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The new regulation curriculum: skill-based regulation?

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(Re)Regulation in the Wake of Neoliberalism. Consequences of Three Decades of Privatization and Market Liberalization

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The new regulation curriculum? – skill-based regulation?

In the UK and elsewhere inspection is a central mechanism of the regulatory state. This paper explores elite interviews with regulatory senior managers and chief executives focusing on their perception of the skills required for inspection. The results suggest tensions in how such skills are reproduced and maintained. A majority of respondents recruited sector specialists as inspection staff who they believed already had the essential skills.

Is it possible to assess the extent to which senior regulation managers conceptualize inspection skills in terms of a new regulatory paradigm? Two models are used to explore the research findings. Firstly, a model based on cybernetic theory suggests that few regulators view inspection as a skill set other than one of 'detection'. There is little, if any, conception of inspection skills as systemic, dynamic or cyclical. Advice and feedback skills are poorly represented in the responses.

A further model applied is that of 'decentered' regulation as a means of gauging what skills are relevant to a 'decentered' understanding of regulation and if new skill sets can be discerned. Does the new regulation require new skills, are the skills already there, or do inspectors train themselves?

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Introduction

In the UK and elsewhere inspection is a central mechanism of the regulatory state. Although inspection has a long history and been the subject of many academic studies the study of skills used in inspection has been comparatively neglected. This is unexpected given the significance of inspection to regulatory outcomes and raises issues, not only as to identifying such skills, but how they might develop in a 'new' regulatory state.

The focus of this paper is on those skills perceived by regulation senior managers as necessary for inspectors to acquire and make use of in their work. The Oxford dictionary defines skill as the:

> Capability of accomplishing something with precision and certainty; practical knowledge in combination with ability; cleverness, expertness (Oxford University Press 2008).

Skill, as used in the paper, includes knowledge, values and the key concepts underpinning those skills. To illustrate, it is difficult to use the skill of risk management without at the same time having a notion of the concept of risk. Skills go to make up a curriculum and this discussion is a contribution to a debate on the regulatory curriculum.

The definition of inspection used is,

> the process of periodic, targeted scrutiny to provide an independent check, and to report, on whether services are meeting national and local performance standards, legislative and professional requirements, and the needs of service users (Public Audit Forum 2002: 1);

It is recognized that there is a merging of the terms inspection and audit but for the sake of brevity inspection will be the preferred term used in the paper.

The first section reviews the literature on inspector skills available in academic and vocational sources. Section 2 deals with the

methodology. Section 3 explores the impact of sector specialism and how it contributes to, but possibly distorts, the reproduction and transfer of inspection skills. Section 4 moves the analysis on to structure specific skills through a dynamic and process driven model of inspection. Finally, Section 5 sets out the characteristics of a decentered regulation to reconfigure the discussion on inspector skills.

Section 1: the literature review

The substantive sources on inspector skills are found in occupational and vocational qualifications most often at higher education level. In the UK, for example, Trading Standards Officers are required to hold a University level diploma[1] awarded by the Trading Standards Institute (TSI) - a similar framework is available through the Chartered Institute of Environmental Health for Environmental Health Inspectors[2]. These are broad qualifications that deal with intrinsic knowledge and skills crossing many sectors - weights and measures legislation crosses over sectors as does environmental legislation. In the paper we refer to these regulators as exosectoral - they are concerned with a parallel structure common across sectors. Trading Standards Officers are predominantly concerned with the legislative content and application of different areas of law, such as consumer law, intellectual property law and health and safety law. At the same time, there is recognition of interpersonal skills and a need to understand the regulatory framework. More recently the TSI has also included working with self-regulatory sectors as part of its curriculum.

A further vocational source on inspector skills is that of the UK wide National Occupational Standards for Inspectors of Health and Social

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[1] Details available at: http://www.tsi.org.uk/career/index.htm?
frmClient=0A5928D0-7CFA-4BC5-BAE65671300D976C&frmItemID=140981&frmShared=1

[2] Details available at http://www.cieh-coursefinder.com/Default.aspx

Care (TOPSS 2001). This is a competence-based framework that has at its core the main activities of health and social care regulators under UK legislation. They could be said to be legislation and function driven but it also has procedural elements and interpersonal skills as individual performance criteria.

The OECD produced a number of publications directed at emergent regulatory agencies (OECD 2004; Organisation for Economic Co-operation and Development 2000). These two publications discuss compliance and regulatory performance respectively. 'Assuring environmental compliance: A toolkit for building better environmental inspectorates in Eastern Europe, Caucasus, and Central Asia' (Organisation for Economic Co-operation and Development 2004) looks specifically at inspector skills and these are listed in the table below.

Table 1: OECD inspector toolkit headings (Organisation for Economic Co-operation and Development 2004)

organizing on-site visits
Preparation of an on-site visit
Conducting the on-site visit
Evidence: Theory and practice
Personal communication as an inspector's tool
Basic sampling procedures
Inspection report and follow-up

The headings are explained in the text but it can be seen that they refer to activities that will have skills within them as well as modeled approaches to communication practice.

