

**CURRENT ISSUES IN INSPECTION STRATEGY:
THE OBSERVATIONS OF DIRECTORS OF INSPECTION**

By

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CHALLENGES**

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Abstract

Inspection, an authoritative evaluation of compliance with standards, is a key part of the regulation process and a key component of an optimally functioning regulatory system. It is carried out either by departments within regulatory bodies, or by dedicated inspectorates, the former being responsible for developing detailed rules as well as the licensing and/or monitoring compliance functions of the latter. In this paper we report on research undertaken to examine senior regulatory and inspection managers' views on the organization of inspectors and relatedly, their training, in the context of developments in government policy, in particular the recommendations of Hampton (2005) in *Reducing Administrative Burdens: Effective Inspection and Enforcement*. (Hampton identified 63 national regulators and around 468 local authorities involved in regulation. National regulators employ about 41,000 people of who about 12,000 work on inspection and enforcement. They have a combined budget of around £4 billion. National regulators carry out at least 600,000 inspections each year.)

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CURRENT ISSUES IN INSPECTION STRATEGY: THE OBSERVATIONS OF DIRECTORS OF INSPECTION

Inspection, an authoritative evaluation of compliance with standards, is a key part of the regulation process and a key component of an optimally functioning regulatory system. It is carried out either by departments within regulatory bodies, or by dedicated inspectorates, the former being responsible for developing detailed rules as well as the licensing and/or monitoring compliance functions of the latter. In this paper we report on research undertaken to examine senior regulatory and inspection managers' views on the organization of inspectors and relatedly, their training, in the context of developments in government policy, in particular the recommendations of Hampton (2005) in *Reducing Administrative Burdens: Effective Inspection and Enforcement*. Hampton identified 63 national regulators and around 468 local authorities involved in regulation. National regulators employ about 41,000 people of who about 12,000 work on inspection and enforcement. They have a combined budget of around £4 billion. National regulators carry out at least 600,000 inspections each year.

Inspection

At its most basic, regulation can be defined as an authoritative rule or set of rules that govern behaviour. The purpose of putting such rules in place is to secure a better outcome than might obtain otherwise. Regulation, and by extension, inspection as a key regulatory process, may thus be used to try to either secure improvement in a condition or to prevent the deterioration of that condition. One could characterize the former as *progressive*, the objective of inspection being to secure improvement in the quality and/or quantity of goods and services supplied to the public, and the latter as *protective*, with the focus on reducing the risk of harm. These are, of course, not mutually exclusive. Indeed they are two aspects of the same process. Improved goods and services may well diminish the risk of harm whilst diminishing the risk of harm may well entail improvements to goods and services.

Characterizing the two approaches in this way does however serve to highlight differences in the way that inspectors perceive their role. In their influential view of models of inspection Day and Klein (1987) distinguished between:

- A reactive model which monitored inputs
- A responsive model which monitored processes
- A proactive model which monitored outcomes

It is fairly obvious that whilst monitoring inputs and processes may well maintain service quality or prevent deterioration such an approach is less likely to secure improvement than one that focuses on outcomes. However, inspection can have multiple objectives and the optimal mix of approaches utilized will vary, depending on factors such as sector velocity, characteristic of the producer as well as the good or service, public perception of the risk of harm, and so on.

The Office of Public Services Reform (2003b) report, *Inspecting for Improvement*, developed this theme further (p14):

‘Individual inspectorates work in different contexts and have developed in different ways. We observed three broad types of inspection, as illustrated below.

Best practice in inspection today aims to deliver, to the extent appropriate, all three types, according to the assurances needed, the direction being received by the inspectorate, and the inspectorate’s own capacity for change.

- Type 1 inspections give assurance on whether the processes being followed by the service provider are reliable and meet basic standards. Inspectors may also provide complex information as part of their assessment work.
- In type 2 inspections, further development of performance indicators has been used to identify the relative achievement of individual

providers, and a greater specificity of information. Type 2 inspection is more concerned with accountability and presents a challenge to the providers to improve.

- In type 3 inspections, inspectors are playing a more active part in securing improvement, while retaining their independence. Less emphasis is placed on checking compliance, and more on the user perspective.’

