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Open policy making

I recently read the unflinching external review report on the DTO's Gov.au "alpha" release [www.dto.gov.au/standard/assessments/gov-au-alpha/] and it made me wonder what would happen if we applied the discipline and structure of good digital asset design - in this case, rebuilding the federal government's web front end - to the business of policy making.

The question forms part of a longer standing speculation about the relative lack of progress we've witnessed in the application of the tools, culture and practice of "digital transformation", which have mostly been used in a service delivery context, to the way we conceive of, and execute, the policy process.

By and large, the deeper reaches of the policy world have been relatively "transformation free", at least in the sense we've witnessed how the mantra of digital disruption has upset many of the instincts and habits of work in other part of the public sector. That has been the result, I think of a mix of pragmatism (start at the relatively easy end of the spectrum with service delivery) and more or less stout resistance from those anxious, for a whole range of reasons, to preserve and entrench the inviolability, and even elements of the mystery of their work.

What struck me about the external review report, written by reviewers from the UK's Government Digital Service (on which the Australia DTO has been closely and deliberately modelled), is the combination of three factors which framed the task of designing and implementing a digital service or asset.

The first factor is an agreed, accessible and authoritative basis of **design 'rules' and principles** that define the context and process of design, build and implementation; in this case, the whole process is governed by the DTO's design rules.

The Digital Service Standard [www.dto.gov.au/standard] consists of 14 principles or criteria against which all digital design and delivery should be judged. Their purpose is simple:

The Digital Service Standard establishes the criteria that Australian Government digital services must meet to ensure our services are simpler, faster and easier to use. Meeting the criteria means we can consistently provide high quality services and satisfy our users' needs.

Some of the criteria include "understand user needs", "...use an agile and user-centred approach," "measure user satisfaction and... measure and report other metrics publicly" and "make sure the service is simple enough that users success first time unaided."

The second factor is an **open process of external review** designed to hold the people doing the actual work to account. But, although the approach can be tough and uncompromising, it doesn't appear to be undertaken in a traditional "audit" mode which often privileges the search for mistakes and someone to blame. In this case especially, the report seems to be a genuine process of shared learning to speed up the process of getting to a successful conclusion.

The third factor is what I would describe as **radical legibility**. This implies going beyond the important, but lower standard of visibility or even transparency, but to make the process of development and critical review as open and public as possible so people can

literally "read" what's going on and have half a chance of understanding it, and therefore assessing its value.

I appreciate there are libraries of text books and handbooks that spell out the way policy should or could be done, in different contexts. But as I read the GDS report – clear, direct, unwavering and helpful – I wondered what would happen if the three elements that framed this project - agreed design rules or principles, external, open and expert review and radical legibility - were accepted as the basis on which, in most cases, policy development is undertaken?

The question engages the movement for "open policy" which now has at least a foothold in some public sector contexts.

For example, there is an open policy program in the UK civil service, [www.openpolicy.blog.gov.uk] defined as "better policy making through broadening the range of people we engage with, using the latest analytical techniques, and taking an agile, iterative approach to implementation."

As part of the program, there is an open policy making kit UK [www.gov.uk/guidance/open-policy-making-toolkit/getting-started-with-open-policy-making]. The kit reflects a view that open policy making is about:

...developing and delivering policy in a fast-paced and increasingly networked and digital world through:

- using collaborative approaches in the policy making process, so that policy is informed by a broad range of input and expertise and meets user needs
- applying new analytical techniques, insights and digital tools so that policy is data driven and evidence based
- testing and iteratively improving policy to meet complex, changing user needs and making sure it can be successfully implemented."

The Institute of Government in London has written a report on open policy making [www.instituteforgovernment.org.uk/publications/opening-policy-making].

It points out that "more open policy making is counter-cultural." For the most part, the report goes on to explain that "the policy-making norm is for policy to be developed in one government department (or maybe by a number of departments, under a lead), behind closed Whitehall doors. That policy will then go for sign-off through the Cabinet Committee process. There will then be a 12-week consultation on a document that sets out the Government's approach. If the Government needs to legislate there may (or may not) be a draft bill and pre-legislative scrutiny."