Although this publication is designed for environmental regulation it has a general application.

Scholarly research relating to the behavior of inspectors has a long history in the study of regulation[3]. There have been a considerable number of empirical studies of inspection as noted in May's study of inspector enforcement styles (May & Wood 2003: 118) many of them consisting of 'inductive studies of agency and inspector

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[3] See **Hutter, B.** 1997 *Compliance: regulation and the environment*, Oxford: Clarendon Press.

behavior leading to description' (May & Burby 1998: 158). More often than not the studies are looking at the severity of enforcement or its rigidity, or focusing on compliance and not the range of inspector skills employed.

A significant distinction made by May and Burby (1998) is that studies of inspector behavior may not empirically demonstrate or correspond with agency philosophy. This is an interesting separation of agency objective and street level inspector behavior (Lipsky 1983); of course, the assumption of this paper is that inspector skills, as reported by organizational leaders, have a strong relationship to agency philosophy and culture. Supporting this assumption, Braithwaite et al (2007) take the implicit approach that street level inspector behavior is the locus of regulatory impact.

Braithwaite et al (2007) using extensive fieldwork between 1989 to 2006, examine common themes across nursing home regulation in Australia, England and the US. Their approach to regulation is that its predominant location is the site visit therefore the study of inspection reveals outcomes of regulation. The study is notable in that results are contextualized in sectoral knowledge, such as, the discussion of restraint or of care planning, at the same time identifying important skills possessed by inspectors, for example, the skill of networked governance. The study develops previous work on responsive regulation and is of relevance to our later discussion of new forms of regulation. It is persuasive in making the point that regulatory goals are achieved through inspection.

In contrast to this empirical generation of theory, Boyne et al use cybernetic perspectives to develop a theoretical framework for the evaluation of inspection. Cybernetics is the science of control and communication (Ashby 1956) and has also been applied to management (Beer 1959; Green & Welsh 1988) It has been influential in regulation as a 'governor' theory, referring to forms of cybernetic control and communication exercised by regulators to

maintain a system in its optimal state. Regulatory standards and consequent actions have cybernetic validity if they use 'a director, a detector and an effector' (Hood, et al. 2001: p. 24-27; Hood, et al. 1999: p. 45-46).

The director, standards for example, specifies the desired performance or behavior; detector refers to the means whereby the variance from the standard is discerned and the effector is the process where any variance or non-compliance is brought back into line with the director (the standard).

The significant difference in the perspective of Boyne et al from the previous studies is the representation of inspection as a complex system. Their framework contains three elements that contribute to the effectiveness of inspections – these derive from the cybernetic perspectives on regulation discussed above, the Director, the Detector and Effector stages of an inspection. Their framework also recognizes regulatory problems that decrease inspection effectiveness for example regulatory capture and ritualistic compliance. They see inspector expertise as the mediating variable. The cybernetic three-part model is useful as a means of understanding inspector skills as part of a dynamic model of information flows, control points and feedback spirals.

To summarize this review, the vocational literature on inspector skills tends be legally centered with an emphasis on evidence gathering and core regulatory functions such as licensing or complaint handling. In contrast to the academic literature there are a limited number of conceptual domains, for example there is no mention of networked governance, or of holistic perceptions of inspection as are seen in cybernetic perspectives.

The theoretical framework of Boyne et al (2002) is distinctive in that it brings together theoretically many of the conceptual domains common to the academic and vocational materials, providing a unique view of inspection as a dynamic system. May et al (1998)

contribute an experience of inspection studies and the perception that agency and inspector activity are not necessarily the same. The scope of the Braithwaite et al studies (2007) are a source for many inspector skills as well as the contextualization of inspector skills within sectoral skills, sectoral knowledge and sectoral expertise – what is referred to in the study as sectoral specialism.

The literature review challenges the notion that skills are individual tools applied in the craft of inspection. A more sophisticated approach is to understand skills as located within an understanding of dynamic systems and processes.

Section 2: Methodology

Preliminary work for this study found few regulators having accessible documentation that described inspector skills or the content, duration and level of inspector training. Elite interviewing was used to access those who would reflect the core assumptions, vision, management and values of the organizational culture. Elites in this sense are not;

> hierarchies of state and corporation and army … command posts of modern society which offer us the sociological key to an understanding of the role of … higher circles (Mills 1956).

Elite interviews for the purposes of this paper refer to leaders who influence the operation of regulatory organizations – 'we must recognize the centrality of … cultural management … in the leadership concept (Schein 1985: 2)'. The interviews are intended to access the culture of regulatory organizations – their assumptions, procedures and knowledge as reflected by cultural leaders.