Different regulatory strategies produce different types of inspection. Type 1 concerns inspection to floor standards, Type 2 is inspection based on performance assessment (how well have you done against a number of targets) and Type 3 introduces into performance assessment a concern for how the outcomes of inspection meet the needs of the users of the service. Alongside this publication the Government also set out a UK policy for inspection Office of Public Services Reform (2003a). Further developments such as the Legislative and Regulatory Reform Bill (2006) and the reports by Hampton (2005) *Reducing Administrative Burdens: Effective Inspection and Enforcement*, and the Better Regulation Executive (2005) *Regulatory Justice: Sanctioning in a Post-Hampton World*, have also affected the conduct of inspection:

‘The Hampton Report documented views from both regulators and business that the current penalty regime is often cumbersome and inefficient. It was commonly felt that there was an over-reliance on criminal prosecution – a slow and expensive route – as the major mechanism for penalty delivery. The Report also found that, due to the expense of the prosecution process and generally low penalties handed down on conviction, few prosecutions were actually pursued. Regulators also noted that criminal courts have a limited number of sanctioning options, mostly relying on fines and occasionally (for individuals) imprisonment.’ Better Regulation Executive (2005).

In fact, this twin emphasis on both the lack of effectiveness of the current regime and on reducing overall regulatory burdens has considerable consequences for inspection. Inspectorates are encouraged to utilize regulatory tools such as self assessment and forms of soft regulation such as codes of governance, as well as self- and enforced self-regulation (Ayres and Braithwaite 1992; Fairman and Yapp 2005) rather than hard rules and regular traditional inspection visits. Of course, soft regulation is still regulation - Davis *et al.* (2001), in their review of the rise of inspection draw attention to its convergence with 'audit' whilst Power (2003) argues that regulation of the audit society is increasingly concerned with establishing 'control of controls' rather than simply traditional top-down external control. This is consistent with the views of other commentators on the rise of meta-regulation such as Braithwaite (2003) and Parker (2002).

Whilst there is a great deal of literature on compliance, and enforcement, e.g. Kraakman (1984); Grabosky (1995); Jackman (2004), there is little on the inspection process itself. One of the few exceptions, Boyne *et al.* (2002), developed a theoretical framework for the evaluation of inspection through a cyclical (cybernetic) process containing three elements:

- direct: setting the direction (guidance)
- detect: identifying shortfalls
- effect: bringing about change

They describe a matrix for evaluating inspection and draw tentative conclusions about the conditions in which inspection leads to successful outcomes. For each element of the framework, Boyne *et al.* (2002) apply a cost/benefit analysis. This model has been helpful in putting forward a structure for inspection as a change tool but the increasing importance of strategies such as risk based regulation (Hutter 2005) and enforced self regulation and internal controls (Maijoor 2000) bring new challenges to inspectorates.

Research Method

Whilst documents can provide a good source of material on rules, processes and structures, the way in which such components of regulation are developed and operationalized depends to a great extent on the perceptions of those making decisions on such matters. The primary

method employed in the research was the semi-structured interview. We interviewed a number of senior managers from various inspectorates. Although subjective to some degree, this approach allows the researcher the benefit that interviewees can determine which elements of policy, process and organization those involved consider important, and their views thereon. A semi-structured approach is suitable to an under-researched area such as this because it enables the emergence of hypotheses that might not have been apparent in advance.

The interviews were carried out in mid/late 2005, with nineteen senior managers. These included seven chief executives, the rest being directors responsible for divisions such as regulation strategy, inspection, standards and enforcement, and learning and development. Most of the organizations that agreed to take part in the project were statutory regulators and inspectorates although three were sectoral self-regulators. They varied in size from those that employed less than ten inspectors to those employing more than two thousand. All agreed to recorded interviews. These interviews averaged sixty minutes in length. The majority were single interviewees although in some the chief executive and director of regulation were interviewed simultaneously, and in one case five people contributed. These variations do not seem to have had any discernible effect on the quantity or qualities of the data collected. The interviews were then transcribed and examined for evidence relating to the themes of inspection policy, organization and training. A number of quotes are included. In order to preserve anonymity interviewees and their organizations are referred to throughout by the reference numbers in the data table below:

