

Better regulation for sustainable development

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SDC – Review of Public Service Regulators



Introduction

This discussion paper considers the case for using regulation as a lever to promote sustainable development in public services. It looks at the remit of the public services under review, at government policy on regulation, the changing role of regulation in public services and at new approaches to risk-based regulation. It asks whether sustainable development is an appropriate subject for regulation, how far it is relevant to the remit of the public services under review and whether regulation is a suitable way of promoting sustainable development. It draws conclusions about the conditions and circumstances that are likely to enable regulation of public services to promote sustainable development.

The paper contributes to a review by the Sustainable Development Commission of the three main public service regulators in England: The Audit Commission, Ofsted and the Care Quality Commission (formerly the Healthcare Commission). It draws upon a seminar in October 2008, supported by IDeA (the improvement and development agency for local government) and LARCI (the Local Government Research Council Initiative, where participants included experts from public services, academia and regulatory bodies, and on presentations and working papers commissioned for the purpose.

Public service regulators

The public service regulators under review share key objectives. They aim to prevent harm to those who use the services, to maintain and promote improvements in the quality of outcomes for service users, to ensure consistent standards across the country and to see to it that resources are used effectively and efficiently to achieve these objectives. This applies across local authority services, children's services and education, health and social care.

The Audit Commission describes itself as 'an independent watchdog, driving economy, efficiency and effectiveness in local public services to deliver better outcomes for everyone'. Working across a wide range of local services, it aims to raise standards of financial management and reporting, to

challenge public bodies to give better value for money, to encourage continual improvement in services to meet changing needs and provide fair access for all, to promote high standards of governance and accountability and to stimulate better quality and use of information.¹

Ofsted inspects and regulates 'to achieve excellence in the care of children and young people and in education and skills for learners of all ages. It aims to 'raise aspirations and contribute to the long term achievement of ambitious standards and better life chances for service users' and is required by the law that extended its brief from 2007 'to promote service improvement, ensure services focus on the interests of their users, and see that services are efficient, effective and promote value for money.'²

The Care Quality Commission brings together regulation of health and adult social care from April 2009, aiming to 'regulate services to ensure quality and safety standards, drive improvement and stamp out bad practice, protect rights of people who use services, provide accessible, trustworthy information and independent public accountability on how commissioners and providers of services are improving the quality of care and providing value for money.'³

'Better regulation' policy

Any consideration of the role of public service regulators must take account of the Government's 'better regulation' policy. This aims 'to eliminate obsolete and inefficient regulation, create user-friendly new guidelines and tackle inconsistencies in the regulatory system.' According to the Department for Business, Enterprise and Regulatory Reform (BERR), the Government wants regulations that are 'easy to understand and simple to follow, that complement, not complicate, the way people work, and keep the UK competitive'. It aims to achieve this by: 'using targeted measures to simplify and improve existing regulation; communicating more clearly with businesses, to help them understand what they must do to comply; carefully assessing the impact of any new regulations, and working with the EU to improve European guidelines.'⁴

While the main impetus of better regulation policy has been to cut red tape for businesses, it clearly extends to public sector organisations. The 2008 Annual Review of the Better Regulation Executive, for example, declares that the Government is 'committed to simplifying the administrative burden of complying with regulations, and has set a target of reducing the burden on business by 25% and reducing public sector data burdens by 30% by 2010.⁵

A key message is that the 'burden' of regulation must be reduced. Throughout the last decade, at least until the last quarter of 2008, there was a firm commitment at the heart of Government to 'simplify' regulation. This would be done, where possible, by removing regulation from the statute books altogether (deregulation) and otherwise by consolidating and rationalising regulatory measures that could not or should not be removed.⁶

There are enduring tensions between the commitment to reduce regulatory 'burdens', and the need to ensure that government policies aimed at the proper use of public funds and at managing risks to public safety and well-being are effectively implemented across the private, public and 'third' sectors. The 'better regulation' agenda is therefore not just about reducing burdens but about sound guidance and good practice. The five principles of good regulation, first published by the Better Regulation Task Force in 1998 and revised in 2000, remain central to government policy:

Proportionate: Regulators should only intervene when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised.

