights into how policy risks were conceived, assessed and managed across Defra. To this end, we held a one-day workshop in Defra’s Innovation Centre in Reading where we were able to bring together approximately twenty staff from across Defra and some of its delivery partners. That workshop provoked wide ranging discussions and reflections on the meaning and challenges of risk-based policy-making. We combined the insights of that workshop with over twenty semi-structured qualitative interviews with Defra staff from across Divisions to obtain comparative insights into how risks were handled across Defra. Some of those interviews were with attendees of the workshop. Others were chosen in consultation with the Better Regulation Directorate and were chosen to reflect a variety of institutional specialisms (such as law, economics and communications), and policy divisions (such as animal health, flooding, climate change as well as a range of backgrounds, experience and seniority. We also conducted interviews with a number of policy officials across Defra who had recently attempted to incorporate a new emphasis on risk on the Impact Assessment form.
9. Whilst embedding a Research Fellow in Defra offers opportunities of access, such an approach requires considerable patience and trust on the part of all for it to be effective. We would therefore like to thank everyone who assisted us with our research for the generous time and help that they gave us. Gaining sufficient trust to explore the policy risks of often sensitive policy domains takes time, however, and there were inevitable limits to how far we, as outsiders, could delve. We do note that this methodological issue points towards a more general challenge for risk-based policy-making itself, in so far as risk-based policy making requires a degree of openness about the problems of policy making that are sometimes hard to operationalise. We explore this issue later in this report.

1.3 Report Structure

10. This following report is divided into three sections. The following Section 2 provides a brief overview of contemporary social scientific understanding of risk-based policy-making, and draws on some of the latest academic literature that has addressed this emerging concept. The section relates these broad understandings to the specific emergence of risk-based policy making within Defra.

11. Section 3 goes on to examine the factors shaping the handling of policy risks within Defra. The section draws together the empirical research undertaken during the project and identifies some broad challenges to the operationalisation of risk-based policy-making. Those challenges are broadly categorised in terms of the conceptual and normative uncertainties underlying the meaning and purpose of risk-based policy making; the methodological challenges of risk assessment; and the institutional factors that shape the handling of policy risk.

12. Section 4 then draws conclusions from our study, suggesting that the multiple and often ambiguous goals, meanings and practices of risk-based policy-making can create conflicts that need to be addressed if it is to be operationalised in a useful way.

2. WHAT IS RISK-BASED POLICY-MAKING?

2.1 The Emergence of Risk-Based Policy-Making

13. As already noted, risk has become an important concept in the language of government. Risk-based policy-making has numerous connotations,\textsuperscript{1} however, not least because risk is itself an ambiguous term. At its simplest, risk-based policy-making is the practice of targeting policy in proportion to potential threats to society, considering both their likelihood and consequences. For the purposes of this report we refer to such threats as ‘societal risks’, and they include, for example, threats to human health and safety, the environment or personal financial security. Risk is a multifaceted concept, however, and, in managing risks

\textsuperscript{1} For example, risk-based decision making in international trade debates has become synonymous with science-based as opposed to precautionary decision-making, whilst in some private sector contexts, being risk-based is as much about potential rewards (risk-based pricing for example) as about harm avoidance.
to society, governments must also tackle an associated set of threats to itself and to the legitimacy of its policy interventions that emerge from the inevitable complexities, conflicts and constraints of governing. For the purposes of this report we refer to such threats as ‘institutional risks’, a term encompassing threats of reputational damage, for instance, or legal challenge. Taken together, ‘societal’ and ‘institutional’ risks, make up what are loosely known as ‘policy risks’ and it is often this general category of ‘policy risk’ that is the object of risk-based policy making.

14. The idea that ‘policy risks’ need to be managed is nothing new. A traditional core competency of civil servants and politicians is their skill and craft in understanding and managing the potential adverse outcomes of policy interventions. What is new, however, is the idea of risk-based policy-making as a discipline with its own tools, methods and processes for explicitly assessing and managing the distribution of a wide range of societal and institutional harms. In particular, traditional ‘probability x consequence’ frameworks are being used to hold together a diverse range of risks as a way of thinking about the future as indeterminate and potentially controllable. ‘Risk’, therefore, is no longer the exclusive preserve of scientists and technocrats, but is fast becoming the lingua franca of business management and general public policy. As such, risk-based policy-making is increasingly emerging as a key organising concept for governance within a wide range of policy domains and organisational settings (ICAEW 1999; Black 2005; Rothstein et al. 2006 a,b; Power 2007). There are at least three broad kinds of explanation for the growing salience of risk within policy-making:

2.1.1 ‘Good governance’ creates risk

15. First, the growing centrality of policy risk to governance can be related to the increasing need for policy-makers to explicitly account for decision-making processes and outcomes. Recent years have seen both the public and private sectors caught up in an ever tightening grip of audit and target cultures, creating new criteria for organisational success and failure (Power 1997). As Hood and colleagues have observed, regulation inside government – the regulation of regulators – has expanded so rapidly that there is now a veritable army of ‘waste-watchers, quality police and sleaze-busters’ auditing and inspecting the activities of public sector organisations (Hood et al. 1999, 207). Equally, increasing external transparency and accountability have exposed decision-making to wider public audiences, for example through freedom of information requirements, the internet, the mass media and participative decision-making (Jones 2005).

16. The move from a ‘tell me’ to a ‘show me’ world has increased the salience of risk for decision-makers. Behaviours and outcomes that previously went unrecorded or were considered acceptable within bounded organisational settings, have been transformed into recorded successes and failures that are held to account by wider audiences. Indeed, the closer coupling of decision-making with extended delivery networks that were previously poorly connected has made governance increasingly vulnerable to what Perrow (1984) termed ‘normal accidents’ in which problems in one part of a complex governance system are no longer contained but can snowball through the regime into major problems. Counter-intuitively, the drive towards ‘good’ governance by making it more accountable and ‘joined-up’ has become a source of risk itself.
2.1.2 Risk as a rational method for organising governance

17. Second, risk has emerged not merely as an object of policy but also as a rational method for organising policy activities. Policy often seems irrational, with institutional factors such as institutional path dependencies, interest group pressures and organisational cultures determining levels of regulatory intervention (Hood et al. 2001). For example, whilst exposure limits for artificial radiation are tightly regulated, government only recommends a voluntary ‘action level’ for radon that is thought to result in over 1500 lung cancer deaths each year. Equally, the ‘bureaucratic paradox’ of ‘doing the doable’ rather than focusing on the biggest problems is a well known shaper of enforcement behaviour (such as conducting easy tests on watered-down milk rather than complex tests on micro-biological safety) (Schaffer and Lamb 1981).

18. In recent years, however, there has been greater focus on enhancing regulatory efficiency by setting priorities and allocating scarce resources according to the impact and probability of problems that policy seeks to address (e.g. Flyvbjerg 2003). Because risk-based governance takes account of probability as well as potential damage, it can be promoted as an economically rational decision-making instrument, able to maximise the benefits of intervention while minimising the burdens on regulatees by offering ‘targeted’ and ‘proportionate’ interventions (Hampton 2005; UK Cabinet Office 1999, Black 2005). As such, risk-based approaches hold the promise of checking bureaucratic creep and inefficiency, countering vested interests, and mitigating risk-adverse tendencies within government (BRC 2006).