Data

Our analysis in this paper focuses upon the implications of the Hampton Review but for completeness we include below a summary table to give an indication of the status, environment, influences, role, and some of the practices, skills and training and issues of concern to our interviewees:

CURRENT ISSUES IN INSPECTION STRATEGY: THE OBSERVATIONS OF DIRECTORS OF INSPECTION							
No	Status and Environment	Significant Influences	Agency Role and Practices*	Approach to Managing Risks*	Inspection Structure	Inspector Skills and Training	Issues, Concerns and Notes
R1.	Statutory regulator of a large number of private and public sector organizations. **	Government.	Quality improvement via evaluating previous 4 quality assessments.	Proportionate, esp. as previously required by government to treat all regulatees exactly the same.	140 inspectors, 14 managers, plus 600 part time associates (specialists). One member of any inspection team is from inspectee organization, the 'nominee'. **	Internal subject specialists knowledge is updated by secondment to regulatees. Not regionalised so as to maximise subject specialists across country. 1 week initial, 6 months graded training on the job. Runs an MA Inspection.	'Extended inspection' is literally sold as a form of consultancy to improve services. Generic inspection professional is flawed. Hampton reforms will detract from adding value/improvement. (Also lack of requisite variety?) Inspectorate culture is critical to ensure good inspectee relations.

Note: * Agency role and Approaches to risk have been separated but there is some inevitable overlap. ** Inspectorates may or may not be regulatory bodies but in general discussions of e.g. regulatory practice, inspectors often used the terms interchangeably.

No	Status and Environment	Significant Influences	Agency Role and Practices*	Approach to Managing Risks*	Inspection Structure	Inspector Skills and Training	Issues, Concerns and Notes
R2.	Small self-regulator of non-profit organization.	Regulators of similar services.	Assess compliance to core standard but moving to more emphasis on issue based approach to inspection. Provides consultancy service on efficiency to own organization.	Carry out integrated inspection (practice) and audit (financial) wherever feasible. User consultation. Simple traffic light style system.	3 inspectors plus 6+ technical experts. Subject specialists led by audit specialist. Geographically widespread.	Skills (e.g. 'enquiring mind') not training. Limited on-site training. Inspectors should be subject specialists cf. inspection professionals.	Risk identification. Overlap with other regulators. Cost (as self-regulator of non-profit).
R3.	Cross-sectoral statutory regulator of a v. large number of private and public sector organizations. Covers a wide range of activities from the mundane to high-tech.	EU and Government. Multiple sources so seeks to develop a common framework to avoid duplication and streamline regulation and inspection. Also, the interests of this non-economic regulator may conflict with the requirements of the relevant economic regulators in some sectors.	Licensing and Standards regulation. Consumer protection by both regulating from industry and by acting as a principal, taking direct action to reduce risks. Also disseminates (esp. scientific) information widely. Some joint inspections with other inspectorates.	Lead inspectors write Inspection Plans based on template from info from policy and functional teams. May also focus on specific issues. Permits can be highly customized so both national and individual standards are inspected. Prefers strong risk assessment and management model of inspection to (Hampton's background) minimal inspection with high financial penalties for non-compliance.	2,600 front-line inspectors plus 1,500 others (often desk based) focused on licensing and compliance. Currently organized in a matrix of both functional and policy streamed (sectoral) teams which then advise front-line inspection teams. 250k inspections carried out p.a.	Varies greatly with different inspected sectors (technical specialists v non-technical generalists). Typically, inspectors would have a relevant degree. Some from industry but more often the other way round. Basic training 13 weeks, university course, plus auditing training if necessary. Judgement required, esp. as design standards often utilised (cf. performance standards.)	Various inspection areas with own practices. Team of 20 currently working to unify by e.g. applying common definition of terms such as 'audit.' Managing non-technical and expert teams with different sectors, pay structures and sources of rules. The lower the risk, the more crossover possible between personnel. Self-funding - inspectees pay all costs - so expanding regulatory reach increases inspection costs. High frequency inspection/low penalty v low inspection/high penalty regimes.