In our particular case the respondents are better described as a hybrid elite (Desmond 2004: 264), although requests for interviews were made to the chief executive or equivalent, in some cases the interview was delegated to a subordinate position. The primary method employed in the research was the semi-structured interview. Although subjective, this approach allows the researcher

the benefit that interviewees can determine which elements of policy, process and organization they consider important and on which they wish their views to be heard. 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. 16 were sectoral regulators and 3 exosectoral, that is the regulatory knowledge, for example health and safety, was applied across many sectors. 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 reference numbers. The data was analysed using NVIVO (QSR International 2007); key words, phrases and paragraphs were converted into Nvivo nodes. This is an exploratory qualitative study drawing tentative inferences from the available data. The respondents were self-selecting, they responded to an invitation to discuss issues around inspector training and the role of Higher Eduction (HE).

Section 3: The centrality of sectoral specialism

When asked what were the most important inspection skills a majority of respondents referred to the sector specialism of their inspectors. How important is knowledge of the sector - sectoral specialism - to being a skilled inspector?

There were 19 respondents in total; two cases were excluded because their inspection function was contracted out. Out of the remaining 17 respondents there were 13 who recruited inspectors on the basis of sectoral experience. Typically, if the relevant sector is social care then all inspectors recruited have experience and/or qualification in social care.

Figure 1: proportion of respondents who allowed mixed recruitment (no sector experience)
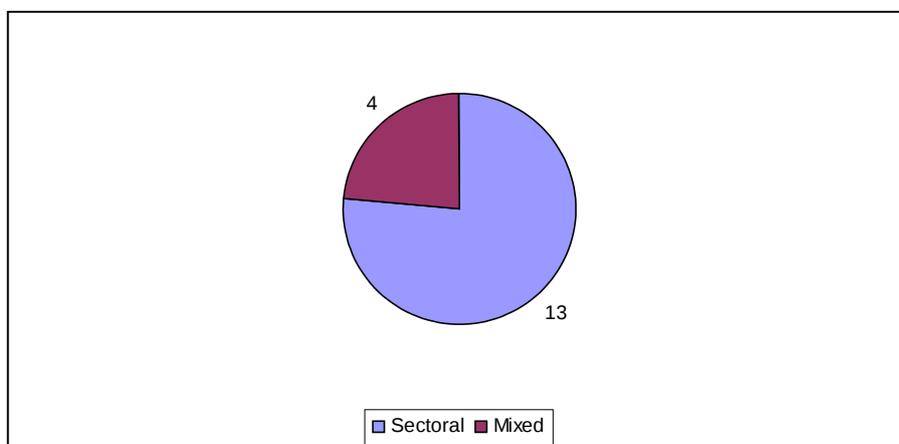
The four respondents remaining used a mixed recruitment; for example, in the case of a large regulator employing over 2,500 inspectors there were separate specialist divisions where sector specialism was required for entry. However, there was also a division covering multiple sectors where sector specialism was not a criterion for inspector recruitment.

Significantly, respondents who sought skills through sector specialism also stressed the importance of their inspection staff being 'up to date'.

> And getting fresh people in, you know, you're getting people who know the industries for which we're responsible, and you need to keep refreshing that, because it's a dynamic industry. R4.

Sector specialism is important as a source of skills for inspection. Of course, it makes absolute sense that inspectors need to have the knowledge necessary to inspect care homes or schools; you have to know the sector. However, when the skills are broken down they may include, technical and managerial skills, a deep understanding of the culture and values of the sector and the awareness of innovation and changes. Such knowledge includes the covert understandings of the sector as well as the overt (Schein 1985), and their networks and codes. The transmission of this type of knowledge through formal education is rare; it is easy to understand the dependence of regulators upon sector specialism. Collins makes the point that it is this deep sectoral expertise involving, values, alignment with public policy, technical knowledge and sectoral best practice that is a major advantage of public regulation over private law (Collins 1999: 82).

However, maintaining current knowledge in sector specialism, relying on the recruited inspector to be 'up to date' implies a constant recycling of inspectors between the regulator and the sector.

> So I think that's quite healthy to actually have that turnover, to actually, you know, to come into inspection for a while and then go out again - to pick up some of those skills, and see things, if you like from a bird's eye view before going back … (R2, sectoral, self regulator, initial training, less than 5 inspectors).

Some respondents estimated two to four years as an inspector before a return to the sector. A majority of respondents recognized

that in order to maintain up to date sectoral knowledge there would need to be a turnover of inspectors back into the sector. This is an distinctive feature of regulation as a sector, it depends for its skills upon training and/or experience in other sectors. Amongst respondents there were some who gave no training at all to inspectors instead preferring them to go back to the sector, there were others who gave extensive training and their inspectors were highly sought after by the sector. In order to understand sectoral specialism it helps to view the survey data in a number of ways.

The results suggested that the size of the organization may itself be a factor in the extent of inspector skills training. Limited training (defined as up to six weeks) is more probable in the smaller regulator. Intensive training is more than six weeks (usually 12 months upwards, whilst intensive plus HE means that there is an accredited HE element to the extended training. In one case the training, involving HE and in house would last up to 5 years. Figure 2 suggests that small regulators have limited training whilst larger regulators have intensive training.

