

The Foundation for Science and Technology
Dinner and Discussion 26th November, 2008

Speaking Notes for Sarah Veale, CBE, Member of the Risk and Regulation Advisory Council and Head of Equality and Employment Rights, Trades Union Congress

First let me observe that the FST has taken a huge risk in allowing a career trade unionist to substitute for a highly successful businessman.

This is however an illustration of the wide range of backgrounds from which the Risk and Regulation Advisory Council is drawn.

There will be little difference I think between what Rick would have said and what I am going to say. In any case you will also be hearing from the Chair of the Health and Safety Executive and a very senior judge so they will be able to mitigate any risk to you.

It is clear that enormous progress has been made over recent years on the regulatory agenda.

Regulations have been simplified, removed, amended. Information requirements have been quietly shelved. Committees and data gatherers have been consigned to history. Stocks of regulations have been depleted.

But stocks are not our interest. It is the drip, drip, drip of the flow of new regulations that continues to attract our attention.

Our antecedent, the Better Regulation Task Force and its successor body, the Better Regulation Commission, both of which I was a member of, repeatedly marched into the undergrowth, looking for some common theme that could provide a key to promoting necessity, proportionality and effectiveness as fundamental precursors to any new intervention on the part of government.

The more we ventured in, the more we found one very common thematic cause – the inappropriate handling of risk.

Look deeper and you can begin to see the signs of a great tension.

A tension in the world of risk between 'instinct' and 'reason' or the heart and the head.

It is a tug of war where the outcome is, in our view, critical to many important facets of our lives – our freedom to think and act, the competitiveness of the economy, the trust that binds a civilised society together and many more facets beyond.

The really bad news from the battlefield is that 'instinct' seems to be winning. There is a pressing need to give 'reason' a shot of adrenalin.

Instinct is winning because we fool ourselves that we understand risk and that we are masters of our own destiny in all matters of risk. But the evidence would suggest otherwise.

In fact, our instincts would appear slaves to numerous distorting forces which lead us, on the one hand, to demand more protections in our already extraordinarily safe lives by historical standards, and, on the other, to bemoan the rise of the nanny state, while leaping onto roads between streams of traffic or deciding not to get our child immunised against measles.

So what are these forces that are shaping our views of risk?

The psychologists would start at home. Risk is sexy – which is why you are here I daresay – and there are now books galore that tell us about the Rule of Typical Things, the Dread Factor, The Example Rule – a legion of reasons that describe why we are irrationally predictable in our response to risk.

If we do happen to grab a branch of logic in our thinking about risk, then we will almost certainly be swept away by a tide of incomplete information from the media who of course know that sensationalism sells and that there is always someone who has a reason to go on record with a statistical slant in support of the next hazard in our lives.

And then we are surrounded by an establishment that is institutionally risk averse. Local authorities, responsible for spending public money on the services they provide, live in fear of the slow but inexorable rise of the blame and compensation culture, preferring to nip risk in the bud.

Our lifeboat services attract reprimand for holding sacred a principle but disobeying a rule. Our civil servants know that you rarely get recognised for doing something right but often get sanctioned for doing something wrong.

Even in our Parliament, the very place where reasoned debate should identify the critical boundary between intelligent failure and stupid failure, and thus support the thoughtful risk takers, our MPs spend too much of their time in a political battle to find someone to pin to the wall in the event of failure.

It is no wonder that instinct is winning and is looking to drive risk out of our lives still further.

It is only later, when the reason wrestles itself back onto the scene do we realise that instinct has sold us down the river. We look around and are surrounded by unwelcome curtailment of civil liberties, ineffective risk interventions and unnecessary regulatory burdens.

But by then it is too late. The damage is done and we have another candidate for the stock treatment programme that I referred to earlier.

So how did instinct win?

Generally with the unwitting collusion of the government of the day and by Government I mean politicians and officialdom. Politicians make their name by introducing or lobbying for new legislation. Civil servants make their careers out of delivering it for them.

I say unwitting because, in my experience, no Minister embarks on a deliberate journey of inappropriate policy making. He or she will recognise that any intervention in matters of risk generally involves complex social systems wherein there are no easy solutions.

Whether obesity, binge drinking, dangerous dogs, transport accidents or whatever – no solution is simple.

So what happens? Someone raises the temperature – that's what happens. Either a single issue lobby group sees an opening or a tragedy hits or an MP sees a career-maker – there is almost always some reason for the heat to rise – and then we hear the dreaded 'announcement'.

Suddenly all that systematic, evidence based thinking gets tossed out of the window, complex issues are conflated into simplistic constructs, evidence is gathered to support the now eviscerated policy. It is only a matter of time before 'the something that must be done' is done. The intervention is all too often inappropriate, deterministic and doomed to fail.

Meanwhile, watching from the wings, an army of risk entrepreneurs seeks to exploit the tyranny of the instinct in pursuit of power or financial gain or simple job security or all three.

The insurance company selling protection. The local inspector seeing risk where little exists. The university researcher talking up hazard in search of attention and funding. The local councillor imposing bans and rules to avoid an improbable event.

All examples of risk entrepreneurs who are capable of generating or exciting regulatory burden, for which typically the government, and more particularly the HSE, will take the rap. "elf and safety" is in danger of overtaking "political correctness" as the favourite hate-object for the Daily Mail and other influential newsbringers and commentators.

In other words, instinct, if it is allowed to win every time, threatens to bog us down with inappropriate and disproportionate responses and regulation.

Not to suggest that all policy making is instinct-based. In fact there some excellent examples where reason has prevailed – the pensions debate and the response to avian flu are but two that come to mind.

But as one moves towards debates around obesity, and binge drinking and then onto Criminal Records Bureau checking, so one moves further and further into the domain of the instinct-based policy making.