2.1.3 Risk as an instrument for limiting blame

19. A third and closely related reason for growing interest in risk-based approaches to policy is related to the value of ‘risk management’ as an instrument for managing uncertainty, and in particular, for limiting blame for failure. Power (2007), for example, argues that risk management is a way of formalising organisational operations to provide a bureaucratically rational ‘due diligence’ defence in the face of increased accountability pressures. Numerous commentators have pointed out, for example, that quantitative rationales can augment the legitimacy of decision-making, irrespective of their methodological validity, and are often a sign of weak rather than strong institutions (e.g.: Porter 1995; Rose 1999 197 ff).

20. This facet of risk-based decision-making is not simply about providing an audit trail, however; it is about setting acceptable levels of failure. As Luhmann (1993) points out, the particular success of risk in reaching into ever more areas of life can be explained by the tendency of modern societies to experience their future in terms of decisional uncertainties. ‘Rational’ decision-making is inevitably constrained because there will always be limits to our knowledge: events are fundamentally unpredictable and we have only limited ability to effect change. Framing problems as risks, however, transforms decision-making into a probabilistic calculation in which degrees of failure can be tolerated. As such, risk holds out the promise of displacing ‘failure’ within the lexicon of governance (Rothstein 2006a).

2.2 Defra and Risk-based Policy-making
21. Whilst much hope is held out for risk-based policy-making, there have been few studies of how it is understood and operationalised in practice. Most studies have been conducted on risk-based decision-making within regulatory agencies, where it has been used by regulators as a way of justifying their decisions, activities and performance in the absence of electoral legitimacy (e.g.: Black 2005, Rothstein et al. 2006a). Its emergence within central ministries such as Defra, however, is a newer and less studied phenomenon. There is no shortage of anecdotes about the challenges of risk-based policy-making, but there is a need for empirical study to understand the critical factors that can shape risk-based decision-making and its positive and negative impacts on policy processes and outcomes.

22. Defra is no stranger to risk ideas. As a Department with core responsibilities for managing risks to and from the environment, it has considerable expertise in risk analysis. In recent years, however, Defra has become increasingly concerned about the way it manages those risks and, in particular, its ability to take into account the range of potential adverse consequences associated with achieving its policy objectives. In part, there has been concern that the organisational complexity of Defra and its extensive network of delivery agents has sustained a diversity of risk practices that undermine coherent policy-making. There has also been a more general concern that Defra has conducted decision-making under the cloak of administrative procedures, driven by favoured or powerful lobby groups and short-sighted responses to public crises, and sometimes without paying sufficient attention to policy implementation and success. That situation has changed, however, as PSA targets, better regulation principles and public willingness to blame have—as one policy official from the Better Regulation Directorate put it—made a culture of ‘throwing policy problems over the fence to be picked up by delivery agents’ no longer acceptable.

23. Currently, Defra is in the process of introducing a new policy-process - ‘Renew Defra’ - which is an attempt to build greater rationality into decision-making processes to ensure that policy is ‘outcome focused’. ‘Renew Defra’ is built on a systems-based logic of control, in which attention is paid not just to goal setting, but also to gathering information on goal attainment and behaviour modification to bring activities into line with goals. It is becoming increasingly clear, however, that as Defra attempts to build greater coherence into its policy processes, so it increasingly needs to think more about the way it manages factors that stand in the way of achieving policy objectives (e.g.: Defra SAC 2007).

24. As part of this process, Defra has developed increasing interest in the ways in which the ‘risks’ of risk governance can be better understood and managed. In particular, the Better Regulation Directorate is interested in developing risk tools that can help decision-makers weigh alternative policy options. For some in Defra, risk-based approaches are attractive for many of the reasons identified as general drivers of risk-based policy-making discussed in the previous section:

25. First, risk-based approaches are seen as helping gather necessary policy intelligence about the wide range of risks of different policy options to assist the Minister and Management Board in making informed decisions. Recording such information in some form of risk register is also seen as vital for continuity and effective operation of policy, particularly in the context of moves towards more flexible working patterns.
Without a written record of policy risks, there is concern that such knowledge may get lost as staff move in and out of policy teams.

26. Second, risk-based approaches are seen as a way of providing a rational logic for prioritisation and exploring innovative and efficient means for achieving policy goals (e.g. Capability Review Team 2007). Defra is a large and heterogeneous department with widely varying policy cultures and there is anxiety that sometimes inadequate attention is paid to the wider contexts and impacts of policy; ‘tunnel vision’ as one official from the Better Regulation Directorate put it. Risk tools are seen as having the potential to challenge and change policy cultures within Defra by forcing policy-makers to think about the wider factors that can stand in the way of achieving policy goals and how to steer an often contested path between a multiplicity of undesirable outcomes.

27. Third, risk based approaches are seen as important mechanisms of accountability because they can provide a written record that risks have been assessed and duly communicated to the Minister and the Management Board. As one policy official from the animal health division put it to us, ‘we’re making sure that if there is an emerging issue [then] the right people know about it... if it’s dismissed, we’ve got an audit trail… so that helps manage our reputational risks’. In particular, it offers the possibility of limiting blame by setting levels of acceptable failure. Within Defra, there is seen to be a need to challenge the idea of zero risk tolerance, so that occasional failures that fall within expected limits should not demand knee jerk policy responses. In so doing, Defra wants to build a ‘no surprises culture’ in which the adverse consequences of policy can be anticipated and ways can be found to take managed risks.

28. There is, therefore, some interest within Defra in developing a risk toolkit that could assist policy-makers identify, assess, communicate and manage ‘policy risks’. In our study of how policy-makers handle policy risk in Defra, however, we came across a number of important challenges to the introduction of risk-based policy-making that could mitigate the value of any such toolkit. For simplicity, we have broadly grouped these challenges within three broad categories of conceptual and normative, methodological and institutional.

3. CHALLENGES OF RISK-BASED POLICY-MAKING

3.1 Risk-based policy-making: Conceptual and Normative Challenges

29. The first set of challenges that Defra faces in trying to operationalise risk-based policy-making are conceptual, in so far as they relate to fundamental uncertainties about what a ‘policy risk’ is and what it means for policy to be ‘risk-based’. The concept of ‘risk’ is well known to be ambiguous, often creating considerable confusion in its everyday usage. Within the environmental and human health and safety policy domains, for example, the term is generally used to refer to the product of the probability and consequences of specific hazards. Sometimes, however, ‘risk’ is used solely refer to the probability of some hazard occurring, reflecting its roots in statistics. At other times, ‘risk’ – especially in everyday language - is used as a synonym for ‘hazard’. Moreover, as already observed in the introduction, the concept of risk is often used
in relation to a wide range of hazards that exceed its long association with the environment and human health and safety.

30. Moreover, the concept of a ‘policy risk’ introduces further scope for interpretative flexibility as to what ‘policy’ risks are, and how they should and can be managed. This problem is best illustrated by drawing a comparison with private sector risk management, on which public sector risk management tools tend to draw. In the private sector, risk management has become firmly embedded as a tool of corporate governance for managing those factors that might adversely impact on shareholder value. The public sector equivalent of shareholder value is ‘public value’, but risks to public value are much harder to manage for at least three reasons (see Hood and Rothstein 2000).