Accountable: Regulators must be able to justify decisions, and be subject to public scrutiny.

Consistent: Government rules and standards must be joined up and implemented fairly.

Transparent: Regulators should be open, and keep regulations simple and user friendly.

Targeted: Regulation should be focused on the problem, and minimise side effects.⁷

The climate of opinion about regulation has been changing since the collapse of financial markets prompted the IMF to describe a "collective failure" to appreciate the risks incurred by financial institutions, blaming lax regulation by governments.⁸ Once it is acknowledged that risks to the environment are just as grave as those currently faced by global markets – and that these risks are inextricably linked – the case for regulating for sustainable development should be strengthened.

The changing role of regulation

Where public services are concerned, regulation has become increasingly important as more services are provided by independent or semi-independent bodies. This reflects a trend in politics to favour 'arms-length' governance over hands-on control by Whitehall or town hall. Rather than owning services and managing them directly, the Government sets objectives and standards, and introduces new processes to ensure that these are observed and met. It contracts-out responsibility for ensuring quality and probity to the regulators.⁹

This way, regulation is intended to complement performance management regimes within the services. The regulators are responsible for promulgating – and sometimes for developing – minimum standards and pathways towards improvement, helping to ensure that they are agreed, articulated and understood, and for assessing performance against them. They also ensure that appropriate information is generated and publicised in order to demonstrate how far standards are met and improvements achieved. Where services are provided by independent organisations, the regulators not only complement the commissioning process, but in some cases regulate the process itself.

The three regulators under review explicitly act on behalf of service users and the wider public, listening and consulting, defending their interests, acting as champions and protectors, providing them with information, and involving them – variously – in decisions about how to develop and implement regulatory processes.

When things appear to go wrong, there is often a public clamour for more or tougher regulation. For their part, regulated bodies often say they want clarity about the standards they are

expected to meet and welcome input from regulators to help them improve; on the other hand, they don't want to have to jump through too many hoops or fill in too many forms. So there are overlapping discourses about different kinds of risk: one is about reducing risks of harm or poor quality services for the public; another is about reducing risks of excessive administrative burdens that might limit the capacity of regulated bodies to do their job properly. Tensions are exacerbated by poor and often conflicting information about what constitutes a risk and how risks should be managed, according to the Better Regulation Commission, which reported in 2006 that the public and media express contradictory views: 'calls for government action are just about balanced by calls for government to stop interfering'.¹⁰

New approaches to regulation

The whole field of regulation is evolving. Reflecting the move towards arms-length governance of services, the balance of regulatory activities is shifting from direct enforcement through auditing and inspection to risk-based assessment. This relies on the regulated bodies making their own assessments of their performance and outcomes against standards set by government and/or the regulators, which are then cross-checked by the regulators, by comparing the self-assessments with information from other sources.¹¹ Closer scrutiny and inspection are reserved for organisations that appear to be under-performing. Findings are made public and improvements are triggered in three main ways – by public pressure to improve or stay ahead as service users respond to information from regulators, by regulators specifying changes that need to be made in the light of their findings, and *in extremis* by defaulting organisations losing their contract or licence to operate.

This model, which can be described as enforced self-regulation, depends on there being a clear understanding between regulators and regulated bodies about what is to be complied with, what constitutes compliance and how compliance is demonstrated.¹² It relies heavily on gathering and processing information, and on effective communication with service users as well as with providers. It is intended to be 'light-touch' and collaborative, minimising

administrative burdens and costs, and generating trust between government, regulated bodies, service users and the wider public. It aims not just to enforce specific requirements, but to encourage creativity and to promote behavioural and organisational changes that improve outcomes.