No	Status and Environment	Significant Influences	Agency Role and Practices*	Approach to Managing Risks*	Inspection Structure	Inspector Skills and Training	Issues, Concerns and Notes
R4.	Statutory regulator. Large numbers of large and small organizations, plus individuals.	Twin objectives of market efficiency and consumer protection	Relations with regulatees via supervisors (large firms) or call centre (others), plus disciplinary action via investigators.	Arrow risk model assesses high, med, low. Risk based regulation means taking the flak when an issue crystallizes that has not been considered a priority. Regulatees allocated by functional specialisation but by discipline (e.g. types of crime) for enforcement.	200 supervisors, 300 enforcement investigators of which 60% have an industry background, 10% own PG programme, 30% mix of policy, education or professional regulators.	Initial training then on the job.	Issue based inspection strategy leads presumably to less individual regulation?
R5.	Multi-task statutory regulator of large number of inspection bodies and v large number of regulatees.	EU sets core standards, required knowledge levels of inspectors, and their essential qualifications.	Standard Setter and Inspection Regulator (of LA inspectors and their training). Key skill is communication.	Code of practice used as sort of risk assurance for interventions.	No direct inspectors. Inspection is effectively delegated to LAs.	Regulator inspects inspector training.	Research shows best standards and learning come from frequent inspector-inspectee contact (cf. Hampton Review/Self-assessment).
R6.	Small number of small providers.	Government. Other regulators' inspection processes.	Standards regulation. To ensure the stated objectives are met by outcomes.	Assess fitness for purpose, making evidence based judgements.	11 inspectors, plus managers, mostly recruited from within the sector	Inspectors need various pathways: (team) leadership and management, quality assurance, subject specialisms. Also research skills.	Mature reflection on how to optimize inspection methodologies requires institutional stability.

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R7.	<p>Technical. Typically, small inspectees. Complex and high velocity environment, speeding up as new products go to market faster: reliance on external experts</p>	<p>EU quality directives.</p>	<p>Protect consumers by ensuring quality standards. Esp. By looking at inspectee activity, staff turnover, skills, training, risk management, complaints . Knowledge comes from sector plus experts.</p>	<p>Understand regulatees' environment and way regulatory decisions are implemented and understood by consumers</p>	<p>originally 80/90 part-time but moved to 30 full time in-house inspectors plus expert consultants as required</p>	<p>Act, Code, environment, stakeholder relations, documentation</p>	<p>Code = organization focus cf. consumer and environment. Danger of knowledge constructed by the regulated sector so need other sources</p>

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R8.	<p>Cross-sectoral regulator. Extremely large number of organizations of all sizes. From very low to very high tech.</p>	<p>Legislation. Co-regulators.</p>	<p>Minimise risks.</p>	<p>License revocation where licenses are issues or prosecution where a general duty exists in law. Larger regulatees are inspected against their own programmes of compliance with legislation. Proportionality promoted by use of enforcement management model. Soft regulation encouraged by employing advice and information officers to liaise with inspectees.</p>	<p>Total workforce 1,750 including back office plus consultants as necessary. 3 separate divisions for different sectors. Assessors are separated from Inspectors. All supported by centralized experts.</p>	<p>Previously an external PG Dip but now 5 years training in house, tightly focused. Can be unqualified at commencement but often come from industry (70+ graduates per annum recruited). Inspectors work alone in the field so on-line communication is encouraged but training is partly by shadowing experienced staff. Geographical organization cross cut with specialisms.</p>	<p>Ensuring standards are the same for co-regulators. Regulatees have to prove compliance in the case of a serious suspected breach (guilty until proven innocent). Getting specialists to work in teams on targeted issue based regulation can be difficult and requires different skills. Moving to self-regulation for larger regulatees which involves demonstrating good judgement to senior managers. Need to sell the rationale for the standards to regulatees. Some concern on over-reliance on use of internet to inform regulatees who may not necessarily have access.</p>