**Figure 2: showing inspector training and number of inspectors**
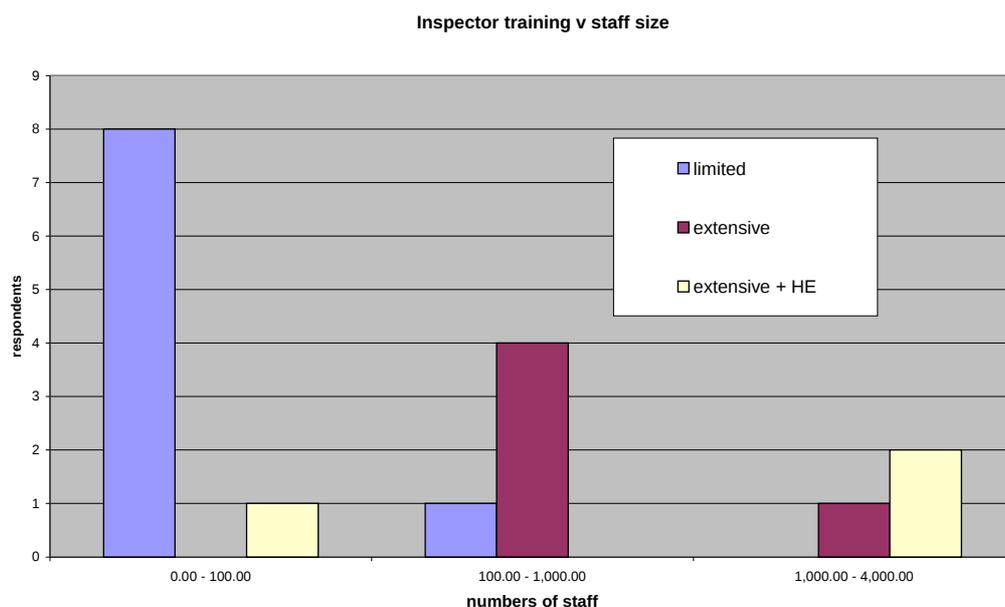
The interviews also established whether inspectors were recruited with no sectoral experience, referred to in Figure 1 as mixed intake or sectoral only. As can be seen in Figure 3 the mixed or sectoral specialist only intakes gives a similar distribution to that in Figure 2.

Figure 3: Duration of training v. dependence on sectoral skills

Training v dependence on sectoral skills
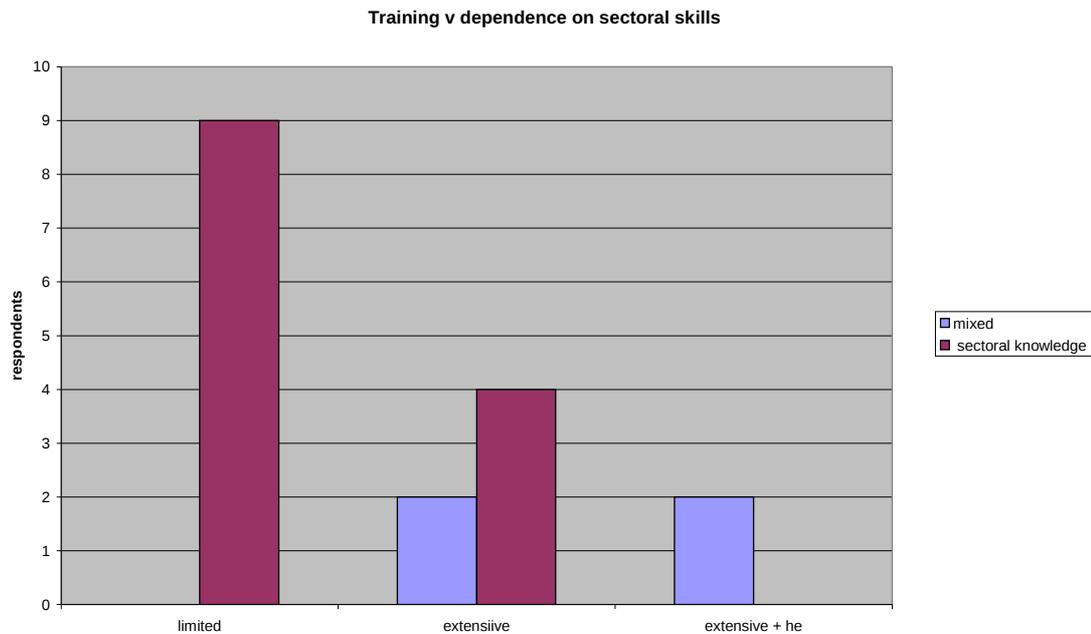
Respondent organizations were also rated as to whether they were sectorally based, that is located within an identifiable industry or whether the regulator was exosectoral, that is regulating a framework that could be seen as external but also as structural to multiple sectors, for example, health and safety or environmental regulation. The table below illustrates this relationship between exosectoral regulation, sectoral regulation and the intensity of training.