The development of risk-based regulation can be seen as part of an effort in policy circles to put risk management in perspective. It is acknowledged that regulation is neither the only, nor always the best way to safeguard the public interest. Inappropriate or excessive regulation, however well-intentioned, is likely to incur unacceptable costs and have negative side effects. Public pressure, individual users' choices, locally-generated initiatives and strong management towards clear goals all have a useful part to play in managing risks. The challenge is to identify the proper limits of regulation, to prevent it drowning out other activities that may be more effective, and to realise its full potential.

Another significant change is the move towards local cross-sectoral regulation. The new Comprehensive Area Assessment (CAA) is concerned with people's experience of place, rather than just with the quality of individual services. The CAA is led by the Audit Commission but involves seven regulatory bodies (including the two others under review). It takes a whole-systems approach, looking across councils, health bodies, police forces, fire and rescue services and others responsible for local public services, reflecting a growing expectation that these 'work in partnership to tackle the challenges facing their communities'. From April '09, it will focus on highlighting barriers to improvement and identifying success and innovation. It plans to be 'a catalyst for better local outcomes, more responsive services and better value for money' as well as 'a source of independent information' and 'a means of rationalising and coordinating inspection'. The issues assessed in each area 'will reflect local priorities for improving quality of life and protecting people at most risk of disadvantage'. These might include, for example, access to healthcare or housing, fear of crime or reducing carbon emissions.¹³

Regulating public services for sustainable development

We turn now to the question of how far public service regulators should play a part in promoting sustainable development. We ask first whether sustainable development is an appropriate subject for regulation, then to what extent it is relevant to the remit of the public services under review. We next consider whether regulation is a suitable way of promoting sustainable development. Finally, we consider what conditions and circumstances are likely to help public service regulators to promote sustainable development.

Is sustainable development an appropriate subject for regulation?

The biggest challenge is that sustainable development remains a loose and often contested concept. How the meaning of 'development' and the needs of future generations are understood, tends to be subjective.¹⁴ The use of regulatory tools is generally justified in terms of the public interest, but that depends on there being a clear consensus about what the public interest is.¹⁵ The five principles outlined by Government offer a wide definition of sustainable development;¹⁶ there is a danger of over-inclusion, making regulation too loose and compliance less likely.¹⁷ A concept that is holistic and broadly defined is open to a variety of interpretations and is harder to measure, check and count; analytical systems that are being developed to overcome these problems are not yet fully tried and tested.¹⁸

However, it is already government policy to promote sustainable development across all parts of government and government-related activities. Sustainable development has been extensively defined beyond the five principles, with indicators for tracking progress across the UK, covering four priority areas: sustainable consumption and production, climate change and energy, natural resource protection and enhancing the environment, and creating sustainable communities and a fairer world. Some analytical techniques to measure elements of sustainable development, such as Life Cycle Assessment, are reaching high levels

of sophistication and consensus, not only in the UK but in other OECD countries.

A regulatory framework already exists, in which the UK Sustainable Development Commission works with government departments and agencies to help them establish sustainable development action plans and to review their progress. Arguably, a logical next step could be to engage other regulators, through the subsidiarity principle, in promoting a shared set of objectives across the public sector.

A principled argument for using regulation to promote sustainable development is that it is essentially about safeguarding the interests of future generations. Society, environment and economy are held in trust by the present generation who are both trustees for future generations and beneficiaries of past ones.¹⁹ There may be conflicts of interest between current and future generations which cannot be resolved by market choices or other means. Whilst not the only possibility, regulation is certainly one of the most important ways to safeguard the interests of citizens yet unborn or too young to stand up for themselves - especially in times of economic recession, when the temptation to favour short-term benefits may be most acute.²⁰

To what extent is sustainable development relevant to the remit of the public services under review?

If sustainable development is an appropriate subject for regulation in general, how far is it suitable for inclusion in the regulation of public services? How far is it relevant to their core business?

It may be argued that making public services accountable, through regulation, for assuring sustainable development as well as for delivering high quality services and good outcomes for service users, could be an unnecessary distraction. This suggests that sustainable development is marginal to local government and children's services, education, health and social care - or that at least some of these services can be provided effectively without regard to sustainable development. Regulators have limited resources and should focus them intently on assessing service quality and outcomes.

