

Public Policy Making

The 21st Century Perspective
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be informed

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About Be Informed

Be Informed is an internationally operating, independent software vendor. The Be Informed business process platform supports administrative processes, which are becoming increasingly knowledge-intensive. Thanks to Be Informed's unique approach to dynamic case management, the next wave after business process management, organizations using Be Informed often report cost savings of tens of percents. Further benefits include a much higher straight-through processing rate leading to vastly improved productivity, and a reduction in time-to-change from months to days.

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Management summary

Over the past decades, many reforms in government have been aimed at increasing efficiency, effectiveness and value for money with very little focus on the actual policy process and the way it affects the ability of policy makers to meet the needs of constituents in an increasingly complex, uncertain and unpredictable world. However, if this core process were to be modernized, it would yield considerable economic and social benefits, including enhanced productivity, openness, transparency and participation, as well as actionable and interoperable policy intelligence.

Public policy making can be characterized as a complex, dynamic, constantly evolving interactive and adaptive system. The process is stakeholder-driven. Actors are engaged in a goal-driven decision-making process and have a great deal of autonomy in the way they organize their work. The process has two dimensions: a political dimension and a production dimension.

Higher demands from the system in which policy makers operate require a level of support that existing facilities cannot deliver. The current support infrastructure for policy makers is characterized on the one hand by isolation, fragmentation and non-responsiveness to change, and on the other hand by a lack of crucial support elements.

A new approach is required. Policy makers need an infrastructure and instruments that enable them to operate in a flexible, adaptive, transparent and compliant way in a complex and dynamic environment. They need an infrastructure that seamlessly integrates with regulation-specific sources and services. This infrastructure should be designed for people and built for change.

It is our conclusion that policy makers need an environment that brings together heterogeneous activities, resources and functions in a meaningful and actionable ensemble, organized around a case involving a policy initiative and based on making decisions about a policy intention.

This synthesis of the policy making process can be made possible by a combination of case management and the support of dynamic rules. Case management supports the required level of collaboration, coordination, integration and compliancy. Dynamic rules empower policy makers to cope with the dynamics of the policy making process, with its changing actors, events, loops, statuses and interactions. They also provide the crucial prerequisites for enabling agility and responsiveness to change.

Policy makers also need semantic-based support for legal drafting and evidence-based policy to meet the requirements for smart regulation. This approach to semantic knowledge will provide other public authorities and actors with excellent opportunities to re-use Public Sector Information in the policy chain and will also lead to considerable productivity and efficiency improvements.

The implementation of the full combination of case management, dynamic rules support and knowledge support will create a very powerful combination that supports policy makers and brings government closer to citizens. It will also enable seamless integration of policy making with policy execution and in that way create the basis for the innovation of public sector services.

This book provides a thorough analysis of the importance of modernizing and synthesizing the policy making process. Its author, Thei Geurts, works with independent software provider Be Informed. Thei Geurts has also written a white paper entitled 'The Policy maker Workplace', which describes Be Informed's solution to innovating the policy making process. His white paper can be downloaded free of charge at www.beinformed.com.

1. Public policy

Policies can be regarded as political, management, financial, and administrative mechanisms that are arranged to achieve explicit goals. Policies may apply to government, to private sector organizations and groups, and to individuals. In this paper, we focus on public policy. However, the insights provided by this paper are also applicable to other policy making domains.

1.1. Public policy making

We define public policy as 'a choice that government makes in response to a political issue or a public problem.' This choice is based on values and norms. Policies are aimed at bridging the gap between these values and norms and a situation. The term 'public policy' used in this context always refers to the decisions and actions of government and the intentions that determine those decisions and actions. Policy guides decisions and actions towards those decisions and actions that are most likely to achieve a desired outcome.

The process of public policy making is a decision-centric and goal-driven process. Decision-centric means that the process is focused on the decisions that must be taken. Goal-driven means that the process must have the desired outcome and that iterations are performed until the outcome has been produced. The final outcome can be a compromise between the targeted result and the imposed constraints.

The process of policy making is characterized by the coexistence of a political and a production dimension and the interaction between the elements in these dimensions. The political dimension includes activities such as proposing initiatives, practicing advocacy, mobilizing stakeholders, holding consultations, building opinions and taking positions. There are multiple stakeholders and participants and they vary according to the policy intention.

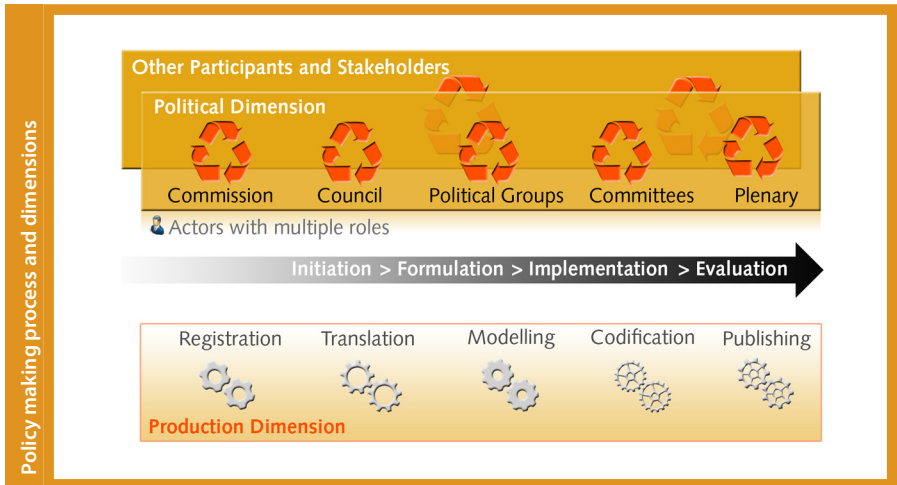


Figure 1: The policy making process and its dimensions

The production dimension supports the policy making process by means of activities such as registration, translating documents, creating predictive models of the impact of an intention, codifying the intention into a regulation and publishing the results of the policy process.

The main process of policy making consists of four 'phases': initiation, formulation, implementation and evaluation. The process starts by setting an agenda based on an issue or previous decision and ends by handing over the implemented policy to an execution and enforcement layer. It includes identifying the problem, formulating a solution, identifying different alternatives, selecting from those alternatives on the basis of their impact and laying them down in some type of statement or law.

We define the process of public policy making as the process of policy formulation and policy implementation. The reason for combining these two aspects is the strong tendency in public policy to turn formulated intentions into some type of regulation or codification. And both aspects are - or ought to be - intrinsically connected to each other and integrated into a single, seamless flexible process.

The difference between policy formulation and policy implementation is that policy formulation addresses the 'what' and the 'why', whereas policy implementation regulates the 'what', the 'how', the 'where', the 'who' and the 'when'.

Formulated policy objectives may be expressed and formulized as policy statements, programs or projects aimed at solving a problem or at fostering progress in a society¹. Policy implementations may be expressed and formulized as laws, procedures, protocols, directives or budgetary actions, for example.

A distinction can be made between internal and external policies, which differ in terms of the goals, objectives and recipients of services and products. Internal policies do not lead to legislation and are primarily used to provide internal support for processes. Moreover, the use of a delegated authority to make legislative interpretations belongs to the category of internal policies. External policies are created in a public political discourse. In this discourse, the political dimension is more visible. However, politics do also play a role in internal policy making.

Evaluation and verification are an integral part of the policy making process. Many of the consultation activities are intended not only to obtain political support, but also to obtain feedback on the expected impact and effects. Impact analysis and simulation are forms of verification too. Besides various types of 'in-process' verification, there is also an evaluation activity in the policy process, which includes various types of ex-post evaluations of the implemented policy.

1.2. The policy maker

Policy makers are actively involved either in making policy or in influencing policy. The policy maker is a person who has the power to influence or determine policies and practices at an international, national, regional or local level². Public policy making is characterized by a large set of actors. Actors can be politicians, civil servants, lobbyists, advisors, domain experts, auditors, etc. They can design policies, codify and formalize policies, and assess or approve policies.

Actors act on an individual basis or as members of a group. They can be a member of an administration, of a political group, parliament, council, or a member or representative of an interest group. Roles and responsibilities can vary depending on the context.

¹ *Ferry de Kerckhove. Understanding public policy making processes and policy makers.*

² *Source: Glossary Millennium Ecosystem Assessment.*

Besides direct stakeholders, there are other participants with influencing power in the policy making process, especially media and citizens. They try to influence administrations and politics using different channels such as television, radio, newspapers and the Internet. Facts, perceptions and the risk of damage to reputations can be a very effective means of influencing policy making.

The following image displays a short policy making story in which some actors and - disconnected - policy activities are visualized.

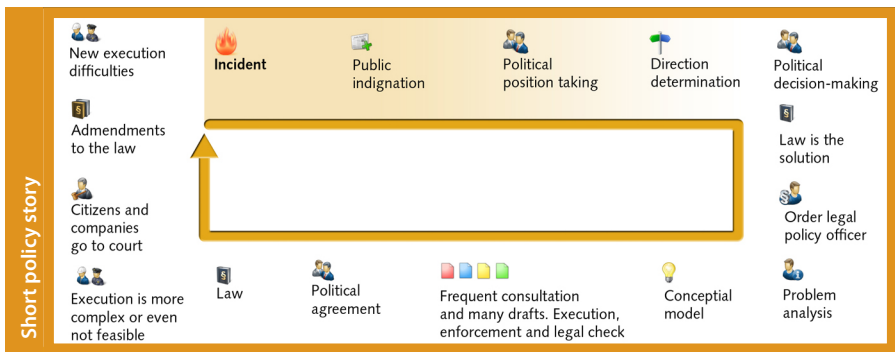


Figure 2: Short policy story

The story shows that policy making is a dynamic process of interaction with the involvement of administrative and other bodies. Both political views and practitioner views must be taken into account. Changes in the political context lead to changes in policies.

The story could give the impression that policy making is a linear process. This is not the case in reality. The decision-making process in the public sector is more consultative, collaborative and transparent than in a commercial enterprise. Government officials are required to take the needs of all stakeholders into account. Social groups and their representatives can lobby for certain proposals. Proposals are discussed in Parliament and by means of a process of revision, fine-tuning, and various sign-off steps and ultimately become a final decision, for example, in the form of a law ³. The process contains various loops and checks and balances to ensure that the consequences for all stakeholders are being considered and a growing insight can be taken into account.

³ Executive view by Dr. Edmund Stoiber in: F. Buytendijk. *Dealing with dilemmas*. Hoboken, John Wiley and Sons, 2010.

Policy issues have no apparent fixed origin. They may originate from the media or from public opinion, from parliament or political parties, from international organizations, from government departments, or from public authorities and agencies.

The time needed to convert an intention or objective into a law is variable. It can be extremely short - for example, in order to provide a quick fix for an emerging financial risk. Or it can be extremely long, because some policy intentions take years to become law.

Policy makers do not operate in isolation. They are part of a large ecosystem and are subject to the forces within that system. Reaching agreement in an international setting with a lot of different actors on an issue that addresses social values can take a long time.

1.3. Putting purpose into practice

One of the aspects highlighted by the illustration on page 9 is the close relationship between policy making and policy execution.