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R9.	Public goods. Complex Self-regulator inspecting a fairly large number of generally small private sector organizations.	Avoidance of statutory regulation of sector.	Provide info to parents and government. Regulation should be about reasonableness (regulation = rule compliance not to do with quality as lack of aspiration).	Manage the aspirations of all in the sector. (NB. inspectorate set up by sector). Led by the evidence.	Peer review, i.e. inspections teams consist of 4 inspectees peers plus one general inspection professional.	In house course. (5 days).	Against mega-regulators as (requisite) variety is reduced. Not convinced by rigour of self-assessment. Aware incomplete picture from over-reliance on PIs, hence no rankings published. Genuine self-regulation may help maintain depth of inspection even with self-assessment.
R10.	Auditor of public sector bodies.	Commissions from UK government and Parliamentary bodies.	Improvement as a consequence of, but not an explicit objective of, audit.	Moving to risk assessment but concerned that reducing the number of inspections may increase risk in some sectors.	Functional, and crosscut by sectors (in separate reports). 3-9 people per team plus external expert advisors. 850 staff in total.	F/T auditors plus social science generalists or subject specialists. Internal courses with externally validated qualifications. Shifted from output to outcome oriented training (incl. relational, strategic and project (but not programme) management. 70 graduates recruited annually.	Careful to stick to remit. Must offer career development to retain staff (esp. if salary not equivalent to private sector). Issue focus tends to be ad hoc, possibly media led. Pragmatic evidence based approach means that theoretical bases and biases informing inspection practice are never addressed. A focus on higher risk may increase minor risks.

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R11.	Non-profit self-regulator (separate unit inspecting own services)	Other non-profit sectors' and related sectors' inspectorates plus co-regulators.	Assessment, reporting and making recommendations. 'Measuring quality', which requires inspectors to act relatively autonomously in planning how to carry out an assessment.	Standards based or externally developed best practice based principles where no standards are deemed to apply. Inspection focus is determined where possible by functional directors' identification of greatest risks.	4 inspectors. Inspection and audit (financial and VFM) are separate. Work in 2 teams of 2 plus an internal subject specialist and a service user where appropriate. Almost all full time hiring is internal.	Judgement needed on the relative importance of different standards for risk management. Inter-personal skills required. Training on evaluating, and on uses of qualitative and quantitative information useful.	Moving to more self-assessment to guide fieldwork focus, whilst retaining regular inspections as without them regulatees might have reduced incentive to improve. Moving from standards focus to 'Excellence' model partly as it became unclear the extent to which a standard was a minimum or an aspiration. Outputs of departmental balanced scorecard used internally to identify to senior management areas of widespread non-compliance that require strategic action.
R12.	Traditional public service. V. Large number of small inspectees.	Government policy initiatives.	Consumer information & stimulus for improvement. Inspection as 'consultancy'. Feedback into policy.	Context: Previous inspection record of regulatees and published quality data (pre-inspection). Publish rankings. Based on PIs/expert assessment of what is a quality service	250 FT professionals to lead on quality and standardization plus large no. of contract inspectors (necessitated by scale of task)	Preferably background in inspection sector plus sector experience.	Moving to more self assessment

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R13.	Statutory regulator of a small number of very large private sector companies.	Media issues.	Economic regulation. Price setter but also employ external 'reporters' who prepare an audit plan to assess the quality of information submitted by regulatees.	Performance assessment of regulatees. Continuous improvement, feedback to regulatee (as reporter is with regulated company for 5 years). Highlight best practice of individual reporters.	External reporting companies to assess regulatee submissions.	Neutrality. Good communication and influencing skills.	Seemed to be limited communication with co-regulators. Improvement obtained via in house monitoring.
R14.	Privatized public service. Small number of large companies	Govt. policy + EU directives.	Risk management (i) Evaluation of compliance (supported by:-) (ii) Expert technical assessment. Small inspectees treat inspector as consultant cf. policing role.	Inspection + evidence from other sources. Desk = group activity, considered; Field = Solo activity, immediate.	120 existing regulators, 230 inspectors joining (geographically widespread). Background = sector plus inspection professionals	Needs to communicate and be able to obtain information, and legal training on exercise of powers. Also understanding the functions of regulation (economic, inspection, safety); Inspectees' organizational cultures.	Impending merger of external inspectorate into existing regulatory** body. Managing esp. communication between collegiate strategic generalist desk workers v more functionally specialist, autonomous field workers.