On the other hand, 'a strong, healthy and just society' is one of the five key principles underpinning the government's sustainable development strategy, which applies across all sectors. *Securing the Future* makes it clear that the government expects 'the public sector to be a leading exponent of sustainable development'.²¹ The public services under review have a central role to play in securing a strong, healthy and just society, through local government, education and children's services, health and social care. This is reflected in the national sustainable development indicators, which cover, *inter alia*, society, employment and poverty, education, health, mobility and access, social justice and environmental equality, and well-being.²² On that basis alone, sustainable development can be regarded as a key function. In addition, it can be argued that only by promoting all five principles can public services achieve many of their service-related objectives.²³

A service 'outcome' cannot be rated a success if it brings short-term benefits with negative medium and long term impacts on society, environment or economy. For example, there is a growing body of evidence that failure to protect the natural environment and reduce carbon emissions carries grave risks to human health; one of the key components of the Care Quality Commission's 'vision' is that it will 'help to prevent illness, and promote healthy, independent living'. Preventing illness and promoting well-being require policy and practice that not only promote a 'strong, healthy and just society', but also safeguard the natural environment, promote a sustainable economy and good governance, and use sound science responsibly (these being the five principles of sustainable development).

Sustainable development is something regulators will need to engage with and some are already doing so. The Audit Commission and Ofsted have both made considerable progress, seeing sustainable development as something that relates to their core functions. The new local performance framework, the Comprehensive Area Assessment (CAA)²⁴ is led by the Audit Commission, but run by seven relevant public service regulators. It is designed to both provide regulatory information on progress against national priorities, and also provide citizens and local services with a clear

picture of their locality and its achievements. The new CAA framework 'is inherently about sustainability. Sustainable development is as much about long-term social and economic benefit as it is about respecting environmental limits. It is about building a strong, healthy and just society. Sustainability considerations will be embedded within the three main area assessment questions which will look for evidence of genuinely integrated outcomes'.²⁵ Ofsted have published a sustainable development action plan,²⁶ which sets out actions relating to both its internal affairs and how to move toward regulating for sustainable development. They have also created a sustainable development lead at Director level.

The regulated bodies are all required to give good 'value for money' and use their resources responsibly. Spending money in ways that are unsustainable, for example by procuring carbon-intensive goods or services, may achieve short-term gains, but will jeopardise capacity to provide high-quality services in future. Viewed in this light, sustainable procurement and use of resources can be seen not only as integral to the effective management of public services, but also as a legitimate concern for the public service regulators. To illustrate this, the new CAA Use of Resources assessment includes key lines of enquiry relating both to the use and management of natural resources and to sustainable procurement.²⁷

Is regulation a useful way of promoting sustainable development in public services?

If sustainable development is an appropriate subject for regulation and relevant to the core business of public services, is regulation a suitable way of promoting it?

Outside the public sector, regulation is supposed to compensate for market failure.²⁸ Within public services, where markets are absent or constrained, regulation can safeguard the public interest where other mechanisms, such as public pressure, individual users' choices, locally-generated initiatives and strong management towards clear goals, cannot be relied upon to ensure consistently high quality, good outcomes and value for taxpayers' money.

The following arguments have been made against using regulation to promote sustainable development in public services. Each has merit and should help to shape our approach to regulation in this field:

- It can't be done because sustainable development is too loose and all-embracing a concept to be effectively assessed
- Attempts to regulate will lead to 'box-ticking', distorted assessments and gaming by regulated bodies, and can generate a false impression of progress
- Regulation can act as a straight-jacket, stifling creative and innovative ways of meeting the challenges of sustainable development
- Neither the regulators nor the regulated bodies have the necessary knowledge or skills to play their part
- It will impose an unreasonable burden on regulated bodies, with the costs outweighing the benefits
- There are better ways of managing risks associated with unsustainable development.