Making the process more open and porous requires different skills from civil servants, who need to be what the report describes as "enablers and expert process designers rather than trying to monopolise the policy making input behind closed doors". They also require ministers to be clear about areas that are off limits, but also to be prepared to engage with a much more open mind on issues that are in play.

The recent social policy framing paper from the ALP, released rby Jenny Macklin [<http://cdn.australianlabor.com.au/documents/Growing-Together.pdf>] includes a significant set of commitments to what the same instincts as these earlier examples of open policy making.

To that extent, the paper reflects a deal of dissatisfaction with a policy process seen often to be distant from, and perhaps even disrespectful to, those whose expertise and experience is often either diminished or excluded altogether and, even more, from those meant to be the beneficiaries.

The paper notes, in common with most policy discussions these days, that governments alone cannot tackle all of society's challenges. It argues that "families, neighbourhoods

and grassroots organisations are the backbone of strong and cohesive communities” and that “local issues often have local solutions, and they should always have local input.”

The problem is that, too often, “policy development... exists in a vacuum, removed from experts outside government, organisations that deliver services, and most importantly, the people that policies affect.”

The ALP social policy framework accepts that “politicians are frequently seen as too far removed from the people most affected by the decisions they make.” Too rarely do we have open, public debates about the kind of society we want to live in, and how we can create it.

It goes on:

“Strengthening citizen engagement in politics and policy development enhances the quality of those debates. It also recognises that governments do not have a monopoly on ideas. There are plenty of important actors in civil society – community groups, trade unions, Indigenous and culturally diverse organisations, business, churches and philanthropic foundations. All of these groups and more have a role to play in coming up with good ideas and creating positive change.”

It notes that, in the UK, a debate is underway about how governments can facilitate “a shift away from a reliance on centralised control over service provision, to a greater emphasis on local leadership and community-controlled service management and delivery.” It concludes that “increasing centralisation of power and control can lead to narrow forms of governance that are too far removed from the people impacted by decisions of government.”

You get the point. And the real point of the argument in this part of the policy framework is this:

Australia has a history of devolving responsibility for service delivery to non-government agencies. Not-for-profit and community sector organisations are funded to deliver services for disadvantaged groups. More recently, for-profit businesses have been contracted to deliver employment services or aged care. *However, these models rarely devolve responsibility for policy development, program design or decision making.* (Italics added)

And to reinforce these insights, a recent report from the UK’s Institute for Public Policy Research, The Condition of Britain [www.ippr.org/files/publications/pdf/the-condition-of-britain-June2014.pdf?noredirect=1] argues that “too much power continues to be hoarded by politicians and civil servants at the centre of government, and too little is in the hands of the people and places that could do the most with it.”

These manifest deficiencies in the policy making process point to at least of the elements of digital asset design and delivery that the Gov.au initiative has used to ensure an impact that is in line with the DTO’s mandate – to make services clearer, simpler and faster. To the extent that the open policy making critiques imply a more complete devolution of power and control in shaping and making policy, it implies the need for an approach which is more in line with the way DTO is prosecuting its work.

One of the most recent, and one of the best, expositions of the urgent need to invent some new practices and tools of open policy making, along the lines of the DTO’s framework, is a book based on her work with the GovernaceLab at New York

University [www.thegovlab.org/] by former Deputy CTO for Open Government in the first Obama administration, Beth Noveck.

The book *Smart citizens, smarter state: the technologies of expertise and the future of governing* <http://www.hup.harvard.edu/catalog.php?isbn=9780674286054> offers a persuasive

critique of many of the aspects of current and traditional policy making against whose baleful consequences the open policy movement is working.