Policy making defines the intention and the course of action. The formalized results of this activity include laws, regulations and procedures. These results are used as input for the process of policy execution. Policy execution involves fine-tuning political programs and bringing about their intended effects in everyday reality⁴. In other words, policy execution is about putting purpose into practice.

The two main 'phases' of policy execution are Execution and Enforcement, which are preceded by the two 'phases' of policy making: Formulation and Implementation. The illustration below displays how closely policy making and execution are related if the desired outcome must match the intended effects, based on a specific context.

⁴ Klaus Lenk. *Policy Execution in the Age of Tele-cooperation*. 1998.

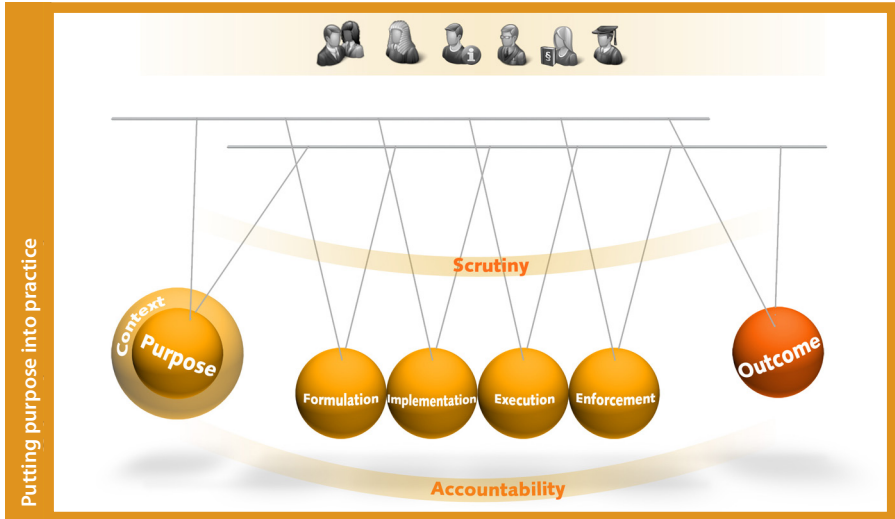


Figure 3: Putting purpose into practice

The illustration also shows that this close relationship is required to establish and guarantee accountability during the entire process. The same applies to the political, legal, judicial, economic, social and other forms of scrutiny by a great variety of actors.

Many reforms in government over the past decades were aimed at increasing efficiency, effectiveness and value for money along modernization lines that are also being applied in the business world. Far less attention was given to the policy process and the way it affects the ability of policy makers to meet the needs of constituents in an increasingly complex, uncertain and unpredictable world. This implies that there is real room for innovation and optimization in this domain. After all, government is about policy making and policy execution. It is obvious that some form of powerful support is needed if actors in the chain are to cooperate on the basis of shared goals and outcomes. Putting purpose into practice should therefore be an essential part of future e-Government action plans.

2. Challenges for the policy making system

Policy makers are part of the system in which governments must operate. This system has no shortage of external and internal forces that are constantly challenging it. The following section contains a high-level overview of the main trends and needs that governments - and therefore also policy makers - are facing.

2.1. Facing complexity

Governments are facing an increasing number of challenges that are caused by certain types of complexity. In this paper, we distinguish three types of complexity⁵ related to public policy that governments and policy makers must face.

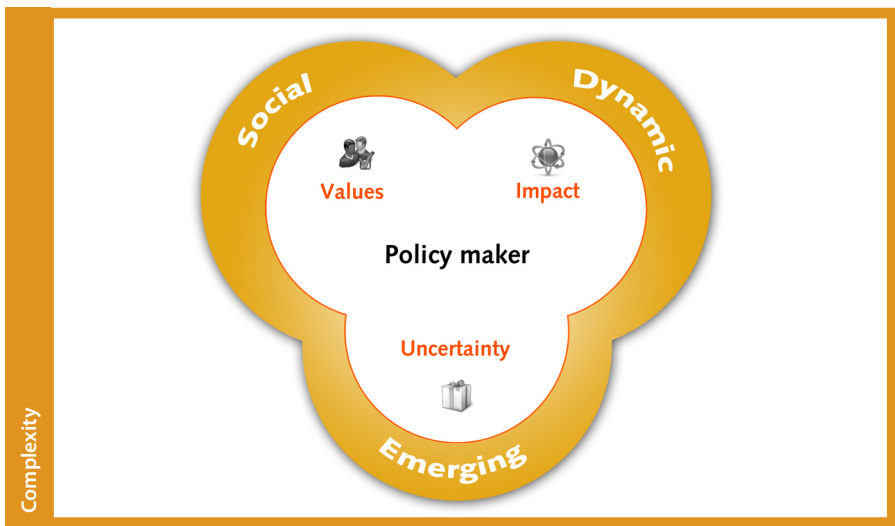


Figure 4: Three types of complexity

We provide a short description of each type and identify its crucial concept and management impact.

⁵ C. Otto Scharmer. *Theory U; Leading from the Future as it Emerges*. 2009.

2.1.1. *Social complexity*

The first type of complexity is social complexity. Social complexity is a product of diverse interests and (world) views among actors/stakeholders, a form of behavioral complexity. Although social complexity is manifested in the two other types of complexity, it also occupies a place of its own. Behavioral aspects tend to be overlooked in generating decisions and solutions, and this results in negative consequences such as lack of support, exclusion, insufficient quality and unforeseen costs.

The crucial concept in social complexity is 'Values'. People give meaning to events and actions on a professional, individual and organizational level. Even the same actor can have different roles, responsibilities and short-term and long-term interests, resulting in changing behavior and position-taking, depending on the context. Values and their underlying basic assumptions (beliefs, perceptions, thoughts and feelings) determine a person's behavior⁶.

The increased need for cross-organizational and international collaboration in order to solve issues and define effective policies requires a high level of awareness of the existence of social complexity and its possible detrimental effects.

The greater the social complexity, the more important it is to use a multi-stakeholder approach to problem-solving. Consultation and participation are key to this approach. All the different voices must be facilitated and dealt with in a respectful way. Managers must be able to define - but also to adapt - the pace of change, to decipher the hidden question embedded in every objection, to balance the various interests and to stay focused on the goals.

2.1.2. *Dynamic complexity*

Dynamic complexity is the product of interdependences between the sub-components of a system. It is caused by a systematic delay or distance between cause and effect. The greater the dynamic complexity, the higher the interdependences between the sub-components of a system.

The crucial concept in dynamic complexity is 'Impact'. The delay between cause and effect makes it difficult to assess the impact of policy decisions and to manage the policy making process. It requires a stronger evidence base for policy making, including the realization of a legislative framework that can be used to visualize and regulate the interdependencies and expected outcomes of norms and regulations.

⁶ E.H. Schein. *Organizational Culture and Leadership*. 1985.

Command and control mechanisms to deal with part of a system do not work here. A full system approach is required. From a managerial point of view, it requires integration competencies and openness to collaboration. It requires the ability to think in participatory solutions. And last but not least, it requires actions to establish and maintain insight through sight and oversight.

2.1.3. Emerging complexity

Emerging complexity is characterized by disruptive change. Governments face challenges to which the solution is unknown. It can even be that the problem itself is still unfolding and not yet totally clear.

The crucial concept in emerging complexity is 'Uncertainty'. The greater the emerging complexity, the less government can rely on past experience. It has to deal with situations as they evolve.

This requires an adaptive approach and also calls for competencies, methods and instruments that are oriented towards continuous change. There is no doubt that traditional organizational boundaries will not be sufficient to deal with the scale of the problem. More than a generation ago Thompson wrote: 'Uncertainty appears as the fundamental problem for complex organizations, and coping with uncertainty as the essence of the administrative process'⁷.

Emerging complexity also calls for leadership that is forward-looking and outward-looking. It must be able to respond to unforeseen situations. This type of leadership must have the capacity to adapt, to influence and to generate.

2.1.4. Response to complexity

Public policy is a domain in which all three types of complexity exist in parallel. One could even say that public policy has to deal with a type of hyper-complexity. The response of governments is mainly to try to establish best practices to master cause and effect relations. They use command and control mechanisms, functional differentiation or cross-functional integration to respond to the challenges at hand.

⁷ Thompson, J. *Organizations in action: social science bases of administration theory*. New York, 1976.

The current leading crucial concept is 'Control'. However, control is the enemy of change and change is continuous. It is becoming more and more obvious that this form of dealing with complexity does not work and is - at the least - suboptimal. It leads to complicated silo solutions, such as procedures, organizational units and dedicated ICT applications, in order to deal with the complexity. It leads to situations that brought about the plea for good governance in the first place.

2.2. Establishing and maintaining good governance

As stated before, public policy is an attempt to bridge the gap between a situation and a norm. There is no right answer to the challenges they face, there is only a right answer in a given period of time and in a given context. It is therefore important that the policy making process is embedded in a framework that defines the boundary conditions.

The choice made by policy makers and the answers they give should be founded on a set of guiding principles: the principles of good governance. Good governance is a concept that describes the principles, approaches and guidelines adopted by public administrations to promote the interaction and formation of political will in relation to societal and technological changes. According to the United Nations (UN), good governance is based on eight qualities. Governments must be:



Eight qualities

- Responsive
- Transparent
- Consensus oriented
- Equitable and Inclusive
- Effective and Efficient
- Follow the rule of Law
- Participatory
- Accountable



Figure 5: UN principles of good governance

These UN principles of good governance have an impact on every manifestation of public sector policy making and execution, regardless of the domain or target group. They require

consistency and coherence in policy making and implementation. And at the same time, they require participation, involvement and transparent decision-making in order to bring government closer to citizens and to realize clear and applicable laws and regulations. This in turn calls for evidence-based policy as a pre-condition for making informed decisions for all participants in the policy making process.

It also means that governments expect more from policy makers. More new ideas, more willingness to question inherited ways of doing things, openness to collaboration and participation, better use of evidence and research in policy making and a better focus on policies that will deliver long-term goals. This is in line with the trend for smart regulation.

2.3. Introducing smart regulation

Governments all over Europe and also outside Europe are investing in better regulation⁸. Regulation is a tool for delivering policies and meeting the expectations of citizens. By designing policies, laws and regulations, governments are looking to do better, to make sure that they are using the right tools to get the job done; to make sure that benefits are maximized while negative effects are minimized; that the voices of those affected are being heard. Furthermore, governments want to reduce red tape and get rid of unnecessary bureaucracy.

One of the initiatives to simplify and generally improve the regulatory environment in Europe started with the launch of the Better Regulation program of the European Union in 2002⁹. It was designed to cut red tape, improve the quality of regulation and design better laws for consumers and business alike. The Better Regulation program included a mix of different activities, such as introducing a system for assessing the impact and improving the design of major Commission proposals, implementing a program for the simplification of existing legislation, factoring consultation into all Commission initiatives and looking at alternatives for laws and regulations (such as self-regulation, or co-regulation by the legislator and interested parties).

The simplification and improvement of the EU regulatory environment was one of the priorities of the first Barroso Commission and it is a key element of the Lisbon Strategy. In his political guidelines for the mandate of the next Commission in 2009, EU Commission President José Manuel Barroso expresses his intention to go further than delivering on the

⁸ http://ec.europa.eu/governance/better_regulation/index_en.htm.