31. First, whilst shareholder value more or less provides a single goal for private sector risk management, ‘public value’ provides multiple goals for public sector risk management because it relates to a diverse and contested set of societal wants that cannot be easily defined, measured or traded-off. Profit, for example, is a more readily targeted goal than protecting the environment without disproportionately imposing a burden on business, losing public approval and failing to meet the sometimes conflicting principles of Better Regulation. Second, shareholder value tends to directly relate to organisational survival, but although public value may relate to organisational survival, government—as risk bearer of last resort—has duties beyond the survival of any particular organisation. Third, whilst risk management responsibilities in the private sector are aimed at the commercial enterprise, the management of public policy risks are commonly distributed amongst a complex network of organisations, such as central government ministries and delivery agents, each of which may have their own diverse set of interests and goals.

32. Those differences pose fundamentally difficult questions for risk-based policy-making in the public sector: what kinds of risks should be taken into account in policy-making, and to whom or to what; how should the multiplicity of risks be balanced against each other; and how should risk management responsibilities be distributed across government? The normative uncertainties underlying these questions cannot be resolved through some mechanistic process. There is no simple formula, for example, that can determine whether or how risks to the general public of a policy should be balanced against risks to the environment, to societal organisations and to government itself. Nor is there a formula for determining how so-called ‘dread’ (rare but high-impact) risks, should be balanced against ‘normal’ (frequent but low impact) risks; or how reputational or political risks should be distributed throughout state organisations. The resolution of such questions requires democratic reflection on the goals of policy, the roles and responsibilities of the state and civil society, and the institutional co-ordination of a complex set of actors to steer a path through a multiplicity of undesirable policy outcomes.

33. Existing rules and guidance on the way Defra expects policy risks to be managed only goes some way towards answering these questions. Risk-based policy-making could be seen as a means of governing decision-making, taking the form of well-known instruments of internal executive control such as rules, guidance and awareness-raising, with some audit and enforcement mechanisms. Yet looking across those
instruments, considerable variety can be observed in how they suggest that adverse impacts and probabilities should be taken into account.

34. For example, in common with many other government departments and agencies, Defra is explicitly required to take into account the impacts of policy on the environment, human health and safety, and business, through a range of rubrics, such as the five principles of Better Regulation; guidance such as HM Treasury’s ‘Managing Risks to the Public’ [2005]; and well-established acronym-laden techniques such as ALARP and BATNEEC. A prominent principle guiding such interventions is proportionality, which requires that a ‘proper balance’ should be struck between the costs and benefits of policy interventions. Compliance with such ‘rules’ is explicitly monitored and enforced through the Impact Assessment and other procedural checks such as Ministerial Challenge Panels, as well as being subject to occasional audit by external scrutinising bodies such as the National Audit Office and PAC. Moreover, compliance with such rules is effected both by ‘soft’ means, such as awareness raising and guidance, and ‘hard’ means such as procedural checks and, in the last resort, legal challenge by external parties.

35. Beyond risks to the environment, human health and safety, and business, however, the wider impacts of public policy interventions - such as reputational risks or political risks - are ultimately the responsibility of the Minister. There is neither a comprehensive list of what risks policy-makers should consider, nor explicit rules on how those risks should be taken into account in policy-making. Instead, policy-makers are encouraged to take these wider policy risks into account through a combination of exhortation and awareness raising, such as internal training videos, internet aids and seminars produced by Defra’s internal Risk Officer. There are few formal detailed monitoring mechanisms for these wider institutional risks; reputational risk, for example, does not appear on the Impact Assessment. Instead, the Impact Assessment requires an assessment of ‘risk’ without specifying what risks should be assessed. Monitoring and compliance, therefore, relies on ad hoc screening during the policy-making process and reactive ‘fire-alarm’ approaches.

36. Policy-makers’ attention to the probability of adverse policy impacts has traditionally been simply implicit in principles of good policy-making. More recently, however, guidance such as HM Treasury’s Orange Book (HM Treasury 2004) and internal Defra corollaries has sought to inculcate the need to take into account the probability of alternative or contingent outcomes of various policy options. Moreover, policy-makers’ attention to the probability of impacts is now monitored through the Impact Assessment, in so far as the IA now requires an assessment of risk. There are, however, no rules on how probability should be taken into account and combined with analyses of impacts. Instead, the handling of probability tends to be a matter for policy craft and political judgement.

37. Defra’s ‘rule environment’ governing attention to policy risk is common to central government departments where traditional responsibility for managing policy risks rests with the Minister. There is, however, nothing inevitable about these arrangements. It is worth observing, for example, that a number of regulatory

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2 The principle of proportionality is enshrined in EU law and its application can be tested against three principles: balance, necessity and suitability (de Smith, Woolf and Jowell 1995:593-8 ) The principle is also promulgated as a principle of good regulation by the UK Cabinet Office’s Better Regulation Unit, (BRTF 1998).
agencies without a Minister have started to take explicit account of institutional risks such as reputational risks or political risks. The Financial Services Authority, for example, is explicitly required to manage market and public confidence, and one of the Food Standards Agency’s key priorities is to improve consumer confidence in the agency. Equally, a number of regulatory agencies such as the Health and Safety Executive and the Environment Agency have explicitly and controversially started to take into account so-called ‘dread’ risks through the concept of ‘societal concerns’ through which greater weight can be given to rare but high-impact risks to accommodate socio-political concerns.

38. For some officials we talked to in Defra, it was important that the rule environment reflected something of the uncertainties underlying risk-based policy-making. It was, for example, felt to be important for Defra to develop capacities for spotting difficult-to-anticipate policy risks by encouraging reflection and ‘innovation’ as opposed to imposing ‘a straightjacket’ as Defra’s risk officer put it. Risk was seen as something that ‘...should flow through the whole [policy process] as people talk of a problem and the pros and cons, risk is just in there’.

39. At the same time, the uncertainties amongst policy-makers about the meaning of risk-based policy-making gave rise to inconsistent practices. For example, some policy-makers we spoke to simply focused on policy impacts on the environment, health and safety, and business, believing that any wider impacts were beyond their remit. Even here, however, there was uncertainty about how far policy-makers should take into account factors that might inhibit the achievement of those primary policy aims, such as operational failure on the part of a delivery body or non-compliance by a regulatee that might lead to policy failure. In the absence of such considerations, it would be hard to assess the likelihood that policy goals would be achieved.

40. Other policy-makers we spoke to were more disposed to assessing the wider impacts of policy but were uncertain as to exactly what kinds of risk they should be assessing and to whom or to what. One interviewee, for example, who was perplexed by the Impact Assessment’s requirement to assess risk, arbitrarily chose to assess the risks of his policy by considering it in relation to DEFRA’s mission statement for sustainable development, but struggled to achieve this in the absence of guidance. Another example was the uncertainty about the indicators that should be used to assess reputational risk, since the reputational impacts of any one policy are likely to vary across the Defra network, for example, between ministers, policy officials, or delivery bodies, and equally vary across different stake-holder audiences.

41. Relatedly, some policy-makers were unclear as to how far they should consider policy impacts that fell beyond Defra’s policy remit. A central dilemma of risk governance is that actions taken by a risk regulator in one policy domain may have unintended and perverse policy impacts in other policy domains; or to adapt a well known phrase, the ‘radius of policy responsibilities is often shorter than the radius of policy consequences’. Examples include restrictions placed on rail traffic following rail accidents that result in increased road traffic deaths, or measures to increase biodiversity that increase the number of human disease bearing parasites. It was unclear to some officials whether they should be responsible for thinking through the wider consequences of policy interventions that fell beyond Defra’s policy remit or whether such problems should be handled in other ways.
42. We found that such uncertainties created considerable confusion about the meaning and purpose of risk-based policy-making. For example, when we asked Defra officials what was meant by the term ‘risk based policy-making’ we had a wide variety of responses that reflected the different ways in which risk was being operationalised within Defra. For some it was about communication; one person said it was about communicating the ‘pros and cons’ to the minister, whilst another said that it was about ‘having intelligent conversations’. For others risk based policy-making was about the way that risks were managed: having either the connotation of risk-aversion, or the opposite; as one commented ‘my fear is that a risk-based approach will lead you to conclude that, oh, this is just all about not being ambitious enough’. Others, meanwhile, saw risk-based approaches as an opportunity to change the way policy was made, whilst some were simply baffled, finding the language and terminology unhelpful. One felt risk was a ‘red herring’, for example, adding little value to policy analysis unless it was more closely defined.