<u>Figure 4 The exosectoral tendency</u>

Exosectoral Tendency

sectoral ▢ exosectoral ▧
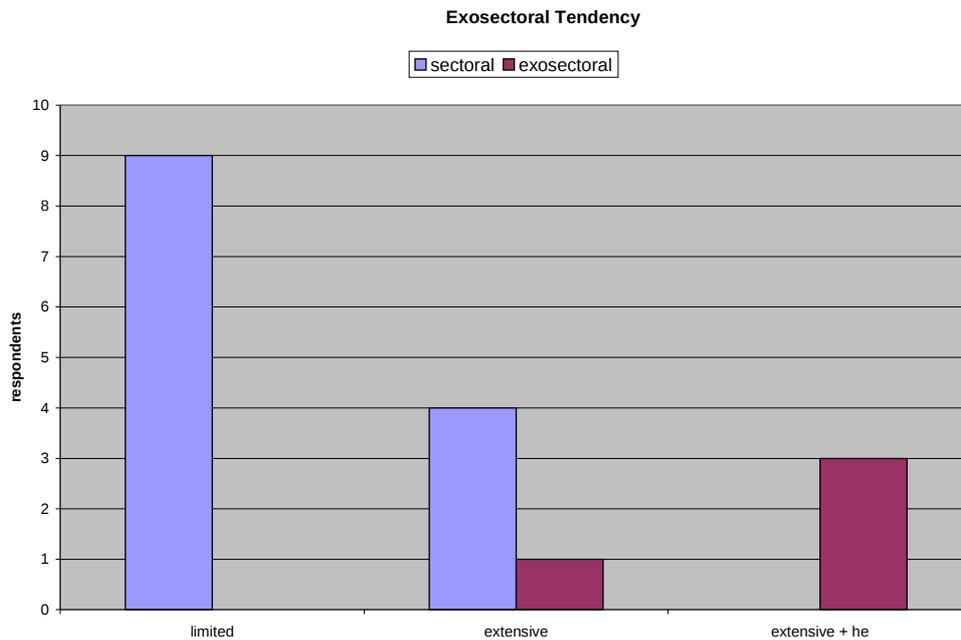
Again the distribution looks similar but supports the view that exosectoral regulators, because of the nature of their regulatory function, tend to have a greater propensity to develop intensive plus higher education training for inspectors than do sectoral regulators. A good example of this would be the UK Trading Standards Officer based in the local authority who enforce weights and measures, consumer protection and food safety amongst others. In order to become a Trading Standards Officer they must pass the necessary qualifications. So, if you are exosectoral you will be encouraged to remain an inspector, if you are not exosectoral then you may well be encouraged to leave inspection after a certain time.

The survey suggests that:

- Small regulators are more likely to rely on sectoral specialism

- Where there is 'mixed' recruitment there is more likelihood of intensive training

- The exosectoral inspector is likely to have a longer and more intensive training.

- There are exceptions

Attracting sectoral experts into inspection and at the same time encouraging them to leave is a complex strategy with a direct impact on the cost/benefit of inspector training. One of the side effects is undoubtedly that inspectors are left to train themselves (Braithwaite, et al. 2007: 162) or that training opportunities are limited. But, do they need training?

Do inspectors need any further training?

Having inspectors with the deep technical knowledge of the sector is common sense. However, if they are sector specialists with a deep knowledge of the sector why do they need training as inspectors? A chief executive who had instituted university level education and training for inspectors had this to say on the learning curve that meets the new inspector.

> I think it's a curious business, becoming an inspector, because people come as the bees knees of whatever it is, and what we tell them when they're coming in is, that's what we want, you know, that's what we want to buy, is their bees knees –ness, but actually they start pretty much from scratch as an inspector, and so there is a real roller-coaster I think in that first six months, between feeling actually I do know about all of this, and feeling I know bugger all about this inspection business (R1, sectoral, statute regulator, intensive with HE, below 100 inspectors).

As can be seen, some regulators, even those who recognize the role of the inspector in bringing expert sectoral knowledge into the organization, maintained substantial training programmes. They recognized that sectoral knowing was different from regulatory knowing. That is, there is some skill and knowledge unique to regulation and there is a lot of sectoral knowledge and related skills that need to be recontextualized into the regulatory domain.

Respondents from larger organizations were also aware of the inflexibility of the sector specialist set against that of the 'rounded' inspector.

> A   They're generally pretty inflexible, you know - I am an expert in signalling, and that's what I look at, and you know, no one understands what they're saying because they're the only expert, you see, so they can say whatever they like. And they don't really want to know about asbestos, and RSI, safety culture… signalling, so they're actually very, very difficult to turn into a rounded inspector. You do need them, because your rounded inspector has got to go to them and say, am I being told a load of lies here or not, and they can provide that technical input, but you generally don't let them loose on the problem… (R14, extensive training, 350 staff)

Therefore, in not every case does sectoral knowledge create the 'rounded' inspector. The question of what skills the 'rounded' inspector should possess leads on to a consideration of the specific skills reported by respondents.