⁹ *Better Regulation - simply explained*. Luxembourg: Office for Official Publications of the European Communities. ISBN 92-79-02465-5.

Commission's commitment to reduce administrative burdens on business by 25 percent. In his political guidelines, President Barroso launches 'smart regulation', which will be a 'Leitmotif' for the next Commission.

The aim of smart regulation¹⁰ is to design and deliver regulation that respects the principles of subsidiarity and proportionality and is of the highest possible quality. Smart regulation is about the entire policy cycle, from the design of a piece of legislation to its implementation, enforcement, evaluation and revision.

The Commission wants to build on the strengths of the impact assessment system for new legislation. Besides investing in impact assessments, simplification or legislation, Barroso is committed to investing an equivalent effort in ex-post evaluation. Ex-post evaluation is a way of ensuring that proposals really do deliver what they promise and of enabling the Commission to revise and correct them whenever they fail to work as expected.

The views of those most affected by regulation have a key role to play in smart regulation. Smart regulation is also about the determination to further strengthen the voice of citizens and stakeholders.

A report - jointly written by the Division for Better Business Regulation in the Ministry of Economic and Business Affairs in Denmark, the Regulatory Reform Group in the Netherlands and the Better Regulation Executive in the United Kingdom¹¹ - suggests making the end-user the central focus of the policy making process.

The report uses the term 'end user' to embrace everyone affected by regulations - both those who incur costs as a result of compliance and those who benefit from it. In many cases, these groups may often be the same. People who 'use' regulation should be able to understand why it is needed and which benefits it provides as well as the fact that the costs it may impose are necessary and proportionate. The authors believe that the best way to achieve this aim is to make end users central to the policy making process by being aware of their needs, seeking their views, using these views and demonstrating the value of their contributions. End users are best placed to provide relevant, up-to-date information, which can improve the quality of the evidence on which decisions are based.

¹⁰ *Smart Regulation in the European Union. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Brussels, 8.10.2010. COM (2010) 543 final.*

¹¹ *Smart regulation; a cleaner, fairer and more competitive EU. 2010.*

Not only the European Commission, but also EU member states and other governments are committed to smart regulation. The improvement of the entire policy cycle from design to implementation, enforcement, evaluation and revision is a trend that directly affects policy makers. It requires new or enhanced competencies, capabilities, knowledge, perceptions and attitudes.

2.4. Becoming agile

An OECD survey carried out in 2010 found that governments want to be able to respond swiftly and dynamically to new political and economic challenges. They want to be able to scale their response accordingly and ensure that any investments that are made have a broad longer-term economic impact. This focus will become more significant in the years ahead¹². According to the OECD study, Governments want to become agile.

Gartner defines agility as ‘the ability of an organization to sense environmental change and respond efficiently and effectively to that change’¹³. This indicates a strong relationship with dealing with the characteristics of complexity, as mentioned above.

In our opinion, however, agile organizations should also be capable of acting pro-actively in addition to being responsive. Therefore, agile organizations are context-aware, flexible, adaptive, productive and pro-active. Context-aware means that they know which changes are emerging and what they mean, so the information must be correct. Flexible means that they are able to deal with expected change, which requires making the right choices. Adaptive means that they react timely and correctly to unexpected changes, which requires correct reactions. Productive means that they remain efficient and effective in changing situations; this requires the embodiment of the right policies, procedures and activities. And pro-active means that they are capable of creating change, which requires them to be forward-looking and outward-looking, to think in terms of scenarios, to be able to visualize, perform and execute and to be willing to contribute to co-evolving ecosystems.

Governments need to design and embed agility in their organizations. This is only possible if policy makers are also context-aware, flexible, adaptive, productive and generative. They must therefore be empowered to respond to changing circumstances and create new realities.

¹² *The Financial and Economic Crisis – Impact on E-Government in OECD Countries, November 2009, OECD, Paris, France*

¹³ *Gartner. Achieving Agility: Defining Agility in an IT Context. 2006.*

2.5. Impact for the policy maker

It is not easy to create the conditions for supporting policy makers in the depicted environment of complexity and continuous change. Policy makers face the challenge of establishing effective policies in a volatile, risk-averse and highly individualized society. They need to collaborate in new networks, adapt to continuous change, become more responsive and productive, and increase openness, transparency and participation. Policy makers are being challenged to produce smart regulation in a fragmented policy cycle and face the complication that policies do not exist in isolation. They are linked to other policies, thus creating a complex interdependent legislative system which is implemented in and enforced by a complex government. The combination of these elements leads to the need to modernize public policy and use innovative options.

3. Decelerators in modernizing public policy

Governments need to modernize public policy and the conditions under which public policy is formulated, implemented and executed if they want to become agile and act according to the principles of good governance. However, they are faced with the dilemma of open-ended demand versus a capped or falling resource share for actual delivery. And the policy maker is trapped between these forces.

3.1. Pressure for modernization

An increasingly complex society requires increasingly complex legislation, leading to more and more complex applications and business processes to implement that legislation. At the same time, society's expectations of public service have by no means diminished, as citizens from the 1980s onwards have become more concerned with choice and service quality. They are suffering from high administrative burdens, long lead times and delays that are leading to growing cynicism and frustration. Citizens and business are losing track and are confronted with an overwhelming amount of institutions, laws and regulations. They do not know which rules apply to their specific situation. Trust in government and policy making practices is quickly evaporating.

Consequently, public administrations are under constant pressure to modernize their practices to meet new societal demands with reduced budgets. The modernization of the practices of the public sector calls for an integrated view on how to support the process of policy making and policy implementation, since all public sector services are based on this process. The policy maker is the main actor who must be supported in this process.

3.2. Bottlenecks

It is not an easy task to modernize public policy making. Innovators in public administration are facing many different bottlenecks¹⁴ and they all affect the work of the policy maker.

¹⁴ Conceptual contribution by Lucas Elting. <http://nl.linkedin.com/in/lucaselting>.

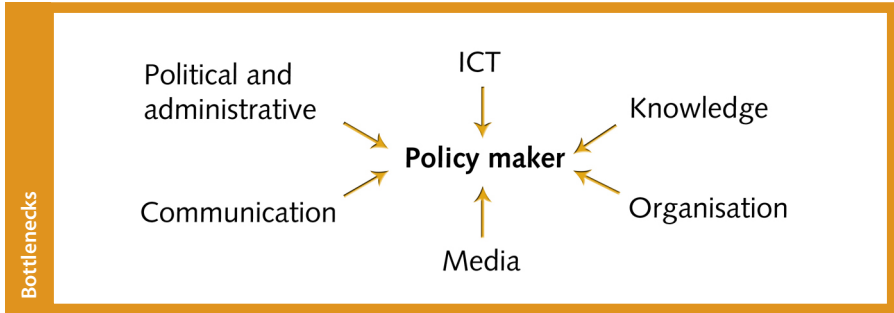


Figure 6: Policy makers face bottlenecks

Although more bottlenecks can be discussed, we will focus on the six bottlenecks displayed in the illustration above.

3.2.1. *Political and administrative*

The first bottleneck is of a political and administrative nature and relates to the tasks and responsibilities of public authorities. Governments are confronted with issues of a scale that is clearly out of proportion to their administrative responsibilities. The impact of globalization is affecting traditional claims and prerogatives. In a network society, political institutions are bargaining agencies rather than sites of power¹⁵.

Governments and government actors are finding it hard to adjust to this situation. They must accept that for more and more topics the only choice is to become inactive or to engage in distributed policy making across organizational and geographical boundaries.

On the other side, we are witnessing a growing appeal for new tasks and responsibilities for governments. Government seems to be the panacea for all perceived problems. The burden of this increase in tasks and responsibilities is becoming too high.

And finally, the gap between bureaucratic opinions and positions and societal rationality is growing too large. Common sense and 'norming sense' no longer match. Policy makers are regarded as being out of touch with reality.

¹⁵ Manuel Castells. *The End of Millenium. The information age trilogy, Volume 3, 1996-1998.*

3.2.2. *Organizational*

The second bottleneck is organizational. First of all, the multitude of stakeholders in the policy making process is very difficult to oversee and to manage due to changing roles, interests and coalitions. In addition, the personal, organizational and political context of the actors is unstable. Diffusion and continuous change prevail over fusion and stability.

Secondly, due to managerial deficits, there is a natural tendency to implement old solutions to resolve new problems. This results in organizational frustration and cynicism. Fear for failure and risk adversity act as powerful disincentives to real innovation. One reason for this type of managerial behavior may be that public organizations and their leaders are not used to or empowered to deal with uncertainty. The powerful trio of the ability to visualize, to perform and to execute is incomplete. It is simply easier to command and control than it is to influence and generate.

Thirdly, there is a great divide between policy making and policy execution. Formulated and formalized policies frequently have unintended consequences. Because the environments that policies seek to influence are typically complex adaptive systems, a policy choice can have counter-intuitive results. The policy formulation process typically includes an attempt to assess as many areas of potential impact as possible. It wants to lessen the chances that a given policy will have unexpected and unintended consequences. This is not possible with a silo approach to policy formulation. It requires timely and open collaboration with the execution authorities and the inclusive participation of knowledgeable bodies and persons.

Although one would expect the policy chain to be regarded and treated as an integrated chain, in reality we often see a significant division between the separate aspects of this chain (policy making, execution and enforcement, and evaluation). It is even possible for policy formulation and implementation to still be treated as separate aspects that are not integrated into a single, seamless, flexible process.

And, last but not least, policy makers themselves will always point to 'insufficient time' as a major bottleneck. Policy makers show a genuine concern that the adoption of modern approaches requires time to think, read, visit and network. New approaches to policy making are often deemed to make much heavier demands on resources than traditional models, and yet for many there are no additional resources to cope¹⁶. It is a major challenge for

¹⁶ Helen Bullock, Juliet Mountford and Rebecca Stanley. *Better Policy-Making*. Centre for Management and Policy Studies. 2001

management to put this objective in the right perspective of goals, outcomes, priorities and benefits across the whole policy chain.

Management must select methods and tools that lever modernization and do not block it. It will have to take ownership and show leadership.

3.2.3. *Knowledge*

The third bottleneck is knowledge-based. Policy statements are extremely diverse and relate to many different disciplines. This means there is a significant risk of applying identical semantics in different contexts. Governments are very reluctant to organize a knowledge position that enables them to manage the vocabulary, definitions, semantics and rules that are used during policy formulation and policy implementation.

Policy makers also lack efficient mechanisms to be able to rapidly identify dependencies between regulations and to simulate and verify effects. Although there is a tendency to use Impact assessments and apply policy modeling in the formulation process (in the sense of impact and forecasting models), this is not being done in an integrated and consistent way. Assessment instruments are often used on an incidental basis and are not an integrated part of a continuous feedback loop.

There is also an interesting lack of legal impact instruments that enable the ex-ante, ex-post and adhoc analysis of policies in the existing and evolving legislative framework.