In many ways, Noveck's argument goes wider and deeper than many of the earlier examples. She certainly pushes the discussion beyond the more or less creative use of traditional means of making government more porous, including things like using consultations to seek feedback on draft policy papers, inviting people to sit on various types of expert panels and committees, including (in the Australian context) royal commissions. Her careful analysis makes the case for a more profound shift in the architecture of power, authority and participation, akin perhaps (by her own analogy) to the introduction by Henry II in England of the jury as an integral part of the justice system.

Noveck's point is that too much deep expertise and experience is being systematically omitted from the policy making process because (a) it is, almost by definition, diffuse and distributed and (b) what she describes as the "technologies of expertise", which are already proving themselves adept at the task of finding, curating and connecting requisite expertise (properly understood) for better problem solving, have not yet infiltrated deeply enough into the rhythms and contours of the policy making process.

At base, she argues that our problem is that, even those of us who might consider ourselves ardent democrats waiver in our faith "that citizens possess the knowledge and the competence needed for participation in governing." The answer is to go beyond old fashioned politics and ballot counting "to build conversational infrastructure that connects diverse people and what they know to our public institutions"

What we've developed over time (and many of the examples in the book are drawn from the US) is a decidedly random or "broken, staccato rhythm" of citizen engagement. The consequence is that we've become inured to a system in which "people are infrequently asked to do more, to participate in deliberative polls or citizen assemblies, they are asked to watch, but not to act, to keep government accountable, but not to join in..."

New networked technologies allow us to transcend the anachronistic reflex of policy making because they "allow us to divorce the concept of expertise from elite social institutions and [create] tools to enable neural identification of talent and inability - whether of those inside or outside government, with credentials of craft knowledge..."

Beth Noveck argues here, as she has before in her work on "wiki" government [www.amazon.com/Wiki-Government-Technology-Democracy-Publications/dp/0815702752] that we have reached a stage where it is not just possible, but increasingly imperative, to make government and governing both more participatory and more expert.

She makes this point:

"If [people] have knowledge relevant to governing and problem solving - whether or not they are part of a credentialed elite - they will get called upon more often and given more responsibility in much the same way that meritocracies emerge in open source programming...it does establish hierarchies of responsibility and talent; it does create its own forms of elites. But the opportunity is distributed, decentralised and open to all."

The problem, she argues, is not professionalism per se but one of "exclusionary and exclusive practices that limit participation and collaboration with those outside government, including other elites and credentialed professionals as well as those with practical know-how."

This is the way IPPR's *The Condition of Britain* report I quoted earlier puts the same idea...

A process of social and economic renewal must seek to marshal all of the resources that reside in everyday life, harnessing people's time and talents, and drawing on the strengths and experience of civil society in all its forms. This will

require steps to both promote and reward contribution across society, strengthen civic and state institutions that mobilise contribution, and embed reciprocity much more strongly in our welfare system.

What this points to is the need to experiment with new ways of tackling public problems and a different way of doing public work. What Beth Noveck, the IPPR report, the ALP's new social policy framework and the other examples I've drawn from all reinforce is the need to rethink how we conceive of, and then execute, a shared "public purpose" at the heart of our collective lives. It is akin to the call by Indian entrepreneur, public policy academic, politician and scientist Ashwin Mahesh [www.ashwinmahesh.in] to adopt an approach which reflects this insight:

"More than looking for solutions, what we need today is to increase the number of problem-solving people. Each one of us can be a change-maker."

I am not arguing that all policy all of the time can be open policy. Clearly, there are situations where a requisite discretion, even secrecy, has to be expected. I'm not advocating the replacement of one unhelpful orthodoxy with another.

But I am suggesting that it would be worth some experiments to see how to translate the kind of open, rigorous, collaborative and honest approach to which DTO is subjecting itself in much of its work, including the reflexive and promiscuous use of the tools, platforms and mindsets of genuine digital disruption, to the way we develop and design policy.

To the extent that "open government" fails to invade the policy terrain, replete too often with stubborn instincts for opacity and exclusion, it fails in an important dimension of its difficult, but necessary mission.