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R15.	Audits policies and practices of a small number of large organizations (previously audited individual specialist departments)	European and International Standards.	Audit	Peer review. Group judgments (cf. chair/leaders) but audit process is managed by F/T directors. Seeks user assessments.	Part time auditors/reviewers from within the sector. Some international exchanges of staff.	2/3 days every few weeks during first 6 months.	Denies being either regulator or inspectorate but it can argued audits have a soft regulatory effect. Inspectees either open or hide things, lay false trails etc. Raised issue of needing to change with the times not repeat process ad infinitum.

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R16.	Public body regulating an activity carried out by a large number of public and private sector bodies for whom regulation is largely voluntary.	Government, regulatees.	Consumer Protection. System testing. (i) Strategic regulation (developing standards) (ii) Licensing, monitoring and compliance. Can involve disciplining agents where regulatees have failed so to do.	License assessed on both fitness of organization (recognition) as well as product quality (accreditation). Monitoring: includes checking with consumers whether agent performance and with agents on regulatee performance. Enforcement is by recommending funders (e.g. trade bodies) to withdraw backing. Holds sessions for inspectees on best practice. More lighter touch risk management and self-assessment.	Inspectorate → (accreditation) Regulatee → (accreditation) Agent → Consumer. In house inspectors with 'systems expertise' and external consultants (subject/sector specialists), 1+ of each per inspection.	Skills required are 'persistence and enquiring mind', and an understanding of the system. Inspectors work in teams of 2/3+. Quality management NVQ training given.	Relational distance could be a problem - surveillance of the regulatory and supply chains. Monitoring procedures and processes (e.g. even organizational charts) is difficult as they constantly change.
R17.	125,000 Individuals licensed via their employers.	(a)	License issuer only.	License revocation on receipt of adverse intelligence. Moving to add employer quality accreditation scheme (voluntary at present but incentivized – accredited employers can start staff prior to full licence approval).	42 Investigators supported by intelligence from other agencies and public whistleblowers.	Investigators from other industries.	(a) This is a new body with no discernible organized approach to risk management.

No	Status and Environment	Significant Influences	Agency Role and Practices*	Approach to Managing Risks*	Inspection Structure	Inspector Skills and Training	Issues, Concerns and Notes
R18.	Privatized Public Service. Stable sector. Small number of mostly very large companies. Compliance not seen as a problem as legal and financial incentives are considered adequate.	UK government & EU, other regulators.	Public protection via Technical standards. (i) Technical on quality (ii) Risk based regulation on operational matters.	Risk-based monitoring process. Non-compliance often leads to improvements funded by (external) economic regulator. international standards plus codes of practice. Appeared to be a form of co-regulation.	Approx. 18 inspectors. Group working with personnel switched frequently to avoid capture.	Industry experienced technical experts.	Improvements require cooperation of economic regulator.
R19.	Statutory regulator of large number of small companies. Stable sector.	UK government, EU and International standards bodies.	Standards setting, monitoring and enforcement.	Some unannounced visits. All data on regulated activities to be gathered on-line in the future which will enable better risk assessment and management.	Very hierarchical. 2,500 staff, mostly involved in inspection as testers, inspectors or examiners, spread throughout the UK.	Technical skill preferred, most from sector. 13 week initial training.	Apart from inspecting, staff also carry out small scale regulatee work with consumers so understand the tasks.

Discussion

Hampton (2005) made a number of recommendations which have clearly impacted on the inspection strategies in the UK. We discuss below each major recommendation in turn, together with the views of our interviewees. Note that this is not the output of a survey questionnaire or a systematic study of perceptions of the Hampton Review. The views expressed came out of natural conversations around current and future inspection strategies.

‘Comprehensive risk assessment should be the foundation of all regulators’ enforcement programmes;’

Risk assessment was considered by many interviewees (particularly R4, 10, 11, 16, 18, 19) to be the cornerstone of modern regulation and inspection although concern was expressed over methodological rigour (e.g. R9). Assessments of the risk posed by inspectees dictated a number of factors including seniority of inspectors, their background, training and incentives and depth of inspection. An accurate analysis of the extent to which inspectorate’s risk assessments are truly ‘comprehensive’ would require further investigation but there was a high level of awareness of the need to develop or further develop such assessments and to develop the necessary skills to use them as predictors of future behaviour.