Finally, access to relevant documents is often quite cumbersome and laborious. Policy makers have no easy access to the integrated collection of documents created during the policy making process and the resulting 'end product', e.g. a rule. In addition, the status, version and character (formal or informal contribution) may be unclear. This is quite problematic, since very few rules are generated from a policy void. Many new rules build upon and refer to prior rules by means of modification, supplementation, or references to related subject matter. In such cases, meaningful contributions require meaningful access to the prior final rules and actions that are the factual and policy predicate for the rule under consideration.

All these deficits sometimes make it difficult for policy makers to distinguish between facts and opinions. It is obvious that there is a high potential for modernization in this knowledge domain, which has to be mobilized to enable policy makers to deal with the challenges they face.

3.2.4. *Communication*

The fourth bottleneck is of a communicative nature. Many of the 'products' of public administration are nothing but acts of communication. They are generated for the purpose of informing their addressees about a decision that affects, or might affect, their situation or their status. These addressees can be 'consumers' of the intended policy or participants and stakeholders in the policy making process.

Communication with 'consumers' is mainly situated at the end of the policy making process. Experience has shown that policies and communication are difficult to match almost by definition. Communication programs tend to be mass-oriented, skipping the middleman and specific target groups. They also find it difficult to achieve a balance between ratio and perception. This results in publication-driven communication. The level of interaction is low and the communication approach lacks incentives for a broader form of participation in earlier phases of the process.

Communication directed at participants and stakeholders in the policy making process has its own 'disconnectors'. On the one hand, this is caused by the autonomy of every part of the process. Although public policy making is in principle an open process, it is common practice for all parties to reserve some room for internal considerations and to determine their position. In addition, there can be a difference between communicated and factual intentions and considerations.

On the other hand, the interactions in policy making are asynchronous and every interaction from one of the actors can lead to adjustments in the position of other actors communicated earlier. This makes it difficult for policy makers to stay in touch with the latest version of reality.

3.2.5. *Media*

The fifth bottleneck is the media in general. Political scientists and media specialists accept the commonplace assumption that the mass media have a profound and direct impact on virtually every aspect of the political process.

Mass media are playing an increasingly central role in modern political life that goes beyond their traditional function as mediators between the world of politics and citizens. A TV broadcast can set off a whirlwind of questions and emergency debates in Parliament.

A newspaper article results in the formation of an inquiry committee to investigate the problem at hand. The media play not only a part in these events as agenda setters but also as accusers.

The relationship between media and government and politics in general is therefore a specific one. There is a mutual dependency, but also a constant risk of misinterpretation or exaggeration. Sensible and urgent modernization efforts can be made ridiculous with a few words or images. Non-issues can become mainstream topics. The emergence of new media, such as social media, is amplifying this trend. Each medium is an integrated system of invention, composition, presentation and delivery that may affect the work of a policy maker.

Policy makers are not just the victims of the media, however; they can also influence the media and look for support for modernization programs. However, if publicity has been the only trigger for modernization, then it is often hard for policy makers to maintain their course of modernization after the risk has been managed and the publicity has diminished. After all, new issues are emerging every day.

3.2.6. *Information and Communications Technology*

The sixth and last bottleneck for modernization is Information and Communications Technology (ICT). ICT has traditionally focused on the automation of administrative and registration processes. These processes are highly structured and relatively stable and are allowed to put specific rules into code.

However, policy making and execution deals with knowledge-intensive processes that are characterized by continuously changing rules and potential semantic ambiguity. They are less structured and more human-centric. This requires solutions in which the business stays in control and domain specialists are supported and not impeded by ICT.

In the past, ICT solutions attempted to standardize and minimize exceptions at the cost of flexibility, adaptivity and user orientation. In the end, the system became the determining factor. Unpredictable events and continuous change did not fit into this view and led to the construction of customized solutions. These solutions were created on the basis of an overemphasis of formal requirements, neglecting how users really acted in daily practice. These customized solutions were generally too late, too expensive and too difficult to

maintain. Coupled with the organizational constructs needed to operate these solutions, it led to the evolution of a self-constructed complicated system, which, in its turn, made further change even more difficult.

Furthermore, traditional systems are often based on the document paradigm dating from the pre-ICT era. In a modern administration, the target outcome of a process is not a document, it is a decision. And in policy making it is often an incremental decision that has been reached through courses of human action. The content of these courses of action can be processed and 'materialized' in many ways. A document is just one of these ways.

In addition, the way in which ICT supports processes is more driven by a logistical workflow concept with sequential steps than by concepts that match the dynamics of policy processes and their political and social dimension.

Finally, new insights with respect to dialogue, participation and interaction in general require functions that traditional systems find hard to deliver.

ICT has therefore become more of a disqualifier than an enabler for modernization in many sectors and domains, including the domain of policy making.

3.3. Impact for the policy maker

These bottlenecks in the modernization of public policy making and in the environment in which public policy must be formulated and implemented place constraints on the capacity to empower policy makers.

Policy makers are trapped in their own system. They are obliged to perform in multiple arenas at the same time and must (re)prioritize constantly. There seems to be hardly any room for a fundamental discussion about the essence and the goal of government that also addresses the consequences for the core policy process and ways of modernizing this process.

It is also obvious that some of the aforementioned bottlenecks, such as adjusting and adapting to the administrative scale, will require a great deal of time to change and are certainly not perfect candidates for supporting policy makers in the short term.

However, there remain opportunities in abundance to support policy making, especially

with regard to eliminating isolation and fragmentation and enhancing participation in all its variants. These opportunities are concentrated around support for the dynamic policy process and for the knowledge needed in this process - a type of support that crosses boundaries and makes it possible to create a synthesizing type of policy making.

In the following chapters, we first look in more detail into the policy making process and its opportunities for improvement. Then we describe how the deficiencies can be resolved and how policy makers can be supported in the context in which they operate, as well as the type of technology that is required to empower policy makers.

4. Improvement opportunities in the policy making process

If we take a closer look at the policy making process with the overview of trends, needs and bottlenecks in mind, we see that they affect both the political and the production dimension of the policy making process. It therefore makes sense to closely examine how policy making is supported in these dimensions.

The illustration below displays the primary process in the center and the political and production activities above and below the process flow.

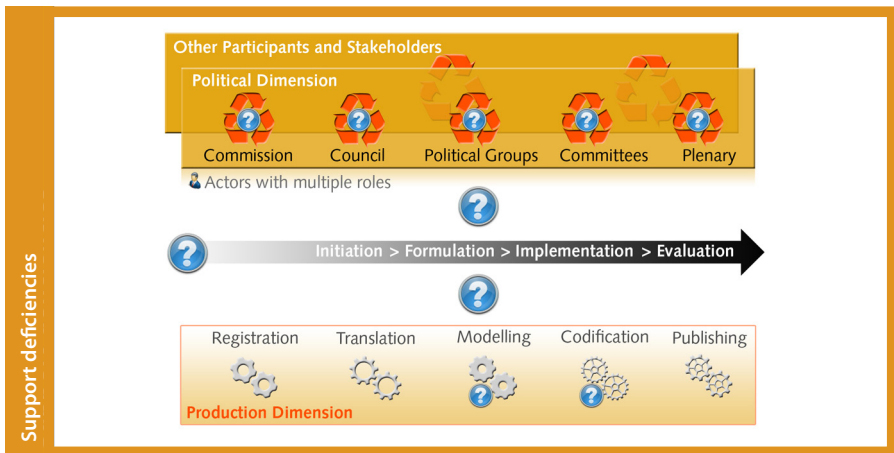


Figure 7: Support deficiencies in the policy making process

The question marks in the illustration indicate deficiencies in the support provided to policy makers. In the following sections, we clarify these question marks and afterwards we provide answers to them.

We use the term 'political support process' as an umbrella term for all political support activities. Likewise, we use term 'production support process' as an umbrella term for all production support activities.

4.1. Primary process

The primary process of policy making consists of two main 'phases': policy formulation and policy implementation. It starts with an initiation phase and ends with an evaluation.

There is currently a trend for the boundaries between these phases to become blurred. Crucial concepts for legislative drafting are defined during the formulation phase and are 're-used' during the implementation phase. Moreover, during the implementation phase requests for disambiguation and evolving insights lead to the re-formulation of policy intentions and pursued effects. In addition, evaluation becomes more and more an activity that is required throughout the whole process.

This means that the support for policy makers should always allow for phase transitions and phase recurrences. It must support operational standards (rules of procedure) on the one hand and instant volatility on the other hand. Traditional business process management, workflow and planning applications tend to fail to support the essence of this process.

The question marks above and below the process arrow stand for the missing connection between the primary process and the political and production support activities. These activities are carried out in heterogeneous environments with no link or just a weak link to the primary process.

The question mark in the primary process stands for the missing intelligence about the process as a whole. Such intelligence should be built around a common denominator in the process. Without organized intelligence and a common denominator, it is not possible to support policy makers in an efficient and effective way.

4.2. Political support process

Policy making is dominated by political activities. Therefore, the political process activities of the various political actors in policy making should be accommodated where and if possible. The political process is a highly interactive and distributed process, characterized by adhoc workflows interspersed with informal meetings and bilateral or multilateral tasks. The process is by nature polycentric since policy processes are shaped by many actors. Between them, a variety of connections can be developed. No single actor, including government, has full control over the course or outcomes of a policy process. And to

make the picture even more complicated, government itself can be seen as a collection of different, sometimes even competing, actors.

Policy networks therefore tend to be complex and heterogeneous. They involve a complex system of multiple 'nested' decision-making arrangements with recursive loops (versus neatly hierarchical and sequential loops). These decision-making arrangements are made concurrently across a range of political decision-making levels (e.g. national, state, regional, local) and across a fragmented array of territorial areas and sectors.

Providing support to policy makers in this human-centric process requires the acceptance of multiple and recurring process loops and the notion of multiple rationalities, with their own outcomes and way of working. It also requires respect for a clear distinction between formal and informal artifacts (documents, comments) as output that will be exchanged and artifacts that may be restricted for internal use only. And last but not least, it requires support for collaboration with full respect for the autonomy of the parties.

The question marks in the illustration indicate that the process is often perceived as so volatile and unstructured that there is no fundamental approach to process support for these political activities. This is why there is also no consistent and coherent link between the political support process and the primary process.

4.3. Production support process

The production process accommodates support for practitioners for activities such as translation, registration, legal drafting or publishing. Particularly in large administrative organizations, these tasks are distributed among separate professionals and organizational units. Some tasks may be outsourced to market parties on an ad hoc or regular basis.

This silo-like approach is also reflected in the many information systems that each support part of the process (as displayed in the illustration). Nevertheless, the level of ICT support is the highest in this part of the policy making process. This is not surprising, since policy making is very information-intensive. Particularly document management, publishing-related, search and registration activities are more or less supported.

However, the large variety of systems that each cover just part of the process leads to problems or even impossibilities related to integration and interoperability. As a result, policy makers only obtain suboptimal access to document sources. This interferes with their work and causes them to lose time retrieving information. It also poses the considerable risk of using the incorrect document version or not finding all the relevant documents. And it makes it difficult to support mobility (time and location independent).

On the one hand, the question marks in the illustration indicate the fragmentation in systems, which also results in fragmented connectivity or even a lack of connectivity with the primary process. In our opinion, this requires a connector of some kind to be placed between the primary process and the production support process. On the other hand, the question marks illustrate that some production support activities are under-represented in the process. This certainly applies to support for modeling and codification.