Sustainable development too loose and all-embracing

It is certainly true, as noted earlier, that sustainable development is broadly defined through the five principles and open to varying interpretation. By necessity and intent, it reaches into most corners of human experience and into most parts the public realm. Nevertheless, considerable effort has been devoted to unpacking the concept and specifying its components. Progress towards sustainable development can only be assessed in terms of these components – and some are easier to measure than others: the carbon or water footprint of a school or hospital may be easier to measure than, say, the extent to which a local housing project contributes to the residents' well-being, or the longer-term social, economic and environmental costs and benefits of a scheme to encourage walking and cycling.

This points to the need for an incremental approach that will design and test indicators in different areas of sustainable development, and work with service users and regulated bodies to develop meaningful goals and compliance criteria. The national sustainable development indicators provide a useful starting point, but

may need to be customised for different services and localities. The best way to tackle the problem of a loose and all-embracing concept is to start with what can be scrutinised effectively, to keep testing indicators and methods, and to work out new ways of assessing progress over time – while never assuming that what cannot be counted does not matter. Sustainable development can be assessed in terms of measurable components, but cannot be reduced to what can be measured. The Audit Commission has recognised that, in order to impact positively on public services, they need to promote a holistic view of sustainable development, emphasising not only its components, but its overarching nature, as expressed in their sustainable development approach document: 'A sustainable development approach demands that economic, social and environmental issues are addressed together.'²⁹ To this effect, they have introduced an extensive training programme in sustainable development for all of their inspectors.

'Box ticking', distorted assessments and gaming by regulated bodies, and false impression of progress

The problem here is that public service organisations may be encouraged to see sustainable development merely as a set of indicators, oversimplify the challenge and deploying superficial ways of satisfying the requirements of the regulator. If regulated bodies focus their energies on observing the superstructure of rules they face, rather than embracing the values that underpin them, the original goal may be displaced.³⁰

The components of sustainable development that are easier to measure are not always the most important. For example, 'good governance' may include engaging service users and the wider public in decisions about planning and delivering services. It is relatively easy to count how many have participated in a consultation, or to sample opinion through quantitative surveys. It is much harder to trace how far and to what effect people's views and experiences are taken into account in subsequent decisions – yet 'engaging' people is surely no more important than acting on what is learned from that engagement.

One way to tackle this problem is to build up a more comprehensive range of indicators over time, as suggested above. Another is to recognise the limits of quantitative analysis and build opportunities for qualitative learning into the design of regulatory systems.³¹ When regulators combine their efforts, working across sectors as with the Comprehensive Area Assessment, it is less likely that critical issues will be left out or overlooked. But in any case, regulation must be combined with other measures to ensure progress towards sustainable development, as discussed below.

Regulation as a straight-jacket, stifling creativity and innovation

If the pressure to comply with narrowly defined regulator requirements shapes the way organisations operate and dictates their priorities, it will very likely discourage risk-taking and initiative.³² Sustainable development is a relatively new and uncertain field of activity, regularly presenting new challenges as more is known about it. As such, it cries out for innovation and creativity.

Here, the method of regulation can make a difference. Unlike audit and inspection, where the regulation becomes reactive and the regulator becomes the dominant actor, risk-based assessment can be a collaborative approach that enables the regulator to work with the regulated body, offering advice and encouragement to find creative solutions.³³ A system that is responsive to the professional and organizational cultures of those being regulated is especially important, given the complex and multilayered circumstances within which health, education and local government services operate.

Neither the regulators nor the regulated bodies have the necessary knowledge or skills to play their part

There can be little doubt that capacity is a problem. Knowledge and skills that are needed for promoting sustainable development in public services, and regulating its promotion, are at a premium, not least because this is a new and under-developed area of concern. Investing in building the capacity of regulators and regulated bodies must be a priority. If sustainable development is seen as integral to the purpose and functions of public services, it

should be possible to justify that investment. By January 2008, the Audit Commission had provided basic training in sustainable development to all of its staff and work is underway to upgrade that training for auditors and other key staff.