‘Basically we do a risk assessment and so we say, for all the topics we’re interested in, we do a ranking and assessment, which increasingly is forward looking, for about five years is where we want to get to it, and that’ll rank things like whether we’re worried about the analysis at a particular place for a particular parameter, through to where we’re worried about how somebody’s doing their sampling.’ (R18)

However, for regulators coping with a large number of small regulatees risk assessment, whether forward looking or not, may be aggregated to class of business - which does not necessarily fulfil the objective of reducing burdens on the compliant:

‘We have a way of aggregating the individual risk assessments of firms, and the thematic work, sectoral thematic work, into what we call our risk dashboard. So we take all the little bits of analysis and all the impact

assessments and regulator assessments, we parcel it all up and we feed it into our risk dashboard, and what that helps us do is then identify say the top ten risks.’ (R4)

Moreover, by increasing the emphasis on higher risks one might actually increase the occurrence of low risk harms.

‘There should be no inspections without a reason, and data requirements for less risky businesses should be lower than for riskier businesses;’

This recommendation is essentially a restatement of the virtues of proportionality in inspection practice and there was considerable emphasis placed on moving away from regular traditional inspection visits (R3, 5, 7, 10, 18):

‘One of the drivers, one of the things that we want to do is move towards much more of an audit approach for the majority of our sites than routine inspections and to put more of our effort into detailed site audits.’ (R3)

But the implications are quite significant. Securing improvement may be difficult if historically, improvement has come about mainly through frequent contact between inspectors and inspectees (R11) and there are other consequences that concerned the interviewees:

‘You know, there is always a public outcry and there is always a public enquiry, and one wonders, you know, five years on from now, in that public enquiry, the local authority or whoever’s responsible says well in fact we didn’t monitor this [regulatee] or we didn’t monitor those [regulatees] because our risk assessment was they were low risk. Whether the enquiry would say oh well that’s alright then, I mean you can’t imagine that...’ (R10)

The *political risk* for inspectorates is clearly quite high. In fact several regulators suggested that political imperatives did not sit easily with administrative imperatives, e.g.:

‘There is debate about at the moment whether the frequencies are right, we might be inspecting, I don’t know, once a fortnight. So short duration but very, very frequently compared to most inspection regimes, and what we’re saying is well, actually, our view is that they don’t actually, they give us a certain amount of value, they probably give the public some peace of mind seeing the environment agency van turn up and all that sort of stuff if you’re local to that site.’ (R3)

The response of many to reducing traditional inspection visits was to focus instead on intra-sectoral or sub-sectoral issue based inspection.

‘We always have a structured process of driving out issues, which is a pyramid of issues, so we’ll start with a top level question and then break it down further, and we call that issue analysis.’ (R10)

The problem is that issues highlighted by the media can be rather random and there is a risk of poor resource allocation. Moreover, such an approach further treats regulatees as an aggregate (R4) and may not produce the correct incentives to reward compliant regulatees.

[More here needed on high inspection frequency/low penalty v low frequency/high penalty inspection regimes.]

There are other virtues to maintaining traditional inspection visits, not least in embedding inspectors as part of a system focused on improvement (in the delivery of goods and services to the public):

‘Some research has been done which perhaps suggests, rather than having full scale inspections all the time, you do a little and often system, you go into premises, perhaps more than we do at the moment, but it’s not necessarily quite such a thorough system, and some research indicates ... that the one to one interaction between the inspector and the [regulatees] is key to raising standards, and that’s about supporting and helping them to comply with the law, and that interaction is key. (R5)

Communication between inspector and inspectee was mentioned by several interviewees both positively and negatively. For example, R7 suggested that over-frequent contact ran the risk of inspectees capturing the construction of knowledge of regulated sectors.