43. Such diversity of opinion reflects the uncertainties and interpretative flexibility underlying the concepts of risk, policy risk and risk-based policy-making. On the one hand, that interpretative flexibility is precisely the reason why risk terminology has become so pervasive and resilient in such a wide variety of contexts. Risk, in sociological terms, acts as a ‘boundary object’; its vagueness and imprecision allowing it to be employed in diverse ways by different people whilst maintaining a core set of commonly recognised ideas, rather like the closely allied terms of ‘trust’ and ‘precaution’ (e.g.: see Sandin 1999). On the other hand, that interpretative flexibility creates scope for risk ideas to be introduced in ways that merely reinforce current practice, or even make current practice more confused.

3.2 Methodological Challenges

44. The second set of challenges that Defra faces in trying to operationalise risk-based policy-making are broadly methodological, in so far as they relate to the difficulties of assessing the various possible adverse impacts of policy options. The assessment of policy risks is not a precise science. Instead, policy risk assessment involves often heterogeneous and hybrid combinations of scientific expertise, policy analysis and professional judgement in ways that often go beyond the predictive abilities of natural and social science and the available evidence.

3.2.1 Methodological uncertainty

45. In our brief study, we came across very different kinds of approaches being used to assess different kinds of adverse impacts of policy options. In gathering evidence about environmental risks, for instance, Defra was able to commission research, draw upon several hundred in-house dedicated scientists, and make use of scientific advisory committees and other external advice. Economic analysis ranged from complex analysis by economists to simpler judgements of economic impacts by policy officials, whilst legal risks were assessed by lawyers working within Defra on behalf of the Government Legal Service who were able to bring their specialist expertise to bear on possible legal risks of varying policy options. ‘Softer’ institutional
risks, such as reputation, however, tended to be assessed by policy officials more on the basis of accumulated experience, ‘gut feelings’ and ‘listening to stake-holders’.

46. Methodological choice was, of course, constrained by resources, but also by the predictive limits of the available techniques. Whilst political science, social psychology, and sociology could offer some useful approaches and heuristics for gauging likely stake-holder reactions to policy options,\footnote{3} it was felt that such approaches are hard to operationalise and any claim to certainty or rigourous exactitude would be contrived. For example, whilst policy officials and the communications division paid some attention to proxy reactive indicators of public attitudes such as post-bags and media coverage, there was little enthusiasm for routinely commissioning in-depth research, believing it to be resource intensive and of limited value.

47. Uncertainty was, of course, a key feature of these risk assessments and was recognised to extend deep even into the most ‘objective’, scientific and quantifiable areas of risk. For example, in our study of Heather and Grass Burning, whilst a science panel was convened to bring the best available expertise to bear on the potential damage of wild fires, it was limited by a lack of available data on the actual frequency of such events, and by uncertainties about whether climate change was altering nesting periods. ‘Softer’ risks such as potential economic and reputational impacts of new rules on burning, meanwhile, often involved ‘rule of thumb’ judgements that entailed considerable uncertainties.

48. One of the biggest problems was understanding the complex ways in which many of these policy risks were interrelated and the way uncertainties can cascade through those relationships. In particular, it was pointed out to us that the evaluation of the ability of policy to change behaviour was often weak in Defra, making it harder to assess the different ways in which policy options could play-out. For example, in our case study on Heather and Grass Burning, there was some uncertainty whether the introduction of tough new rules would have environmental benefits or would have the reverse effect by imposing such high compliance costs on landowners that they would leave land unmanaged, leading to more wildfires and endangering the environment, human safety and property (see Appendix). There is no precise science that could help predict those complex interactions, nor any actuarial data, given the often unique nature of such policy interventions. It would be hard, for instance, to conduct a HAZOP analysis of the policy risks of Heather and Grass Burning in the way that HAZOP analyses are conducted for nuclear power stations where detailed attention can be paid to failure rates and linkages between different component parts and any attendant uncertainties.

49. At most, decision-makers used soft modelling tools such as scenario analysis and expert judgement to assess the complex interrelated factors shaping policy outcomes. Indeed, we saw a number of Impact Assessments that explicitly attempted to set out various scenarios associated with different policy options based on the uncertainties attending such judgements. For example, the waste management team conducted a review of the risks of waste disposal policy that involved commissioned in-depth research and a two day forum to work through the risks of possible options. At other times, however, we met officials who felt

\footnote{3} For example, by examining the societal distribution of costs and benefits, the so-called ‘dread’ characteristics of the risk, or the cultural context of the problem.
confused about how to characterise the various potential adverse outcomes of policy options and associated uncertainties.

50. Some people we spoke to felt that there was scope for improving the methodological basis of assessing policy risks. For example, one policy-maker felt that risk assessment ‘could be done on a more scientific basis… rather than, ‘oh, I’ve got this feeling that if we don’t do it, this will happen’. Another felt that greater assistance on dealing with probabilities could also help. Many people we spoke to, however, emphasised the importance of tacit expertise and experience in assessing policy risks, especially when it came to softer risks such as reputation or assessing the complex interactions between different policy impacts. Many felt that there were few predictive tools that would not involve disproportionate effort and resources, or that could match their own expertise and experience. Indeed, some reacted quite strongly to the word ‘tool’ which they felt could misleadingly suggest that they could somehow translate their tacit experience and accumulated knowledges and judgements into a risk assessment. As a consequence, it is likely that attempts to introduce risk tools in Defra are likely to be resisted if careful attention is not paid to such concerns.

‘Policy making isn’t a, kind of, linear, join-the-dots, and move towards a perfect outcome, it’s almost never like that, it’s always tricky, never quite known, you’re always guessing at the past, [and] ... at your evidence base.’

(Defra official)

51. This is not to say that officials did not see the assessment of policy risks as central to their work. Many saw their ability to predict and take account of the potential consequences of alternative policy options as a reflection of their policy skill and craft. Many pointed out to us that simply because they did not use the formal language of risk analysis did not mean that they did not assess policy risks - as one official argued, ‘I don’t suddenly at 10:21 say I am now going to employ risk analysis for the next 5 minutes. I just run my job the whole way that way’.

3.2.2 Organising Expertise

52. Instead, a key challenge for risk assessment for many officials was to ensure that relevant expertise and knowledges were fully integrated and taken account of during the policy process. The organisational complexity of Defra and its wider network can inhibit the flow of vital information and understandings about the potential adverse consequences of policy options. Policy-makers, therefore, are regularly confronted with significant information asymmetries in formulating, and taking decisions about, policy options unless they are able to ‘get the whole system in the room’. Commonly that means involving a diverse range of state and non-state stake-holders such as scientists and other regulatory professionals, interest groups and even lay publics who are able to provide policy intelligence and discuss management options (Majone 1989; Funtowitz and Ravetz 1996; Irwin 1995; Irwin and Wynne 1996; Jones 2005).