Section 4: Applying a dynamic model of inspection to inspector skills

> you don't go out there believing someone's guilty, but every inspector who goes out there is looking for things and has to have the sense of knowing when something doesn't smell quite right. And the trick is knowing how to get at that, to make sure, without being unduly aggressive and offensive in doing so. R14, statutory regulator, 300 plus inspectors, extensive training.

Using the work of Boyne et al (2002) the data is compared against a dynamic cybernetic model of inspection described in the literature review. The interview data was free coded into categories viz. triangulation or questioning and then assigned to the Director, Detector and Effector stages. For example, three respondents described a skill that then coded to the Director stage.

Figure 5: reference sources code to cybernetic stage

Reference sources used per cybernetic stage
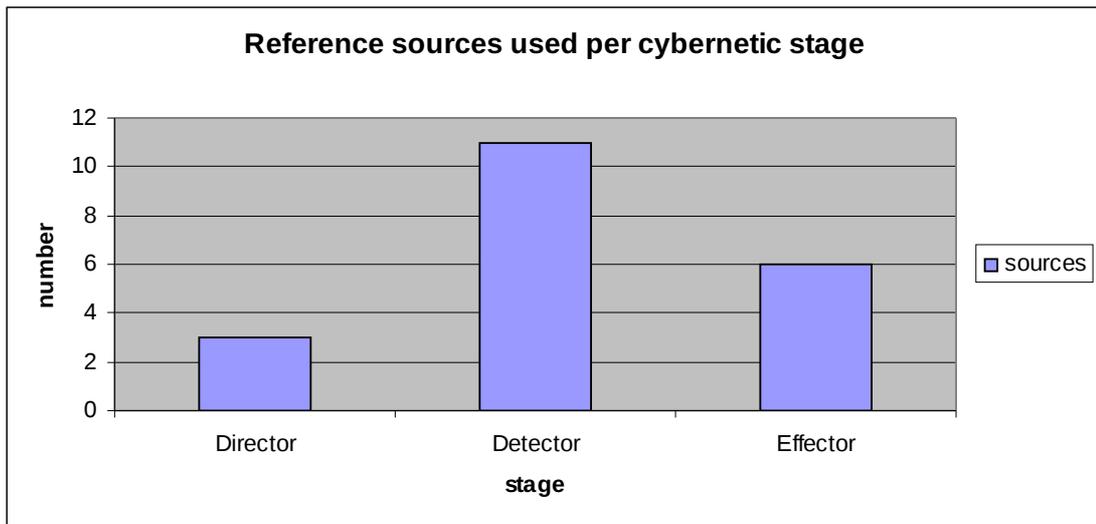
The chart shows the number of responses (sources) that are classifiable at the cybernetic stage.

In terms of tendency, it can be suggested that reported inspector skills are twice as likely to be categorized as Detector than Effector and four times more likely to be so classified than Director. Only two sources (respondent cases) were common to all the 3 cybernetic stages. Below is a table giving examples of the nodes used to classify in each cybernetic stage.

Table 2:Types of skills (examples) cited by respondents in cybernetic categories

stage	Number of sources	Example skills cited by respondents
Director	2	Advice giving, examples of best practice
Detector	11	Inquiry, interviewing, judgement, legal training, procedures of inspection, risk, questioning techniques, system knowledge, triangulation, report writing,
Effector	3	Improvement, outcomes

Using a cybernetic model of inspection to categorize the survey responses reveals that the central tendency is to conceptualize

inspection as detection. Survey respondents would more frequently refer to investigation and detecting deviation than they would to either of the two other categories of the model. Of these other categories, reports of Effector skills (3 sources) were next in popularity to that of Detector. This suggests lack of clarity as to how inspection could be used to effect change. Effector skills bring any deviations back into line with regulatory objectives; this involves feedback from the inspection and setting out the strengths and weaknesses of performance and obtaining an undertaking on the action plan for redress or further development; and, of course, it includes enforcement actions.

The Director stage is about guiding or steering; giving the information and advice necessary to enable the regulatee to achieve regulatory objectives – there were only two sources whose responses could be fitted to the Director. There has been interest recently in the extent of advice given by regulators (Bennett & Robson 1999; Better Regulation Executive 2007; Brady 2007; Crerar 2007; Hampton 2005; Health and Safety Executive 2007; Mandelkern 2001; Small Business Service 2006) and there has been a corresponding shift by regulators to show that they are giving advice. Advice does not necessarily or only come through inspections but what evidence there is suggests that inspections are a major source of advice (Department of Trade and Industry 2006). Advice is an area of which many regulators are unsure. Here is how one respondent expressed it,

> And in respect of the smaller … operators, there's some quite tiny organisations out there, they don't have masses of technical skill or health and safety skill, so they rely very much, or have done in the past upon the … inspector. They regard the inspector as a friend rather than as the person who's going to come in and you know slap a notice on them. So they want them to say, you know, what do I do? How do I do this? And your experienced … inspector will say, this is what you do, one of these, one of those, one of those, and it'll

> be alright, and there's a danger of course, if you give too much advice, you actually take the responsibility away from the duty holder (R14, Extensive, 350 inspectors).