Policy modeling supports the design and impact analysis of policies - for example, in the use of economic, social and environmental models. These types of models are used for predictive analysis and answer questions such as: 'What will happen if this factor increases or decreases by x percent?'. Models such as these are often created and run by research institutions.

However, there is no permanent link between the models, the data used by the models, the output (e.g. a report) and the formulated and implemented policy. This results in bottlenecks in terms of evaluation and re-formulation. For example, there is no mechanism that can be used if input data changes over time and leads to other conclusions. This also makes it difficult to compare the outcome of a policy with the original model and the input data used. The same problem applies to impact assessments, for example, if substantive amendments are introduced in the policy making process.

Codification in this context refers to the process of forming a policy (or legal) code by normalizing and formalizing rules and principles into a structured system¹⁷. Such a system contains the concepts, definitions and rules, as well as the templates and text fragments, that are used and re-used in the process of legal drafting. Establishing and maintaining these authentic sources helps policy makers to prevent and overcome semantic differences and also increases consistency, coherence and efficiency.

¹⁷ Please note that this definition of codification is broader than the one used by the European Union, which refers to integrating all the amendments to a given law, adopted at different times, into one law.

There is currently a trend in which codification already starts in the formulation phase - for example, as a means of structuring re-usable elements in the impact assessment process. This makes matters even worse, since the comprehensive and coherent support of codification by a production support process is more the exception than the rule.

4.4. Impact for the policy maker

There are many deficiencies in the policy making process that prevent policy makers from being supported in an efficient and effective way. There is an obvious lack of intelligence about the process and the infusion of intelligence into the process. Political activities are regarded as volatile and unstructured and are almost not supported. Because of these deficiencies, one wonders how governments are going to support citizens and businesses in e-Participation initiatives in an efficient, effective and transparent way if their own policy makers are not properly supported at the moment. Moreover, production activities are also only supported in a fragmented and isolated way.

What is generally lacking is a vision of how to synthesize the essential elements in the policy making process and the capacity to turn this vision into reality.

5. Synthesizing the policy making process

The nature of public policy making has been characterized as a complex, dynamic, constantly evolving interactive and adaptive system. The process is people-driven. Actors are engaged in a goal-driven decision-making process in which they enjoy a high level of autonomy in the way they organize their work. The process has a political and a production dimension.

Stricter demands from the system in which policy makers operate require a level of support that existing facilities cannot deliver. However, the present support infrastructure for policy makers is characterized on the one hand by isolation, fragmentation and non-responsiveness to change and on the other hand by a lack of crucial support elements.

A different approach is required. Policy makers need an infrastructure and instruments that enable them to operate in a flexible, adaptive and compliant way in a complex and dynamic environment. They need an infrastructure that integrates seamlessly with regulation-specific sources and services. This infrastructure must be designed for people and built for change.

5.1. Changing the perspective

Previous attempts to support knowledge workers focused only on parts of the policy chain and created silo solutions. They addressed detailed structured activities, such as how best to create a document in XML format. However, policy making mainly consists of semi-structured and unstructured activities.

Organizations could be tempted to construct a solution by introducing standard business process management in combination with a type of switchbox between systems. However, this would not work due to both the dynamics in the process and the human factor. Actors would feel constrained rather than supported by such an environment. And, of course, the familiar ICT problems would also inevitably occur in this type of construction.

What is required is a change of perspective. A change from a control perspective towards a perspective that tries to find a synthesis between control and freedom. A perspective that aims to achieve simplification rather than over-engineering. And a perspective that does not distil the greatest common denominator but the lowest common multiple. In other words,

a perspective that tries to find a structure that can be supported and is beneficial for all actors with their diverse goals without requiring them to make concessions.

In our view, policy makers would benefit greatly if policy making processes were synthesized. *We define synthesis as: 'Forming a meaningful whole by combining various elements based on a common aspect in order to create essential added value for a clearly-defined goal.'*

The 'various elements' are the actors, the activities and the resources in the policy making process. The 'common aspect' is the policy initiative that is dealt with in the process. The 'essential added value' can be expressed in benefits such as efficiency, transparency, collaboration, participation, coordination and compliance and the contribution made to realize goals for smart regulation, agility and good governance. The 'clearly-defined goal' is the making of decisions to enable a policy objective to be realized. And the 'meaningful whole' is a shared environment fully equipped for policy makers and policy making.

Policy makers need an environment that brings together heterogeneous activities and functions in a meaningful actionable ensemble. This meaningful ensemble must be organized around a policy initiative case.

The use of a case as an anchor point reflects the way policy makers work. They are all dealing with the same case, regardless of whether they are contributing or 'just' monitoring.

Every case has a goal and, while handling the case, decisions must be taken about the goal and the course to be taken to reach this goal (high level), as well as about the formulation of the goal and the course in terms of outcomes and rules (detailed level). In case handling, the decision prevails over the path towards that decision. The path taken to reach a decision is a derivative.

The definition of the path in a case must be based on a set of rules. This set of rules must allow flexibility within a bandwidth that fits in with the type of case. For example, certain policies require a co-decision procedure or an assent procedure to be followed. These procedures allow (and require) certain types of decisions made by a Parliament, such as approval, rejection or amendment, while other cases do not allow a proposal to be amended.

Therefore, the target is clear (reaching a decision); the path may vary depending on the classification of the case and on the domain or the social and political sensibility.

The set of rules also defines the possible levels and types of collaboration and contribution. It is obvious that actors participate in the case based on their own perspective, role and task. The level of collaboration may vary from very organized and semi-permanent (e.g. committees or taskforces) to individual and incidental (e.g. expert opinion). The contributions of the actors may have a formal or informal status.

An actor can have roles such as a member of a body, a case owner, a group coordinator, an external participant or a member of the administrative staff. This again depends on rules and assignments that develop during the course of the case.

Rules must be maintained separately from the application to ensure that there are user-friendly options for adapting and maintaining the set of rules.

Finally, by using the case as a common denominator, it becomes possible to build a history trail of all actions in the case. This enhances the accountability of the case owner and other actors.

Summarizing our view, we believe that policy makers must be supported by a combination of case management and dynamic rules support. Case management supports collaboration, coordination, integration and compliancy. Dynamic rules empower policy makers to cope with the dynamics of the policy making process, with its changing actors, events, loops, states and interactions. In doing so, they also provide the crucial prerequisites for enabling agility and responsiveness to change.

In the following sections, we will elaborate on this combination of case management and dynamic rules support. We will conclude that this combination resolves many of the question marks over the policy process, but that an additional feature is required to solve all of them.

5.2. Case management

In our opinion, the effect achieved by the well-conceived implementation of case management can be described in the following way: 'Case management brings together people, processes and resources to achieve an objective or goal for a specific case'. That is why policy making needs to be supported by case management.

In the policy making process, a case begins with the launch of a new policy initiative, while in the policy execution process the case begins, for example, with a citizen's request for a permit or a benefit.

This kind of case is inherently unpredictable, often long-running and changing over time. In other words, the path of execution cannot be predefined and human judgment is required to determine how to proceed and what to produce.

Forrester defines this type of case management as dynamic case management that facilitates 'a highly structured but also collaborative, dynamic, and information-intensive process that is driven by outside events and requires incremental and progressive responses from the business domain handling the case'¹⁸. As we have seen, the level of structure in policy making is not as high as in this definition. The other characteristics, however, do certainly apply to the policy making process.

Case management brings together stakeholders and participants, depending on the type of case, the type of decision process (e.g. co-decision or assent procedure) and the evolving insights. It enables policy workers to chart their own course through the process of managing the case, deciding on the right tasks to perform and the right information to include at the right time. It helps to track and shape the process and to leverage knowledge and methodologies in order to effectively manage the life cycle of a case. This includes facilities for coordination, planning, the assignment of tasks and time, but also for embedded logging and history trails for audit and compliance purposes.

Case management supports all the roles and responsibilities associated with the case and interfaces with existing systems in order to manage rights and privileges. It also interfaces with existing document management systems in which documents may be stored. However, the central linking pin to all data and documents is the case file in which all process data and

¹⁸ Craig Le Clair and Connie Moore. *Dynamic Case Management – an old idea catches new fire*. Forrester, 2009.

references to the case documents are stored. For this reason, search and navigation options must also be provided on the basis of the needs and rights of the various actors.

And, last but not least, it enables multiple views of a case to be generated and made accessible through multiple channels. This provides the opportunity, for example, to create portals for citizens and other target groups in which a specific perspective of the case content and data can be provided. It makes it possible to organize participation and two-way feedback - for example, on the input from the participants and the way that input is processed. This kind of output information is often non-existent in traditional processes¹⁹.

To summarize, it may be said that case management has two primary functions: it helps to more effectively share, use, manage, consolidate and protect information, and it tracks and shapes the policy process. The benefits include coherence, insight, control, responsiveness, flexibility, better customer service and regulatory compliance. In this way, case management helps us to face the challenges of complexity, agility and good governance.

5.3. Dynamic rules support

A well-conceived case management platform is designed for people and built for change. This is only possible if the platform is driven by rules. The complex world in which policy making takes place and the nature of the process itself inescapably lead to an approach in which rules must be flexible and easily adaptable. Traditional workflow and process automation is not capable of keeping up with the required pace of change. They also lead to an increase in exceptions and the resulting shortcomings in terms of responsiveness.

It goes without saying that an approach in which 'the exception is the rule' turns out to be more appropriate for supporting the policy making process and the policy makers in this process. Dynamic rules support deals not only with exception handling, it also deals with uncertainty. By designing for uncertainty, it becomes possible to introduce situational or contextual awareness and just-in-time principles into process support without compromising the assurance of maintainability.

Rules in an interactive, iterative and evolving process can only be applied in an efficient and effective way if every next step or option is based on the most recent status of the last step. The rules that apply in this context are derived and activated on the basis of status

¹⁹ *Julien van Ostaaijen. De burger is wel goed, maar zeker niet gek. BN DeStem, 28 October 2010.*

data such as case type, activities performed and actual actors/users. This enables policy makers to cope instantly with the effect of interactions, based on the connections between these interactions. Deriving rules as the events evolve also means that there are no more exceptions. Every instance in a case is dealt with using the rules that apply in that context at that moment in time.

Rules are maintained separately from the application. This allows rules to be changed without having to change the system. It also provides the opportunity to assign domain experts responsibility for maintaining the rules. This puts the policy maker and manager in control and reduces dependency on ICT services. Changes in rules can be tested before they are applied. After being approved, they can immediately be enacted and put into operation.

To summarize, case management is responsible for the intelligence of the process and dynamic rules support is responsible for bringing intelligence into the process. The benefits of dynamic rules support are comparable to those of case management, but with an even stronger emphasis on dealing with uncertainty and enabling change.

5.4. Process support

The introduction of case management with dynamic rules support resolves the question marks about the support for the primary process and the political support process. The case file of a policy initiative is the central focal point. The case progresses through the stages of the primary process.