53. Many people we spoke to in Defra, however, suggested that organisational fragmentation regularly got in the way of taking such a ‘system-wide’ approach. Some specialists we spoke to, such as lawyers, economists and communications experts, expressed frustration that they were often not integrated into policy
development, and that opportunities had sometimes been missed for them to make effective contributions. Relatedly, there was seen to be a need for more ‘joined-up’ working across the Defra network and amongst other relevant departments, public agencies and stake-holders to gather information on potential policy risks and to explore solutions.

54. As a consequence, we were told that there was sometimes a failure to understand how policies were likely to work in practice. As one official commented bluntly... ‘the major policy risk is [that] the damn thing doesn’t work’. Some staff observed that such failures arose, in part, because of tokenistic or inadequate consultation with delivery agents, stake-holders and publics. Indeed, one official told us that discussions with delivery agents were sometimes actively discouraged by senior management, observing that concerns to avoid interfering with delivery were standing in the way of understanding ‘what will work’.

> ‘Unless you have a proper relationship with people who are actually bothered by policy ... of knowing how they are going to react to things, what barriers they’re going to put up ...you construct a policy framework which is all nice and neat and rational, [but] doesn’t take into account the irrationalities that go on in the real world.’

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55. We did, however, come across some examples of attempts to overcome such obstacles in order to gather system-wide intelligence on policy risks and reach understandings of how best they could be managed. Emergency planning, for example, was widely regarded as a success story for the way in which officials, experts and stake-holders came together to identify and deliberate over potential problems. These were widely regarded as efficient means for getting to grips with often complex problems. Equally, our study of Heather and Grass Burning suggested that there had been value in bringing together delivery agents, professionals and stake-holders both to understand the problem and to find an effective and targeted solution (see Appendix).

3.2.3 Variable Currencies

56. A final key methodological challenge was translating what was known about the various potential impacts of policy options into the language of risk. The concept of a policy risk undoubtedly provides a useful catch-all category for referring to potentially harmful societal and institutional impacts of policy options. However, many people we spoke to were concerned that whilst the language of risk offers a superficial promise of providing a universal currency for trading-off various potential harms against each other, they were conscious that there were no common yardsticks by which policy risks could be measured.

57. As already noted, public policy has plural and hard to gauge objectives that are not readily reducible to a single measure. Many people pointed out to us, for example, the fundamental difficulties of finding a common unit by which to measure policy impacts on the environment, human health and business, as well as impacts on Defra and its extended delivery network. One approach has been to monetise risks. Hence, in transport safety, monetary values are attached to fatalities and injuries, and within Defra there has been some attempt to treat legal risks in terms of the costs to the department of successful legal challenge.
Monetising all policy risks, however, would be profoundly difficult and, even if it were possible, would provide only a narrow and controversial metric for comparison.

58. Moreover, we detected uncertainty over the use of the qualitative judgements of ‘high’, ‘medium’ and ‘low’ risk. For example, one policy-maker we spoke to had tried assess the adverse business impacts of different policy options but was unclear whether company bankruptcy should be considered a ‘high’ risk as judged by the impact on the sector, or a ‘low’ risk as judged by the impact on the UK economy. Equally, the absence of consistent benchmarks for probability also posed a problem. Some officials pointed out to us that they were aware that different people meant different things by ‘high’, ‘medium’ and ‘low’ probability. These problems were inevitably compounded by uncertainties about how to combine judgements of impacts and probability.

59. The vagueness of risk terminology worried many people we spoke to. As one argued, there was a ‘danger of giving out lots of mixed messages on our various fronts if we go along with potentially quite different concepts of what we mean’. There was particular concern that pressures to codify risks on the Impact Assessment could lead to serious miscommunication if it was done unreflectively, which could distort rather than help decision-making. Indeed, it was apparent that relative concepts such as ‘high’, ‘medium’ and ‘low’ risk only had operational value in organisational contexts where their meanings could be well established and culturally embedded.

60. The need for clear definitions to ensure common understanding of such terms is a generally recognised problem within the discipline of risk analysis and there have been a number of attempts to address it (e.g. IPCC 2005). Within Defra, the Animal Health group had tried to explicitly address this problem by adopting EFSA's benchmarks for probability. Whilst those benchmarks themselves were qualitative – the group had found that the benchmarks had prompted reflection to ensure that there were common understandings about the meaning attached to probability. Similarly, the government legal service have tried to develop a risk framework that could help develop consistent usage of terminology in relation to legal risk. That framework tries to take systematic account of what is known about the likelihood and impact (financial and policy) of a successful challenge. Whilst the lawyers thought that the framework helped, they were, however, yet to see it reflected in ‘the average policy submissions coming through’.

3.3 Institutional Challenges

61. The third set of challenges that Defra faces in trying to operationalise risk-based policy-making are those institutional factors that shape the way that risks are perceived and handled. The social shaping of risk perceptions and practices has received much academic and policy attention in recent years. Most attention, however, has been paid to the social-psychological and cultural factors that shape lay public perceptions (e.g. Irwin 1995; Slovic 2000; Pidgeon et al. 2003). Less attention has been paid to risk bureaucracies; indeed, the risk perception literature often tends to equate policy-makers’ perceptions of risk with ‘rational’ expert perceptions. In practice, however, ‘risk bureaucracies’, such as Defra, are complex systems with often diverse and entrenched micro-cultures, institutional pressures and irrationalities that can shape the way that risks are perceived and processed. In our brief study, we came across at least three ways in which
institutional factors shaped the perception and handling of risk within Defra. These institutional factors were broadly related to organisational culture, trends towards transparency and accountability; and institutional incentives and blame avoidance.

### 3.3.1 Organisational Culture

62. From a general perspective, institutional studies suggest that organisational culture might shape policy-makers’ perceptions of risk. Bounded rationality models, for example, stress the significance of limited human capacities and organisational environments in structuring bureaucratic attitudes and behaviour (Simon 1957). From that perspective, the understanding and handling of risk is likely to be shaped by the routine filtering and reinterpretation of information and problems in ways that fit with values, beliefs and ways of working. Similar dynamics are captured by the concept of ‘notional normality’ whereby perceptions of risk are sustained by sufficiently accurate individual and organisational beliefs about the world that can accommodate accumulating problems up to the point that those beliefs are challenged by a major disaster or crisis (Turner and Pidgeon 1997: 71ff).

63. Such factors were felt to play a role in shaping risk perceptions within Defra. For example, the point was made by a number of officials that the size, complexity and fragmentation of Defra and its network lent itself to the persistence of heterogeneous micro-cultures that sustained diverse risk attitudes and perceptions. For example, we were told that in some parts of Defra, such as Animal Health and Waste, there was considerable reflection on factors that shaped their understandings of risk. Yet elsewhere there was seen to be more of a ‘satisficing’ culture, with insufficient attention being paid to the basis of judgements and possible contingencies. One example was the culture of ‘throwing policy problems over the fence’ as one official from the Better Regulation Directorate put it, in which policies were made that were difficult to implement by enforcers, and which reflected a narrow concern with policy process rather than policy outcome. Equally, we gained an impression that within the extended Defra network of delivery agents, there were persistent cultures that shaped risk perceptions and attention to policy outcomes in very different ways to that found in Whitehall.