Ideas of taking the responsibility from the regulatee, of promoting dependency and of micromanaging are all reasons why regulators might turn from Director type activities. It is clear that regulators understand that advice is important if not integral to regulation but they have mixed feelings on the extent of advice-giving in regulation.

At the same time coding of responses isolated a further category that did not easily fit into the cybernetic model - interpersonal skills.

> there are other things that aren't in there which is about, it is about confidence and how, and some terribly difficult to judge skills. It is about being able to go into an awarding body and face down the chief executive at the end of it,(R16, statutory regulator, intensive training, 30 plus inspectors).

Interpersonal skills are relevant to every stage but perhaps respondents were also unsure of how to describe the skill preferring to use a general label of soft skills or interpersonal skills. If they were unclear about what made up these soft skills perhaps using the lens of 'decentered' regulation to view the survey data might bring their full significance into focus.

Section 5: The 'decentered' lens

A decentered regulation(Black 2002) is often contrasted with 'centered' or Command and Control regulation which is typified as regulation by the state through the use of rules. Black's argument is not that Command and Control is now redundant but there is recognition that:

- regulation is complex in terms of interactions, goals and actors.

- It is fragmented in term of no one actor has all the information necessary.

- Regulators do not have a monopoly on power and control;

- regulation is co-produced by multiple entities; and finally

- regulation interacts with multiple governance, not only of hierarchies, but also of markets and networks.

Black's decentered argument pulls together many observations of what occurs in regulatory space[4]; a notion suggesting that regulation competes with multiple forms of social orderings. What Black and others (Moran 2002; Power 1994; Salamon 2004) describe is not just the development of a 'new learning' it also describes innovations in regulation (Ramsay 2006: 12) with changing forms of regulated self-regulation (Bartle & Vass 2007), expanding regulatory networks. and the regulation of the state itself (Hood, et al. 1999).

The key to understanding decentered regulation is to broaden the scope of regulation to include agencies, frameworks and codes produced by non-state actors. Further, to appreciate that such agencies and actors are both used by the state and seek to influence the state (Hutter 2006: 2).

If indeed regulation is decentered where does that leave the regulator and what skills are required in a decentered world? Parker's comment below recognizes the ineffectiveness of a one-dimensional Command and Control (Wirick 1999) whilst redrafting the changes and innovatory structures and processes of the new regulation.

> A number of scholars predict that the "new" regulatory state will turn from being predominantly concerned with compliance with technical rules to a concern with accomplishing substantive compliance with regulatory goals by whatever means is appropriate and feasible including enforced self-regulation, incentive- based regimes,

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[4] See discussion in **Parker, C.** 2000 'Reinventing Regulation within the Corporation: Compliance-Oriented Regulatory Innovation', *Administration & Society* 32(5): 529-565, **Scott, C.** 2004 'Regulation in the age of governance: the rise of the post-regulatory state', in J. Jordana and D. Levi-Faur (eds) *The politics of regulation: institutions and regulatory reforms for the age of governance*, Cheltenham: Edward Elgar.

> harnessing markets, conferring private rights and liabilities, and relying on third-party accreditation to standards and insurance- based schemes ... The objective will be to steer corporate conduct toward public policy objectives in the most effective and efficient way rather than fruitless expenditure of government and business resources on traditional styles of regulation that ignore the effects of indigenous regulatory orderings (Parker 2000: 533).

Braithwaite et al engage with these changing perceptions of regulation in their study of nursing home regulation. They use notions of gaming theory and ritualism – ritualistic behaviors for both inspectors and regulatee prevent the meeting of regulatory objectives. A decentered regulation therefore presents a complex world to the inspector; are any new skills needed?

Relevant skills for the inspectors of the new regulatory state may build on those recognized in the interviews to include:

- understanding public policy objectives of regulation and seeking compliance with regulatory goals rather than the regulatory rules (Yeung 2004)

- forms of self-regulation, hybrids and enforced regulation (Bartle & Vass 2007; Gunningham & Rees 1997; Parker 2002; Sinclair 1997),

- corporate governance (Blowfield & Murray 2008; Organisation for Economic Co-operation and Development 1999),

- impact appraisal and regulatory effectiveness (Deighton-Smith, et al. 1997; Humpherson 2004; OECD 2004)

- the ability to use a variety of stakeholder perspectives and to be able to work with stakeholders, for example tripartism. (Ayres & Braithwaite 1992; Mitchell, et al. 1997; Prosser 2005)

- quality management techniques and control methods including Power's 'control of controls' (Power 2003),

performance management, and international private standards (ISO Central Secretariat 2002).