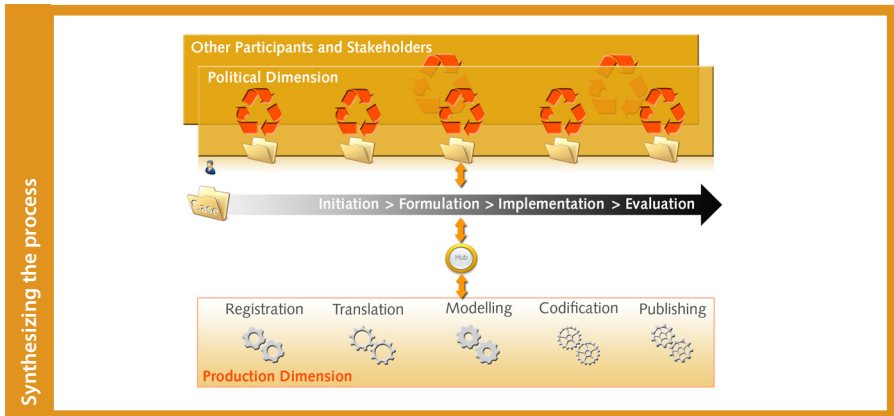


Figure 8: Synthesizing the process

The various policy loops in the political support process can also be supported by a case file. This is a virtual case file that exchanges information with the primary case file on the basis of rules. This enables completed formal policy documents, for example, to be transferred to the central case file and also enables draft and informal contributions to be kept in the political body case file.

Rules determine the interaction not only with the political support process but also with the production support process. As we have seen, however, organizations are already using all kinds of systems in the production support domain. These systems often have their own way of supporting the workflow in an application. It is not necessary to replace or rebuild all of these systems as it might result in the destruction of capital and potential organizational resistance.

Case management applications must operate in very heterogeneous environments and are therefore equipped with options to interface with those environments.

All messaging and service requests between the production environment and the case management platform can be handled by a hub that acts as a connector and uses standard protocols. By connecting the hub to the central case file, policy makers and managers can be given integrated control over the process.

As mentioned above, case management can interface with existing document management systems in which documents are being stored. However, the central linking pin to all data and documents is the case file in which all process data and references to the case documents are stored. This also applies to the data about modeling activities if there needs to be a consistent link between this data and the policies based on it.

This would resolve all the question marks if the production environment delivered sufficient capabilities for modeling and codification support. Both are necessary in order to meet the requirements of smart regulation. Since we have found that this is not the case, we will address the issue of knowledge support for the production process in the next chapter.

But we will first identify a number of structural patterns in the seemingly unstructured policy making process that can be used to configure an environment based on case management and dynamic rules support.

5.5. Structure in the unstructured process

We mentioned above that the process of policy making and implementation can be characterized as a highly interactive process with the capacity to respond rapidly to new circumstances. As a result, the work is generally not well structured.

There are procedural rules, of course, but they must be flexible. For example, a hierarchical superior assigns an incoming proposal a path through the organization. But there is always room for improvisation and ad hoc activities. The policy making process actually consists of a mix of structured and unstructured activities. Such a mix is typical for knowledge-driven human-centric processes.

In policy making, there are procedures and guidelines for policy formulation and assessment as well for approving and drafting legislation. In addition, there is a divide between formal documents and informal contributions.

Within this structure, there is ample space for taking the initiative, setting an agenda and discussion, negotiation, consultation and review. These are typical cognitive activities that must be performed by human intelligence.

To support the process of policy making, we need to identify recurrent patterns that can provide policy makers with meaningful support.

5.5.1. *Patterns of activity types*

Public policy involves more than just the separate discrete decisions made by policy makers. It also involves courses or patterns of action – for example, to formulate a policy, implement that policy and enact a law. In these courses, we can cluster activities on the basis of a pattern.

One initial pattern that can be identified is a group of activity types that are omnipresent in policy making. Five activity types can be distinguished: execution activities, consultation activities, decision activities, control activities and production activities.

The activity types can occur during a specific phase of policy making or during any of the phases. They can occur once or multiple times, depending on the policy loops.

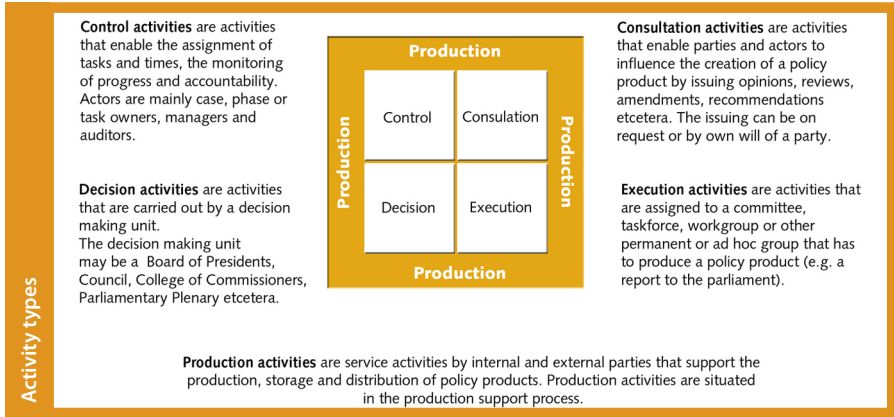


Figure 9: Activity types

Within each type, it is possible to subdivide the activities, such as requesting an opinion, commenting on an issue or submitting a report. This results in a limited list of re-usable activities that are relevant in policy making. Moreover, this list can be enriched with the results of each activity.

5.5.2. *Process pattern*

In the previous sections, we already referred to the polycentric and human-centric nature of the policy process, and the fact that there is a high level of interactivity and that policy making is a decision-oriented and goal-oriented process. We also described it as a knowledge-intensive process.

In this section, we focus on the structure within the process. When we examine the essence of the process, we can detect the following structure.

In policy making, we see a pattern of interaction between a primary process (the yellow arrow in the illustration below) that deals with an initiative and a consultative sub-process (the blue arrow). The interaction can be on an ad hoc basis or based on procedural rules. More than one sub-process can be triggered by the primary process. These sub-processes may be interrelated too. In some cases, one sub-process may even require the output of another sub-process to complete its own task.

In each process, there are loops of activities that have some form of coherence - for example, they are all related to the initiation of a proposal or to decision-taking. Activities can be initiated on the basis of human initiative or rules. For example, procedural rules define whether an activity may be carried out more than once and whether an activity is mandatory or optional. The listed activities (request opinion, review, comment, amend, translate) are examples of policy activities.

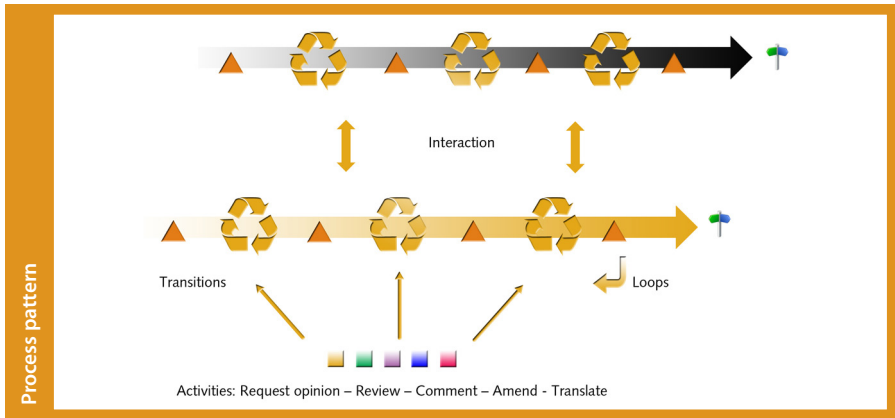


Figure 10: Process pattern: structure in the unstructured

There are transitions (triangles) between the loops. For example, a proposal can be promoted from the initiation status to reading(s). Transitions can also be initiated by human activity or by rules. For example, the withdrawal of a proposal can be based on rejection during a decision phase or as a result of consultation. In the first case, the decision leads to a change in state, while in the second case, a responsible actor is allowed to change the state.

In other cases, loops can occur and it becomes necessary to return to a previous phase - for example, when a position is rejected and a committee must come up with a new report. All the data about the previous phase must be stored and the process will start all over again. Every (sub) process ends with a decision (the signpost icon) - for example, the acceptance, amendment or rejection of a proposal or a position. All relevant data about the decision is stored in the case file or is accessible by means of a reference in the case file. This also includes voting lists and, if required, audio or video fragments of the meeting.

5.5.3. Example: Consultation pattern

The illustration below displays an example of a process pattern in policy making, which involves consultation in a parliamentary reading process.

The process starts when a proposal is received. The proposal is sent to committees for consultation. There will be one main committee that deals with the subject matter of the proposal, e.g. an economic and monetary commission. Opinion-giving committees can be engaged if required. The opinion-giving committee will report to the main committee and the main committee to the DG Presidency.

The DG Presidency is the parliamentary case owner and coordinator. The coordinator will forward the report of the main commission to the plenary body, in which a decision will be taken on the proposal.

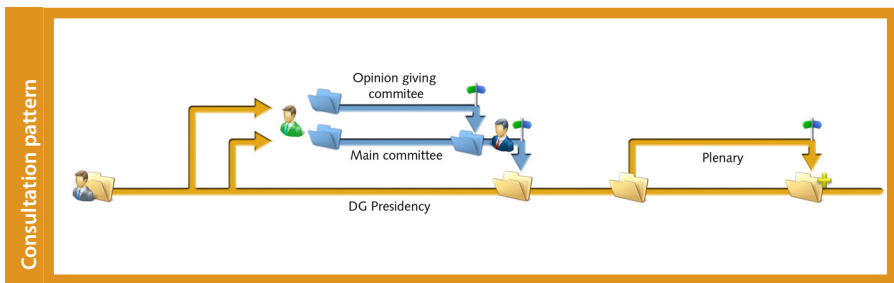


Figure 11: Consultation pattern

There is one case file for the entire readings phase. The two committees each have their own virtual case file. Their final report and all other contributions that are regarded as essential are synchronized with the main case file. Other contributions, such as internal comments, reviews and draft versions, will remain in the committee case file.

The example displays a consultation pattern with interaction between committees and a parliament in a readings process. However, we can find the same pattern with minimal variants in other phases of the policy making process - for example, the creation of a policy document by a taskforce commissioned by a Governance Board, or preparation of the reaction of a Council of Ministers to a parliamentary proposal by a working group. In fact,

most of the committees, task-force or working group activities fit within this pattern. The differentiator is the set of activities that must or can be executed. And, of course, the participants in the process that will vary according to the subject matter and the perceived political sensibility.

If we combine the example in the above illustration with a shortlist of activities that can be carried out during the process, this produces the following illustration. Some of the activities are specific for a phase in the process, while others can be carried out in multiple phases and yet others even at random during the entire process. The illustration displays three roles: a coordinator and case owner for the whole process, a head of unit who assigns a position request for a committee to a rapporteur, and the rapporteur himself/herself.