64. The risk perception literature also draws attention to a range of factors that can shape the way that risks are perceived. For example, just as public perceptions of risk are held to be shaped by ‘dread’ and ‘familiarity’ characteristics, so policy-makers’ perceptions of risk can be modulated by analogous institutional factors (e.g.: Rothstein 2003). It’s not hard to imagine how the ‘dread’ of ‘making the front page might amplify policy-makers’ attention to policy problems. One official from the Communications Division illustrated the problem with the case of Avian Flu when he pointed out that ‘one dead swan in Scotland and [there were] cameras camped by side of [the] dock for day after day...’

65. Past crises - especially those related to animal disease and flooding – have undoubtedly made policy-makers alert to some risks, but it was felt by a member of the Management Board that ministers and the management board sometimes had an ‘attenuated perception’ of risks that were less visible and less emergency-based. However, we also came across culturally embedded processes of ‘institutional risk
amplification’. For example, we were told that policy-makers tended to have ‘amplified’ fears of legal risk compared to those of lawyers. As one lawyer observed, there was a need for ‘training our policy colleagues so that if we say something has a high level of legal risk, they don’t necessarily take that as saying it is therefore unlawful and therefore vetoed’.

66. Such culturally entrenched institutional processes that modulate risk perceptions present important challenges to the introduction of risk-based decision-making. It is, after all, easier to change rules than it is to change cultures. Some hope was held out, however, that the introduction of risk-based approaches could provide a lever for institutional and cultural change. Risk was seen as a hegemonic principle that could bring coherence to divergent organisational cultures, as has been seen in other contexts, such as regulatory agencies that have consolidated a number of different bodies. As one official at the Risk Workshop commented, ‘Risk is a vehicle for engaging everybody… from the minister to the administrative assistant who is doing the photocopying. We’ve all got a role in risk.’ There was recognition, however, that if risk was to become part of the organisational DNA, then examples of good practice had to be set from the top. As a member of the Management Board argued, ‘How the management board responds to that risk framework… will help set the tone for how the department generally views risk’.

67. Such exhortations to cultural change were, however, sometimes viewed sceptically or seen as patronising. As one official argued, ‘we are probably more aware of [risk] than people give us credit for …what concerns me is that because we can’t prove something, [we] are considered to be guilty, and that annoys me.’ Indeed, there was resistance to what was called the ‘tools culture’, in which it was felt that policy craft skills were being undermined by inappropriate one-size fits all ‘tools’. In particular, there was some cynicism that the tools culture was driven by the need to rationalise expert judgements, and as a consequence served to obfuscate rather than illuminate policy judgement.

68. That cynicism fed into a more general concern that risk tools would be just another pointless paper exercise. As one official remarked, the ‘civil service …has got change fatigue, [it is] sick of new initiatives… we feel people are now trying to deliver more, so if risk is yet another area which …gets grafted onto people’s jobs with a whole new set of guidance and forms to fill in and processing to do, then it won’t work. We had this problem with risk registers.’ Indeed, as another graphically put it ‘It’s in danger of becoming like a “Christmas tree”’. If users conceive of risk tools in this way, the clear danger is that it could lead to mindless form filling, demoralisation and cultures of counterfeit practice where paperwork bears little relation to reality.

69. From this perspective, the hope held out for risk-based policy making as a lever of cultural change is likely to be overly optimistic if it is operationalised in ways that simply replicate rather than reduce cultural divergence within Defra. Indeed, risk tools could even create an unjustified illusion of coherence and consistency. That outcome may be worse than allowing local heterogeneity if there is at least awareness of the character of those differences.

3.3.2 Transparency and Accountability
70. Another institutional factor shaping the way risks were perceived and handled in Defra was a trend towards greater internal and external transparency and accountability. Transparency and accountability have long been held to be central doctrines of good risk governance and, as already observed, are seen as central to risk-based decision-making within Defra: aiding reflection on, and communication of, policy options; improving continuity and effective operation of policy; and providing an audit trail in the event of policy failure. We observed a number of ways, however, in which trends towards greater transparency and accountability came into conflict with policy-making cultures and mitigated the value of risk-based approaches.

71. The problems of greater transparency and accountability were most evident in relation to the primary formal instruments for communicating policy risks; i.e.: the Impact Assessment and Ministerial submissions. The Better Regulation Directorate envisaged these documents as living tools that evolved throughout the policy process, in which the recording of every policy risk was seen central to good policy-making. As the head of the Directorate argued, ‘In principle if you’ve got an observable risk that is of sufficient weight, you capture it […] There are no exceptions’. Indeed, a key idea of the new Renew Defra policy cycle was a series of policy ‘gates’ through which policy-makers could only pass if they had demonstrated that they had given consideration to risk. In practice, however, the communication of policy risks via these formal vehicles within Defra was widely regarded as problematic in at least three ways.

72. First, the most striking observation about the way policy risks were communicated in Defra, was that some risks were formally recorded whilst others were not. Whilst health, safety, environmental and economic risks were recorded on the Impact Assessment, often as costs and benefits, ‘institutional’ risks were usually not recorded. Even ministerial submissions tended to be inconsistent in their communication of institutional risks. Instead, many of the ‘uncommunicated’ risks tended to be communicated informally and remained unrecorded.

73. Whilst many in Defra were keen for greater transparency in policy-making, there were, nevertheless, compelling reasons not to formally record certain policy risks in publicly available documents. As one of our interviewees observed, one cannot ‘publicly argue all the things that ministers are likely to weigh up and worry about in making a decision’. It would be self-defeating, for instance, for potential legal vulnerabilities to be made clear in a publicly available document (as well as contrary to the principles of legal privilege), or to publicly identify the stake-holders to whom Defra is most beholden. Equally, even internal transparency may be difficult to achieve if there is reluctance amongst policy-makers to openly identify potential failures for which they may be held responsible. Resistance to pressures for transparency, therefore, are likely to work against the use of the Impact Assessment as a ‘living tool’ for recording the full range of policy risks.

74. Second, it was unusual to find Impact Assessments that communicated the uncertainties inherent to all risk assessments or that indicated possible contingent outcomes of policy options and their associated probabilities. Most of the Impact Assessments we saw and discussed with Defra staff instead tended to communicate what were perceived to be the most likely impacts associated with the stated policy options.
There were some exceptions to this, but more often than not, the Impact Assessments that we saw communicated greater certainty about policy outcomes and gave less attention to risk than might be optimal.

75. Again, many saw the value of transparently communicating the contingencies and uncertainties of various policy options to assist with a more nuanced decision-making process. From a practical point of view, however, some people simply found it difficult to find ways of expressing uncertainties in a meaningful way and found the existing guidance unhelpful in this respect. Others observed that too many caveats could obscure the overall message, although others did note there was a danger that assessments sometimes became more ‘sanitised’ than they ought.

76. There was, however, also a perception that there was little enthusiasm for such detail and decisional responsibilities either by Ministers or other government departments, most notably the Treasury. Such pressures, as one official pointed out to us, made it ‘difficult to stand up and say “I don’t know”’. Moreover, setting out the contingencies and uncertainties of risks associated with every policy option as a means of accountability, also potentially undermined trust in the skill and judgement of Defra staff to make the best recommendation, and reduced their influence over decision-making. As Power (2007) has observed, risk-based practices are ways of turning organisations ‘inside out’ but reflect and contribute to a loss of trust that may have dysfunctional consequences.