- process design and analysis including risk assessment, risk management and an understanding of Fault Mode Event Analysis (FMEA) and Root Cause Analysis (RCA).

- consultation with/co-working with regulatees and users of services (Ayres & Braithwaite 1992; Gunningham, et al. 1998)

- feedback skills

- An overarching skill would be the ability to use outcome analysis (Smith 1996)

These are some of the skills areas that might form part of the new regulation but how far is the dynamic model of inspection used earlier still relevant? Because it is a dynamic system based on information flows and control processes the cybernetic stage model remains relevant yet will have to cope with greater complexity. To illustrate, the Director element, the giving of advice and guidance may reference different frameworks, for example, sets of ISO type standards or a quality framework, as well as the practice and value frameworks of a particular sector (industry guidelines or best practice guides).

Detect, may become more explicitly focused on outcomes than is the case at present. The Effector stage may also have a more precise focus, (indeed it could have that under Command and Control), the use of targeted feedback skills and considering the viability of regulatee action plans and turn around proposals.

The survey established that most inspectors have a considerable background in their respective sector; this sector specialism also needs consideration in terms of a decentered regulation. Rather than concluding that sectoral skills are not inspection skills, from a decentered view they might be the same.

The Braithwaite et al studies are a good illustration of how decentered inspectors skills are embedded within sectoral knowledge such as values, skills, relationships and network understandings – Braithwaite refers at one point to inspectors using 'club governance' ((Braithwaite, et al. 2007: 169). This observation of decentered skills in action is, in this context, an example of how inspectors use sectoral specialism to work in a decentered way.

Constant renewal of inspectors will constantly renew the decentered knowledge necessary for regulation as new inspectors will have the up to date knowledge of frameworks, codes, values, networks and structures into the regulatory organization. Nevertheless, the survey did not reveal how regulators then recodify this knowledge into accessible categories, concepts and principles. A possibility is that inspectors recodify this on their own. The consequence of this is not 'better' regulation but inconsistent regulation as loosely skilled inspectors train themselves in response to the complexity of decentered regulation.

Conclusion

> 'this new world of regulation is intensely political – what a formidable group of political operators the new regulators have become' (Moran 2001 p. 22)

This paper set out to explore the views of chief executives and senior managers on inspector skills. The results suggest tensions in how such skills are reproduced and maintained. A majority of respondents recruited inspection staff who they believed already had the essential skills but in order to maintain that level of up to dateness there was the assumption that inspectors would return within a short space of time to the sector. This may have impacted on levels of training for inspectors. In the main education and training were limited but some regulators were notable for the extensive training provided.

The most extensive training was found in the exosectoral regulators who applied either environmental or health and safety codes and frameworks across multiple sectors. In one instance the training period lasted for five years. However, even those with the most extensive training used the majority of the time for sectoral specialism and skills.

Sectoral specialism is also a characteristic of those not professionally employed by the sector. End users of the sector, such as long term care patients or people with physical disability are all sector specialists having a deep interest in the sector other than by prior occupation and would thus have the qualities necessary for inspection especially that which has the aim of measuring and understanding outcomes for end users. The survey did not venture into this territory and perhaps an opportunity was lost to understand how the regulatory sector decides on who holds sectoral specialism and their eligibility for inspectorship. It would be interesting to establish the extent to which inspectors drawn from the professions dominate inspectorates?

Fitting the skills reported by respondents into a cybernetic system of inspection suggests that few regulators view inspection as a process other than one of detection. Connectedly, advice and feedback skills are poorly represented in the responses.

The descriptions of inspection skills elicited do not suggest a systemic, dynamic or cyclical model of inspection. A feature that may be lacking is the use of progressive outcomes for inspection itself, the ability to benchmark the inspection process.

Using the lens of 'decentered' regulation it was found that few, if any, 'new regulation' skills found their equivalents in the categories reported by respondents. But, of course, decentered skills of working in the public and the private, of managing networks and of using other codes and frameworks such as standards or professional associations are all known to sectorally skilled inspectors. So, as

Braithwaite et al suggest (2007: 169) inspectors left to their own devices will supply the skills. Possibly regulators know this, that inspectors will obtain the results using what the survey respondents have called softer skills. If decentered regulation is all around then inspectors are using decentered skills although the regulatory agency may not be aware of this (contrary to the assumption of this study).

Better regulation has been a focus of governments and of the EC over the past 10 years yet very little of this has focused on identifying inspector skills, in understanding the inspector career or where inspectors are drawn from and how they might qualify.

This discussion has attempted to explore inspection and inspection skills not simply to produce a curriculum list but to contribute to an understanding of the socio-economic and political context of the inspector. In the volatile political world of UK regulation inspectors and their training are expendable and low on the agenda. Regulation as a sector is now mature enough, there is a huge bank of academic and vocational knowledge available, and the issues of regulation are well known enough for there to be a skill-based regulation.

References