We felt in the Better Regulation Commission that it was time to reinject reason on a systematic basis. The Prime Minister agreed and that is why he backed the formation of the independent Risk and Regulatory Advisory Council, replacing the Better Regulation Commission.

We are small – 7 people – and would not claim to be experts in risk. We don't need to be because the world is full of people that know an enormous amount about risk, its effects, perceptions and communication.

Rather we are convenors and catalysts – making sure reason gets a hearing.

Not our intellect but that of all the voices that have something to say on any particular issue.

We convene Risk Forums - intense, highly facilitated meetings of up to 50 people who, in a very short space of time, build a shared understanding of the risk landscape, see better the

most effective points for intervention, should any intervention be seen as necessary and, start the journey towards a systemic, evidence based policy and an approach to implementation that acknowledges uncertainty and offers the greatest chance of success.

It is quite extraordinary to see and hear disparate groups of people that have had to toil away in their silos in search of solutions where, as they say, if all you have is a hammer then every thing looks like a nail.

In no time at all, the curtain falls away and the whole landscape becomes clear – attitudes change, ideas flow and networks build.

These networks then become the engine for change, forming a community of practice linked by the web and now motivated by a common interest and sense of direction.

Since our launch, we have been approached to take on a variety of fascinating and important issues.

In July, we convened a Forum of all ranks of the police, their representative bodies, victims of crime, the public, regulators, academics and government officials to tackle the issue of risk aversion in the police. At the heart of the debate sits the freedom of officers to exercise judgement.

The gain is likely to be greater effectiveness, less bureaucracy, more time out and about, reassuring and engaging with the public at local community level.

The problem is that greater freedom is likely to lead to more mistakes, mistakes that in the past have been met with intolerance and inevitable consequent risk aversion.

Why the intolerance? Due to a large part because we the public bay for the blood of the police when anything goes wrong – why wouldn't we, we have nothing to lose do we? Well yes we do – a risk averse, bureaucratic police force is not well equipped to serve our best interests.

Unpick these issues, see the whole picture, and engage the public in the full debate and a different conversation emerges almost immediately. Instinct gives way to reason and new solutions become possible.

Sir Ronnie Flanagan recognised this in his report and that is why he asked the RRAC to help.

And likewise, we convened a Forum last month, at which Judith and our RRAC Chair Rick Haythornthwaite led the discussions, to better understand how the HSE can couch its regulatory code to encourage SMEs to deliver better, safer workplaces with minimum process burden.

The current principles-based code seems to scare rather than inform bosses in small firms – they want rules, boxes they can tick to say they have got the job done.

There is also the role of what we call the risk actors. In this case they are the insurance companies and brokers and the lawyers. The SME must have conducted a risk assessment to get the compulsory insurance that they need.

As they struggle with the principles-based code in conducting their risk assessment it seems that they often call on consultants, some good accredited ones, some bad, some indifferent – all at a cost.

When they're not fretting about insurance they are looking over their shoulders at the burgeoning law firms advertising their no win no fee wares to the public – you know, like the one where the bloke falls off a ladder at work and breaks his leg, sues the company and gets several thousand pounds.

Oh well, I'll claim it back from the insurer says the employer.

Do we blame the insurers? Do we blame the lawyers? We wouldn't get much public support for doing that. But there must be a more effective way of avoiding the accident rather than focussing on compensation.

We are seeking to find a way through this dilemma with the support and involvement of the HSE.

Add to that questions around how to truly engage the public in tackling obesity, communicate flooding risk so as to inform not alarm and avoid regulatory storms such as appears to gathering around the binge-drinking issue and you have our work agenda for the coming 6 months.

And we offer support and praise where we think that politicians or civil servants have got things right – we have just written to Ed Balls supporting his calm approach to the Baby P tragedy.

We also tackle the little questions and conversations because our goal is not really to take on the specific issues but, by doing so, change the culture of risk policy-making both in government and in the wider risk community, providing examples and practical processes.

To change culture you have to change the content and tone of all the relevant conversations – both big and small. And we include the conversations that take place in the pages of our national newspapers and on radio, TV and the internet.

It is not unknown for staggering inconsistencies therein too for example when a national daily paper has on one page a story saying that immediate regulatory intervention is imperative to prevent harm to people and on the next page accusing the Government of the day of running a nanny state. The public must be both protected and resilient at the same time apparently.

Likewise, we take on the risk entrepreneurs when it make sense and makes a point. So recently, when the BSI put a standard out for consultation that would have imposed a considerable burden on land owners and would probably have led to people cutting down trees unnecessarily all to address what appeared to be a minimal risk we spoke up.

We feel that the RRAC provides a model of how an independent voice can work with government constructively, act as an impartial nexus with all those with something to contribute to matters of risk, most notably the public, and help debunk the many myths that are a feature of the risk world.

I would just like to take the opportunity to congratulate the HSE for their “Mythbusters” exercise, by which they debunk some of the most inaccurate “it’s the ‘elf and safety again” stories. (Council doormats ban example)

We are just one part of a tool kit.

Increasingly, policy reform initiatives around Whitehall have started to look beyond process to tackle the myriad of conversations that shape thoughts and actions.

Meanwhile, behavioural scientists have entered the fray – concepts such as “Libertarian paternalism” – making use of a default option but allowing people to opt out if they prefer - are entering the lexicon and practice.

The RRAC is deeply encouraged that change is happening – risk has moved centre stage. Its understanding and influence is so important to matters of policy making, regulation and our lives in general.

That is why the supremacy over reason in its battle with instinct is so important. That is why we believe that we, the RRAC, can at least for now contribute something extremely valuable.