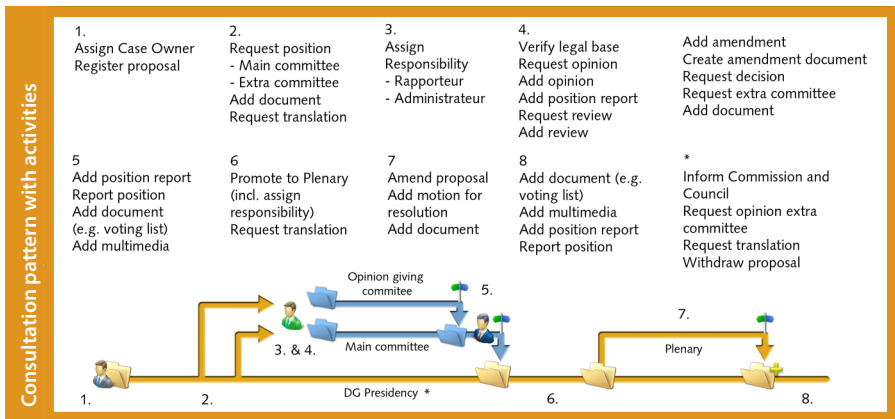


Figure 12: Consultation pattern with activities

Examples of how the consultation pattern can be embedded in an application are included in a white paper entitled 'The Policy maker Workplace', which describes Be Informed's solution to innovating the policy making process. This white paper can be downloaded free of charge at www.beinformed.com.

5.5.4. Support for public consultation and participation

In a democracy, public participation has intrinsic value due to the way it increases accountability, broadens the sphere in which citizens can make or influence decisions and builds civic capacity. It provides instrumental value by strengthening the evidence base for policy making, reducing the implementation costs and tapping greater reservoirs of experience and creativity in the design and delivery of public services²⁰.

The combination of case management and dynamic rules support can also be used to enable public consultation and participation. It makes it possible to create separate consultation loops for public consultation and for consultation with intermediary organizations, for example.

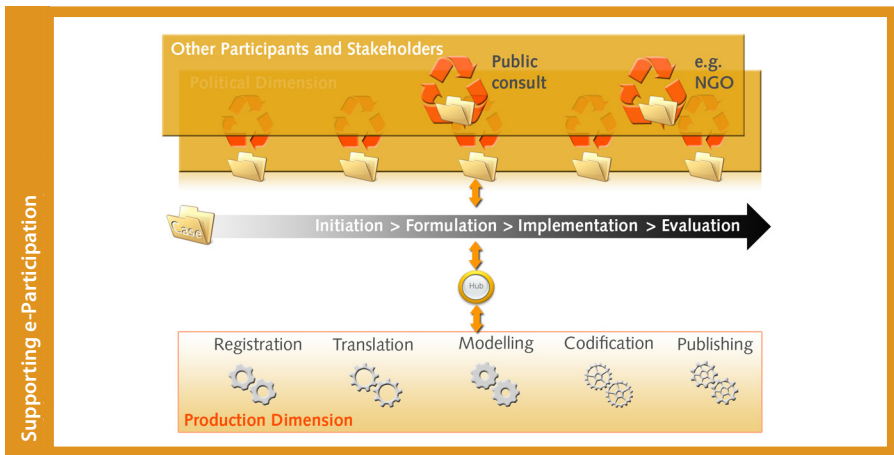


Figure 13: Supporting e-Participation

By infusing e-Participation into the policy making process, citizens and businesses can be involved in policy development during the earliest stages and can analyze the outcome of intended policies from their individual perspectives. Knowledge instruments may help to calculate the effect of a policy for their context. Citizens and businesses can contribute and

²⁰ Focus on Citizens; public engagement for better policy and services. OECD studies on public engagement. OECD, 2009.

communicate the effects of implemented policies, even before they are approved in the political process²¹.

It is obvious that feedback must be an integral part of modern participation services. People want to know that they have been heard. The provision of tighter feedback loops makes government more accountable for the public participation process and the use of public input.

Intermediaries could add extra value to the public consultation loop by providing input based on sentiment and/or argumentation analysis of the contributions through the public policy loop and other external channels. This will be necessary when e-Participation really takes off. Otherwise, governments would need to devote a huge amount of effort to considering the tens of thousands of suggestions it receives if it decided to take them seriously²².

5.5.5. Benefits for the policy maker

The combination of case management and dynamic rules provides the people-driven, operational and decision-making support that policy makers need. It enhances their activities and does not impede them in any way. It empowers policy makers as well as policy managers. It simplifies operations and facilitates the participation of citizens and businesses. It greatly enhances the responsiveness to emergent events since it is built for change. And, last but not least, it creates the conditions for providing transparency about political decision-making without compromising the political negotiation process.

²¹ Rensen, R, Geurts, T and Ebbinge, JW. *ICT for Governance and Policy Modeling; Transforming policy skepticism into policy co-makership*. 2010.

²² Paul Johnston. *Transforming Government's Policy-Making Processes*. *JeDEM* 2(2): 162-169, 2010.

6. Knowledge support

In a previous chapter, we described the use of dynamic rules support for a case and for the subsequent process and activities. This type of support is based on constructs such as process patterns, activity types, actor types (roles and responsibilities), actor groups (bodies and persons belonging to bodies), resources (systems, sources) and rights (access, tasks, and views). The constructs contain the knowledge about the policy making process and all of its important facets.

Policy makers also benefit from support for handling legal and policy domain issues. This type of knowledge support is closely related to their expertise and helps them to improve the quality of their output. It also helps to increase productivity and greatly benefits essential elements of the production process, such as drafting, modeling for evidence-based policy and dissemination.

6.1. Policy and legal drafting

In the past, policy and legal drafting were regarded as sequential activities with their own procedures, guidelines and actors. Nowadays, we see a tendency in which policy formulation and policy implementation become one coherent, interactive and incremental process.

This is due to the trends of smart regulation and evidence-based policy and to the pressure to apply the principles of good governance. This trend towards integration is also inevitable if policy makers want to cope with the effects of social, dynamic and emergent complexity, such as greater diversity in values, growing uncertainty due to continuously emerging situations and a lack of clarity about the impact of a policy.

There is therefore a growing trend towards the integration and streamlining of policy and legal drafting. Policy and legal drafting are both codification (structuring) types that have their own plan, write and revise cycles.

The characteristics of policy and legal drafting resemble those of the policy making process in general - that is, a wide variety of different actors that act in their own way within the boundaries of a set of rules and guidelines and are charged with the task of delivering a result.

6.1.1. *Bottlenecks*

Based on these characteristics and everyday practice, several bottlenecks become evident in the process of policy and legal drafting, and these include the following:

- No use or just limited use and re-use of patterns and vocabulary, resulting in unclear, ambiguous and inconsistent rules for citizens, businesses, and execution and enforcement bodies
- Limited impact assessment by means of validation and simulation (ex-ante and ex-post), resulting in execution and enforcement difficulties
- From Word to Law, resulting in a variety of approaches and handling methods, and inevitably resulting in inconsistencies with current legislation
- Personal record-keeping, resulting in a lack of clarity about versions, the contribution of participants, planning and progress
- No direct link between outcome, rules and execution, resulting in obstructions for policy evaluation
- No direct process support by instruments such as checklists, wizards, decision trees and an up-to-date knowledge base, resulting in deviation from current procedures and guidelines
- Non-facilitated collaboration between participants, resulting in longer cycle times, redundant work and missed opportunities
- Fragmentation of sources and non-intuitive access to these sources (legislation, jurisprudence, precedents, feedback), resulting in laborious research and the risk of overlooking important up-to-date information when drafting new policies and regulations as well as in decision-making.

There are several ways to remove or at least reduce the impact of these bottlenecks. One involves bringing case management and dynamic rules support into action. The other involves using a variety of knowledge support methods.

6.1.2. *Re-use of legal objects*

Regulation is characterized by norms that apply to certain recipients in specific situations. Laws and regulations therefore bear descriptions, often in abstract terms, of such situations. Those situations often serve as a link between different norms and norm systems, both within a specific law and between different laws.

For example, the term 'partnership' indicates an existing or possible relationship between people. Different norms may apply to this situation. In fiscal legislation, the concept can be used for a tax debt division standard, whereas in social security legislation the concept can be used for a standard that defines benefit claims.

Descriptions of situations are the linchpin for making the original sources of laws and regulations accessible and for realizing (automated) systems in order to implement these laws and regulations. The formal situation descriptions are also referred to as 'situational frames', from which relevant legal objects and their interdependency can be identified. Coupled with formal descriptions of the relevant standards, these situational frames can express the meaning of laws and regulations.

With the rise of the semantic web, we are witnessing the emergence of ontology models that define the relationships between legal concepts and that maintain the reference to the legal sources in which concepts and rules are used. The semantic web (Web 3.0) provides a widely-supported standard language that also facilitates the uniform definition of legal objects in controlled vocabularies (i.e. thoroughly organized and managed lists of uniformly defined terms). Re-usable objects not only include vocabularies with terms and definitions, and taxonomies or ontologies with concepts and relations, but also design patterns, templates and various building blocks of standard phrases and other relevant elements.

The formulation and drafting of legal objects starts during the policy phase. Policy objects define aspects such as policy goals, effects, leading principles, approaches, target groups, conditions, constraints and types of outcome. These objects are part of the best practices for policy formulation.

The re-use of well-characterized and defined legal objects reduces the ambiguity common to cooperation between organizations in different domains. The earlier re-use is used in the policy chain, the lower the risks for ambiguity.

The value of reusable objects is high and becomes even higher in the case of cross-lingual or multilingual policies. Since every language version has a formal status of its own, it is necessary to maintain coherence and consistency between the versions and the objects used in these versions.

And last but not least, these types of re-usable objects can and should be regarded as an essential part of the Public Sector Information or 'Open data' environment and should be accessible by public administrations, intermediaries, citizens and businesses.

6.1.3. Instruments

Instruments such as checklists, wizards and decision trees are used to help draftspersons during the drafting process. Knowledge rules can determine which instruments must be used, as well as which instruments can be used in a specific context. Instruments are used for deciding, classifying, calculating and navigating.

These instruments can access the catalog of re-usable objects and then, for example, come up with a taxonomy for classifying target groups or outcome effects.

Policy makers who need more background information can access a knowledge base in which the same rules used by instruments are presented in a coherent constellation with clarifying notes and visualizations.

By modeling procedures and guidelines, it is possible to apply changes directly to all support activities, such as the above-mentioned instruments and knowledge base. Time versions of the models enable the use, for example, of old rules for current cases and new rules for new cases.

6.1.4. Editors

The editors that are used in the policy making process depend on the task at hand and the preferences of the actor or type of actor. Editors are often based on word processors.

Editors should help policy makers to reduce repetitive work and to apply standards and best practices. This means that editors should support a variety of tasks, such as designing policies, structuring the policy document, generating changes and amendments, generating consolidations, detecting the undesirable effects of collision, guiding users to preferred phrasing styles and re-using policy and legal objects.

Orthodox editors do not achieve this standard. More sophisticated editors can be enhanced by adding options for selecting design patterns and appropriate templates and populating them with building blocks of standard phrasings and re-usable objects.

Sophisticated editors also enable validated building blocks from existing policies and regulations to be modified – for example, if an existing policy is being amended. The differences between the old and the new version are made visible in order to speed up the review and approval process. Needless to say, these editors must also support the creation and (underwater markup) of references to other policies and regulations.