77. Third, and relatedly, a number of people we spoke to expressed scepticism that the Impact Assessment communicated much of any value in relation to risk. It was pointed-out to us on more than one occasion that the Impact Assessment was not generally regarded as a decision-aid but as a bureaucratic hurdle, where the need to put in a number was more important than the number itself. As discussed above, such conceptions can have dysfunctional consequences both on morale as well as practice. This is particularly the case with risk assessment which often relies on tacit knowledge that is difficult to record. As one official put it, ‘We know it feels right because that’s what our experience and the regulator’s experience is telling us, but in terms of hard evidence in a way that would be fairly unequivocal to anybody who cares to examine it, I think is difficult’. Many understood that there were good reasons to qualify gut instinct, but were concerned that some of those reasons, such as the need to provide an audit trail, were not the sort of anticipatory and institutionally reflexive drivers that might be desirable for risk based policy making. As a consequence, attempts to communicate risk could be a resource intensive exercise that ignored and even undermined important tacit knowledges and mislead decision-makers.

‘...although it is important to record risk, actually the networks and relationships assessing and recording risk create a network memory, if you like, of risk. Individuals are extremely important.’

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78. The difficulties of recording policy risks were, however, contested by members of the Better Regulation Directorate and Defra’s Risk Officer. As the latter argued, ‘if [Defra staff] really can’t articulate the probabilities and size of the problem […] then they haven’t got their space sorted, they haven’t thought
enough about what the problem is, or how that problem’s going to change, or the boundary around the problem and its connection with other things…’. These contested views of the difficulties of communicating policy risks on the Impact Assessment clearly pose significant challenges for making it a ‘living tool’ and appear to be a matter of internal institutional drivers and culture as much as technique.

3.3.3 Institutional Incentives and the Blame Culture

79. A final institutional factor shaping the management of policy risks that we identified was the alignment of institutional incentives with the management of policy risks. Specifically, many people we spoke to felt that institutional incentives were aligned in ways that made it harder to get credit for success than blame for failure. People of course took pride in their work, and there were undoubtedly personal and professional rewards for success, including Better Regulation Awards and career promotion. Many people we spoke to, however, were concerned about justifying decision-making to the Public Administration Committee and the National Audit Office in the event of failure. Equally, people we spoke to were anxious about the media’s endless appetite for bad news stories, which often distorted policy priorities in order to protect Defra’s public reputation and ‘License to Operate’.

80. Risk management methodologies, of course, hold out the hope of limiting blame by effectively setting levels of acceptable failure (see Rothstein et al, 2006). Indeed, there was seen to be a need to challenge the idea of zero risk tolerance, so that occasional failures that fall within expected limits should not demand knee jerk policy responses. However, it was recognised that it was difficult to take a managed risk. As Defra’s risk officer commented, ‘if something goes wrong, very rarely do your managers say to you that was OK, you took a calculated risk’. A number of officials pointed out to us that the notion of a calculated risk was seen as politically too difficult to sell. As one official at the Risk Workshop said, ‘the number of times I’ve woken up in the morning and heard [a minister] say we must not let this happen again’.

81. The perceived negativity bias in attention to policy outcomes, resulted in a tendency towards risk aversion and blame-shifting that played out in a number of ways. We were regularly told, for example, that officials were more averse to short-term risks than long-term risks. In many ways this was unsurprising. One contributory factor was job rotation; risks that manifest themselves after officials have moved on, are likely to get less attention than ones that manifest themselves earlier. As a member of the Management Board put it, ‘A lot of it is about how much you’re willing to pay to avoid the likelihood of it happening on your watch…’. Relatedly, officials were also often judged more on their short-term success in steering through policy without
82. It was no surprise, therefore, that emergency planning was regarded as exemplary, since the adverse consequences of decisions can quickly become manifest and provide obvious institutional incentives for action. Equally, in our case study of Heather and Grass Burning, the presence of a PSA target concentrated minds on delivery. In other domains, however, where the long term impacts of decision-making were harder to detect, there was perceived to be less attention to long-term risks.

83. Equally, we were told of a tendency towards blame-shifting both within Defra and the Defra delivery network in ways that reflected the division of labour and structure of responsibilities. For example, we were told that it was sometimes assumed by officials that specialist divisions in Defra were responsible for handling certain types of policy risk. The Communications Division, for example, complained that policy colleagues sometimes assumed it was responsible for managing reputational risks, and that it had to point out to them, as one official reported to us, ‘you’re actually doing policy development… you should be thinking about the risks of reputation’.

84. Blame-shifting was most pronounced between different organisations in the fragmented Defra network and other government bodies, where there was scope for ‘passing the buck’ around the system until it rested with those least able to resist. As one senior official observed, there was a ‘different mindset’ towards those issues where responsibilities were dispersed and shared amongst a range of public and private organisations such as flooding, than towards those issues where it bore direct responsibilities, such as animal health. That suggests that the management of societal risks was shaped by the associated institutional risks facing Defra. Indeed, a number of officials puzzled over the lack of incentives to think more widely about the overall policy outcomes in ways that often went beyond Defra’s remit. It was felt by some that Defra could do more to ensure that decisions that made sense within the narrow confines of Defra’s remit did not cause wider harms elsewhere.

85. Defra is acutely aware of such difficulties and is trying to move towards a ‘no blame culture’. Such approaches are often advocated within high-reliability organisations such as air transport and increasingly in medicine where there is seen to be a need to analyse ‘near misses’ in order to avoid major problems (see Hood and Jones 1996; ch3). It might be speculated that the move towards policy teams as part of Renew Defra may help in this regard, by creating opportunities to share potential blame amongst officials. Such strategies have proved successful in other policy domains such as probation, where the creation of risk management panels comprising representatives from the key services have lowered the decision-stakes for any one individual. Such strategies, however, require appropriate incentive structures and considerable cross-organisational working and trust.

4. CONCLUSIONS: THE RISKS OF RISK-BASED POLICY-MAKING
86. Defra holds out much hope for risk-based policy-making to help it better manage and account for the inevitable uncertainties of decision-making. Our brief study, however, suggests that the multiple and often ambiguous goals, meanings and practices of risk-based policy-making can create conflicts that need to be addressed if it is to be operationalised in a useful way. In particular, we draw five main conclusions:

87. First, the study has revealed a set of fundamental conceptual and normative uncertainties about the meaning of risk-based policy-making, which can give rise to inconsistent and even potentially dysfunctional practices. Managing public policy risks involves managing a diverse and contested set of objectives that cannot be easily defined, measured or balanced. Accordingly, we found that there was uncertainty about what risks should be considered and to whom or to what, how they should be balanced against each other, and how risk management responsibilities should be distributed across government. For example, sometimes risk-based policy-making is interpreted as a focus on a wide set of societal and institutional harms, and at other times as a focus on probability of policy outcomes; sometimes it is interpreted as a prompt to be more entrepreneurial, and at other times as a prompt to manage institutional risks at the expense of societal risks. As one policy-maker put it to us, ‘if we’re serious about risk-based approaches, we must be better at defining it in government’. The multiplicity of rationales that underlie risk-based governance, however, are likely to make that a difficult task.

88. Second, there is no precise science of predicting policy outcomes, and without care, risk-based policy-making may be little more than a procedural palliative if it fails to improve understanding of the character and likelihood of potential threats to achieving defined policy goals. There is a need to recognise the epistemic and practical limits to the methodologies that could be employed to assess policy risks. One of the key challenges for risk-based policy-making is to ensure that policy-makers gain ‘system-wide’ knowledge, not just about goal setting, but also about the ways in which policy is implemented on the ground, stake-holder responses and the ways in which goal achievement is monitored. Risk analyses that go no further than the organisational boundaries and interests of Defra, are unlikely to spot potential policy risks that emerge in the wider system. In order to improve policy-making practice, Defra needs to overcome organisational constraints to capitalise on the expertise and knowledges that reside within Defra, its network of delivery agents and amongst its stake-holders and pay attention to how they can be integrated into the policy-making process in ways that can foster intelligent and sustained reflection.