‘Resources released from unnecessary inspections should be redirected towards advice to improve compliance;’

The issue of resource transfers did not appear to concern our interviewees, and compliance is at the heart of inspection, but directing organizational resources towards securing improvement to outcomes did arise, and in some surprising forms. Notwithstanding that most inspection costs are borne by inspectees at least one inspectorate (R1) went beyond ensuring compliance or even using a range of communications media to disseminate best practice and actually offered, at an extra cost, an extended inspection aimed at enabling the inspectee to improve their offer to the public:

‘I think we certainly go further than most people in saying the principle aim is quality improvement, quality assessment is on the way to that, and therefore an organisation like this is best placed to ensure that if you have got major problems, they’re addressed, so, which is why we have the provider development unit, which, where both the provider and the funding body says, you know, these folks need some extra help. Then we give them up to ten person days, specific help.’ (R1)

On the other hand R19 also produced and supplied the regulated service directly to the public on a very small scale in order to better understand the problems faced by their regulatees not least in order to assess how to improve the product and to optimize compliance with regulations. This is easier for some inspectorates than others. For example, R18 need the cooperation of the sector’s economic regulator in order to raise prices so as to secure improvement. Distance in the supply chain can also be problematic where regulation of producers of essentially wholesaled goods may have little direct effect on improvement at the consumer end of the chain (R16).

‘There should be fewer, simpler forms;’ and ‘When new regulations are being devised, Departments should plan to ensure enforcement can be as efficient as possible, and follows the principles of this report;’

These issues were raised most frequently in connection with co-regulation and the need for establishing common inspection frameworks in sectors where regulatory responsibilities were shared amongst several bodies, typically a sectoral regulator and a number of function-based regulators (R1, 3):

‘[We were] the first organisation which actually had the same document for self assessment as for inspection, believe it or not, I mean it sounds terribly kind of, you know, motherhood and apple pie, and really everybody expects it to be that, but it was the case, and so ... the idea was that there would be a single framework, which would be published so that everybody knew where they were, for both self assessment and inspection.’
(R1)

‘Data requirements, including the design of forms, should be coordinated across regulators;’

R2, 3, 6, 8, 11, 16, 18 all noted other regulators as influential:

‘We’ve got big programmes going on with [the sponsoring department] and with some of the other regulators to try and co-ordinate and join in with existing programmes. So we work on things like the cross-compliance programme which links into the subsidies and grants. (R3)

‘Thirty-one national regulators should be reduced to seven more thematic bodies.’

To some extent criticisms of this recommendation may be a little self-interested, concerned with maintaining independence and control:

‘The Hampton review has said it wants only, is it seven regulators, or five?
Or something like that. ... It’s not obvious where we should go, despite

Hampton trying to guess through ignorance, because they never came to speak to us, but it's not obvious where we should go, so there's going to be a consultation process in the autumn.' (R18)

But there were some legitimate concerns expressed. Several regulators and inspectorates, including for example R11, were worried that the number of regulators might well fall below the level required to sustain innovation through diversity.

Where mergers had already taken place directors were having to address managing quite different workforces with different levels of qualifications and pay structures:

'[The are] two types of people, economic regulators tend to be the people who sit behind the desks and look at systems and they have a sort of monitoring framework which is largely, if I say paper based, I mean CDs these days, you know, electronic. ... And a number of things that we're very conscious about inheriting, now we are 120 odd people and 230 odd coming in, so it's more than doubling the size of the organisation. Two things in a sense, one is that the field force element, you know it's a very different sort of operation from a desk based operation, in the way people operate and the sorts of skills ... because you are face to face with different people, it's not the regulation director, or the regulation team you're dealing with, it's the people who are actually doing the job, and that requires a very different ... form of management.' (R14)

The problems associated with merging such disparate workforces often means maintaining them as fairly separate entities in different divisions (R3, 4) and employing some form of matrix management of integrated inspection. The differences can be particularly stark when considering enforcement action. For example, primarily economic regulators of a few very large regulatees tend to require board level approval for such action whilst regulators and inspectorates with large numbers of both inspectors and inspectees grant the former a degree of autonomy in reaching a decision to act on enforcement. It is also not clear the extent to which economies of scale are achieved through such mergers or for that matter the extent to which regulatory burdens are reduced.

Concluding Thoughts

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