These types of editors cannot be monolithic. They must be based on or interface with a semantic modeling platform in order to maintain the required flexibility and richness of features. One could therefore argue that it makes sense to use modeling tools to model policies directly. However, this will not work in many cases. Although policy makers intuitively first model a policy conceptually and then transform it into descriptive text, it is to be expected that most actors decline to use the editing functionality in modeling tools.

We hope that a natural language-based representation of models will encourage domain experts to become involved in the modeling process. Such a representation is based on natural language pattern sentences that express the rules to be laid down. These rules can be transformed in the background into an ontology-based model. The user interfaces that use this representation can be developed on the basis of the lessons that have been learned in recent time.

To conclude, we wish to state that the mix of structured and non-structured activities performed in a policy and legal drafting process should be supported by an editor platform that provides multiple manifestations. By decoupling the presentation from the underlying rules and functions, it will be possible to support diverse actors in their own preferred way without eroding the consistency of input and output.

6.1.5. *Authentic sources and discovery*

Policy makers use structured and unstructured data stored in databases, in document repositories, on their own hard drives or on the Internet, for example. The level of reliability is not always known to the policy maker.

Policy makers need easy and intuitive access to sources of legislation, jurisprudence, policies and legal objects of which the quality is guaranteed. The higher the quality and structure of these sources, the better the support for and result of drafting. However, this requires processes to be put in place to maintain and guarantee the quality of these sources.

In this information age, the number of sources is enormous. The crucial lesson learned over the past decades of document digitization is that 'less is more.' This is in line with the findings of Frank Knight (1885-1972), a contemporary of John Maynard Keynes. In a Knightsian scenario, knowledge about the future can only be gained by experiencing the event, but not beforehand. In fact, in such a situation more information only leads to delayed decision-making and lost opportunities²³.

When related to the use of authentic sources, this means that information should be retrieved and provided based on the actual context of a case, the activity of a user and the latest information possible. If necessary, the status of the information - for example, the level of trust - should also be visible to the policy maker.

Case-based search enables all data and documents belonging to a case or group of cases to be disclosed. In combination with semantic search, a case can also be enriched with tabs for related cases, related experts or related precedents, for example.

Knowledge-supported semantic search help to enrich queries and query results or to filter the results on the basis of rules, vocabularies and metadata. It is also possible to browse through structured sources in XML using navigating instruments that 'dive' directly to the required paragraph or concept.

6.2. Evidence-based policy

Good-quality policy making depends on high-quality information and evidence. Modern policy making requires governments to make the best possible use of evidence; it also requires the evidence available to policy makers to be more accessible.

Over the past few decades, governments have been investing in evidence-based policy. For example, before the European Commission proposes new initiatives it assesses their potential economic, social and environmental consequences.

Impact assessment is a set of logical steps that helps the Commission to do this. It is a process that prepares evidence for political decision-makers about the advantages and disadvantages of possible policy options by assessing their potential impact. The Commission also performs legal analyses to check the conformity of proposals with the EU-mandate (e.g.

23 *Thomas Koulopoulos. The uncertainty principle. Ebook, 2010.*

subsidiarity principle) and legislation.

The act of simulating, analyzing and evaluating text-based policies and regulations is quite laborious. In contrast, model-based policies and regulations are a much better fit for evidence-based policy. The policy making process can be improved considerably by modeling policy candidates and reviewing the resulting models. This makes it possible to integrate formal modeling techniques into the early decision stages.

The model-driven environment leads to better policies by allowing for consistency checking and 'what if' analyses. It also provides policy makers with a greater insight into the consistencies and interdependencies of laws. They can swiftly identify the possible effects of proposed policies and form their opinions accordingly. In addition, evaluations allow for a comparison of the realized outcome with the intended effects. The use of (semantic) modeling therefore helps to realize the ambitions of smart regulation.

6.3. Dissemination

It is clear that the combination of better control by means of case management, the creation of structured building blocks and flexible disclosure of policy data offers very promising opportunities for dissemination that go far beyond the boundaries of traditional publishing.

Policies, related legal objects and documents can be 'published' in multiple forms, such as in a knowledge base, a traditional document, a website or even an application and knowledge service. It is just a matter of disclosing the same model along other axes. Any updated information can - if desired - be made instantly available and applicable via various channels.

In fact, the potential of knowledge support in policy making is providing new opportunities for traditional Publication Offices, for example, to transform their businesses. They can evolve to the position of Regulation Offices - needless to say, in close cooperation with policy makers and supported by ICT partners. Regulation Offices can offer an ever-growing pool of reusable rules, objects and services. This pool of re-usable Public Sector Information (PSI) objects may be offered as open source building blocks and services as part of a 'Government in the cloud' services catalogue.

Services are based on integrated semantic models of codified rules that allow for easy and accessible executive support. For example, real situations (events) are easily translated into existing rights and obligations, freeing citizens and businesses from having to solve governmental integration problems themselves. This gives the streamlining of the policy making and execution process results an added advantage.

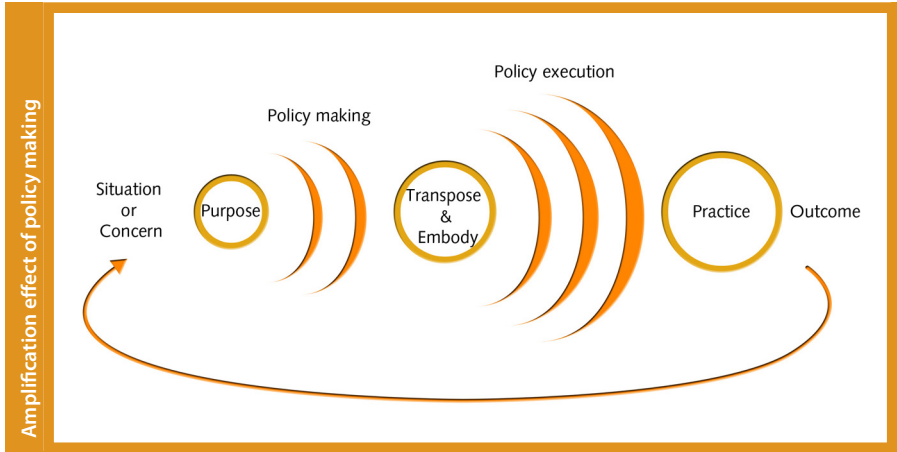


Figure 14: Amplification effect of policy making

The greater the coherence and consistency between policy making and policy execution, the higher the leverage potential for using or re-using artifacts from the policy making process. This is due to the amplification effect that policies tend to have. There is an entire area of operation open to compliance-embedded public sector services on national and international level.

The potential benefits in terms of efficiency gains and lower administrative burdens are enormous. Examples in the industry sector, based on huge increases in component sharing, intensive communication, coordination and the creation of communication infrastructures, are exhibiting reductions of 30 to 40 percent in development and testing²⁴.

²⁴ C. Otto Scharmer. *Theory U; Leading from the Future as it Emerges*. 2009.

6.4. Benefits for the policy maker

The growth of the semantic web is giving rise to ontology models that are being used to define the relationships between legal concepts and maintain the reference to the legal sources in which concepts and rules are used.

The use of semantic models is resulting in very useful ways of supporting policy makers in legal drafting and ex-ante and ex-post analysis. They are enhancing the discovery of sources and are also helping to meet the requirements for quality assurance and improvement. In addition, they are providing excellent opportunities for re-use in the policy chain by other public authorities, which can lead to considerable productivity and efficiency improvements.

Finally, the combination of case management, dynamic rules support and knowledge support in the legal domain is creating a very powerful combination that can be used to support policy makers and activate policy intelligence.

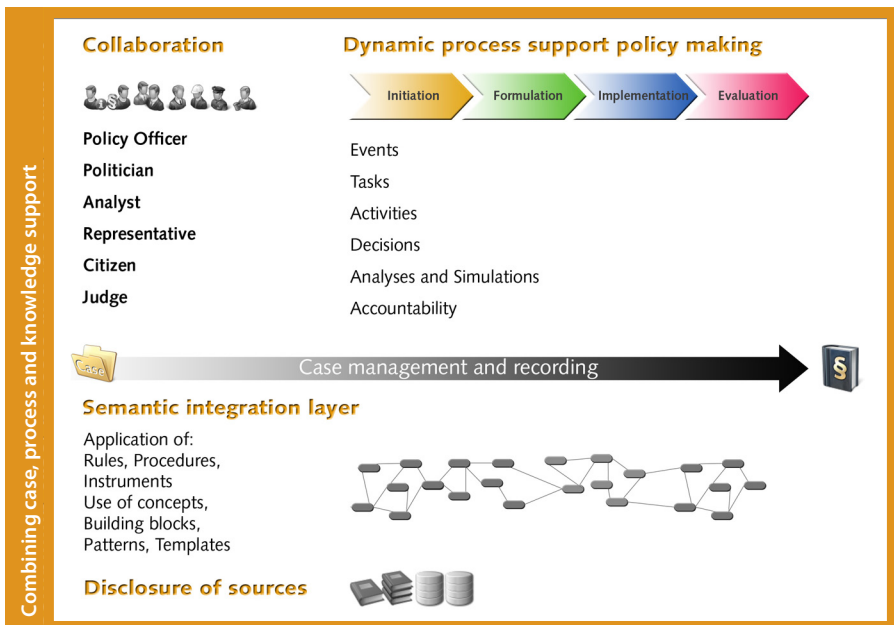


Figure 15: Combining case, process and knowledge support

7. Conclusion

There is considerable room for improvement in the way policy makers are supported. The support provided during the policy making process should focus on a combination of people, case and rules, decisions and knowledge.



Figure 16: Interlocking aspects when providing goal-driven support for policy makers

The combination of case management, dynamic rules support and knowledge support instantly adds high-level value to the support provided to policy makers. It can be used to synthesize policy making and integrate it seamlessly with policy execution, thus creating a solid basis for the innovation of public sector services.

The use of a Policy maker Workplace for this type of support enables public sector organizations to realize this added value and to deal more efficiently and more effectively with the challenges of increased complexity, good governance, agility and smart regulation. In addition, they can innovate and optimize their core policy process within the constraints

they are facing. And last but not least, they can reap considerable economic and social benefits, including bringing government closer to citizens.

This book provides a thorough analysis of the importance of modernizing and synthesizing the policy making process. The book's author, Thei Geurts, works with independent software provider Be Informed. Thei Geurts has also written a white paper entitled The Policy maker Workplace, which describes Be Informed's solution for innovating the policy making process. His white paper can be downloaded free of charge at www.beinformed.com.

About the author

As an innovative thought leader, business developer and consultant Thei Geurts creates solutions that make information better accessible and usable. With a background in the library and information sciences Thei became the youngest library director in the Netherlands. Thereafter he initiated and launched new information products and services as a director of innovation and information services at a national level. From there Thei moved to the publishing sector in which he focused on innovation of content management and of publishing public sector information. After a career as principal consultant in the IT-sector, dedicated to elevate the support for knowledge workers and their workplace in the public sector and industry, Thei joined Be Informed. For Be Informed, an internationally operating, independent business process platform software vendor, Thei has created a workplace for policy makers to support policy making in the 21st century. He is also the author of publications on knowledge productivity and embracing complexity.

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