89. Third, and relatedly, there needs to be recognition of the ambiguities of risk terminology and the need for clearly understood metrics for judging impacts and likelihoods. Discussions of ‘high’, ‘medium’ and ‘low’ risks without clear definitions of what such judgements are relative to, and how they combine both impacts and probability, are more likely to mislead than to inform. Guidance and ‘boiler plate’ definitions, however, are unlikely to help without thought to the way common understandings and meanings are built through local organisational cultures and contexts. It is difficult, for example, for stand-alone risk registers to convey sometimes often subtle and tacit understandings of risk. Such problems pose serious challenges both for policy continuity with the move towards more flexible working patterns and for creating any audit trail that could provide meaningful lessons for future decision-making.
90. Fourth, risk-based approaches can also strain institutional capacities and conflict with other organisational constraints and working practices, making it difficult to embed new risk-based practices in old organisational cultures. Defra and its network of delivery agents is institutionally complex and fragmented and sustains heterogeneous micro-cultures that are likely to reinterpret new policy initiatives such as risk-based policy-making in ways that fit with local organisational values, beliefs and ways of working. For example, the value of risk-based approaches as a means of improving the transparency and accountability of policy-processes may be constrained by the difficulties of communicating sensitive risks in documents that are publicly available. Even internal transparency and accountability may be difficult to achieve if policy cultures work against the open identification of potential failure. For example, the value of recording the inherent uncertainties and contingencies of policy outcomes in an Impact Assessment or other such document may contribute to a perceived loss of trust in the skill and judgement of officials if such records are primarily operationalised as tools of scrutiny rather than innovation.

91. Fifth, thought needs to be given to the incentive structures required to ensure an appropriate balance is struck between the management of short-term and long-term risks; between the management of institutional and societal risks; and between the risk management responsibilities of Defra and its network of delivery agents and stake-holders. In handling the inevitably complex and conflicting issues of policy-making the goal of policy should be to create public value rather than avoid blame. In order to do so, there needs to be a way of bringing together the ‘whole system’ to help identify and define what constitutes ‘public value’ and find an optimal path through a multiplicity of undesirable policy outcomes.

92. Risk-based policy-making cannot solve all the problems of policy-making, and if applied unreflectively could worsen rather than improve policy processes and outcomes. There is, for example, no simple toolkit that can resolve the fundamental conceptual, normative, methodological and institutional challenges of public policy. If toolkits fail to engage with these challenges, they are more likely to alienate than engage policy makers, and become just another ‘bauble on the Christmas tree’. Equally, calls for culture change are unlikely to go unheeded unless institutional incentives are structured in ways which are designed to create overall public value rather than avoid blame. Nevertheless, with modest ambition, risk-based approaches have the potential to create an opportunity to at least reflect on those obstacles that stand in the way of improving policy-making in Defra.

93. To this end, the study identifies at least three topics for further useful research, which could both improve understanding of the ways in which Defra handles policy-risks as well as advance general understanding of risk-based policy making. First, the study suggests that there is a need for further research to understand the institutional factors that shape the use, effectiveness and problems of risk appraisal techniques in different risk domains and organisational settings. Second, the study also points to the need for further research on whether it is helpful and, indeed, methodologically possible, to reconceive conventional policy problems within ever more differentiated categories of risk, (such as ethical risk, reputational risks and political risk) so as to measure and control them in the same way as traditional risks to human health and safety and environment. And finally, the study suggests that there could be some value in building on risk perception
research to study the factors that shape how elites and professionals perceive risks and respond to uncertainty throughout policy and political processes.
APPENDIX
CASE STUDY SUMMARY: HEATHER AND GRASS BURNING

As part of the research for this project the authors conducted an in-depth study of recent revisions to the Heather and Grass Burning (H&GB) regulatory regime (and which is the subject of a separate report [see Rothstein and Downer 2008])

H&GB is done mainly in the uplands by farmers and grouse-moor managers to maintain habitats for raising grouse and sheep. The practice is also ecologically important because it curtails wildfires and is the only way to conserve certain semi-natural environments in inaccessible areas. Until recently, burning was regulated under a regime dating from the 1980s. That regime mandated a widely-understood burning season, but its finer details were largely opaque to the burning community and it was unenforced, with good practice relying on the self-interest of burners.

A government PSA target relating to Sites of Special Scientific Interest (including some heather and grasslands), as well as some scientific evidence relating to changing environmental conditions, led Defra's delivery partner, English Nature, to press for a revised burning code and revised regulations. In revising the regulatory regime, Defra had to manage a complex set of policy risks, which can only be briefly sketched here.

One primary concern was that Defra should avoid undermining current good practice with new and burdensome regulations. The potential for major environmental or safety hazards -- although uncertain and contested -- was relatively minor, and H&GB had operated without major incident for many years. A tougher regulatory regime, therefore, had the potential to create a disproportionate economic burden, and indeed, have perverse consequences if it led to more unmanaged land.

Policy-makers also faced a range of 'institutional risks' in framing the new regulations. For example, a tougher regime posed potential reputational risks for Defra if it alienated stake-holders such as farmers and landowners, as well as legal risks because of potential conflicts with pre-existing legislation. A weaker regime, however, posed the potentially serious institutional risk of missing the PSA target, as well as reputational risks for Defra if it alienated its delivery partner and environmental groups.

Defra navigated these policy risks by adopting a 'partnership approach' that brought stake-holders together to map the issues and devise a mutually acceptable solution. In brief, this involved both revising the H&GB Regulations - which amongst other things clarified enforcement responsibilities - and issuing a new and clearer Voluntary Code of Practice. Reputational risks were minimised by encouraging major stake-holder representatives to endorse it to their constituencies. The effort was lauded within Defra as exemplary of good 'risk-based policy-making' and nominated for a 'Better Regulation Award'.

Although exemplary in its outcomes, it is notable that most of the risk-management for this policy took place 'off the books' in that the most significant risks were poorly recorded or codified in documents such as the Impact Assessment. This is largely due to the nature of the risks involved. Whilst Defra was most concerned with assessing and managing hard-to-quantify institutional risks to do with stake-holder relationships and legal issues, the documentation emphasised more quantifiable 'policy' risks (such as health and safety and economic impacts). The format of the formal documentation was also ill-suited for communicating both the substantial uncertainties underlying the risks it outlined, as well as the contingency of outcomes that those uncertainties implied.

This was not necessarily a shortcoming. Despite the lack of formalised institutional risk assessments, key decision makers, including the Minister, were clearly well-informed and appraised of the issues on which they were acting. Moreover, it is unlikely that formally codifying, recording or assessing these institutional risks would have made them easier for Defra to manage. Our study suggests that a more formalised and auditable approach to risk management in this policy domain could have been a burdensome exercise that created more problems than it solved. For instance, it would have complicated the delicate negotiations involved in framing the policy and building a consensus around it: perhaps alienating stake-holders, threatening the department's legal or reputational standing, or misleading decision-makers who were over-reliant on the written record. Given the circumstances in which modern policy-makers must work, thought needs to be given to whether a fully transparent or formalised approach to risk is an achievable, or even a desirable, goal.
REFERENCES