An unreasonable burden, with the costs outweighing the benefits

Regulation cannot be defended unless the costs of intervention are less than the failures that regulation is intended to avert.³⁴ However, the aim must be to focus not merely on the current price of regulation but also on its value for the future. While it is difficult to calculate harm to future generations, there is sufficient evidence of potentially irreversible risks associated with failure to develop sustainably, to justify a precautionary approach.

Risk-based assessment is arguably a less resource-intensive method of regulation than direct inspection. If this kind of enforced self-regulation also encourages creativity and innovation by the regulated bodies and keeps data processing within reasonable limits, the benefits should outweigh the costs.

In addition, regulation may bring advantages that are not directly associated with assessment. Regulating for sustainable development gives out signals about its importance, reflecting strong leadership from central government. Where many public services are concerned, priority is given to targets set by government and to goals that carry sanctions for failure to achieve them. If public service organisations are given the message that they *should* behave in sustainable ways, yet are not formally assessed on this front, then they are much less likely to give it high priority. Sustainable development will thus remain a marginal activity, championed by enthusiastic individuals. But if goals are backed by regulation they are much more likely to lead to mainstream action and systemic change.

Regulators exert influence not just through their assessment regimes, but also by the statements they make in public and through dialogue with government, regulated bodies and the wider public. As high-profile watchdogs, acting on behalf of citizens, they can set the tone and alter the climate of opinion. More directly, they can ensure that information is generated that is

useful for the promotion of sustainable development.

Benefits associated with leadership, incentivising managers, influencing opinion and generating useful information should be weighed against the costs of regulation.

Better ways of managing risks associated with unsustainable development

We have noted that there are ways other than regulation of promoting sustainable development and thereby helping to reduce risks associated with unsustainable behaviours. These include public pressure, individual users' choices, locally-generated initiatives and strong management towards clear goals. For example, the IDeA offers a 'Sustainable Energy Benchmark and Toolkit' and a guide to enable councils and their partners to evaluate their approach to climate change, and is developing a Local Sustainable Development Lens (see main report Annex 1).

We have discussed the possibility that regulation can turn an optional extra into a must-do. It will work best if it is carefully calibrated with other levers. Regulation that focuses on risk-based assessment and collaborative working, and on generating useful information for public consumption, should strengthen, rather than undermine these other levers. Effective performance management will always be important for promoting sustainable development; when it is backed up by regulation, there will be clearer and stronger incentives for managers to give it priority.

In conclusion: how can regulation help to promote sustainable development in public services?

Returning finally to government policy on 'better regulation', is it burdensome to expect regulators to promote sustainable development in public services? We have argued that sustainable development is an appropriate subject for regulation and that it is integral to the core purpose and functions of public services – both because they have a key role to play in promoting the government's policy on sustainable development and because they can only meet their service-related objectives effectively if they do so sustainably. What's

required is not less or no regulation for sustainable development, but a better understanding of how public services meet their goals. Similarly, if regulating for sustainable development means generating more information on components of sustainability, that information should be a spur to better management, not an additional 'data burden'.

What remains is to ensure that regulation follows the principles of good regulation and is designed to meet the particular challenges of sustainable development in public services. The following pointers have emerged from this discussion:

- It will be important to select components of sustainable development that can be clearly specified and scrutinised, and to test these in practice, amending them where appropriate and developing further indicators incrementally, customised to the services in question
- Regulators should be able to gather and process qualitative as well as quantitative knowledge, in order to capture the complexities of sustainable development
- It should be recognised that sustainable development cannot be reduced to what is measureable and that regulation is unlikely to cover all aspects of sustainable development effectively
- Regulation must be developed with and anchored, in the experience, understanding and support of service users and the wider public
- The regulators should work collaboratively with the regulated bodies to develop meaningful indicators and compliance criteria, using methods that complement performance management and encourage creativity and innovation
- Risk-based regulation, using self-assessment and cross-checking is likely to be more effective than regulation based only on audit and inspection. It should be designed to generate useful information, promote improvement and contain costs
- It should always be clear to regulated bodies as well as to service users and the

wider public where responsibility lies for promoting sustainable development and how responsibility is distributed between the parties involved, as well as what the goals and indicators are, and how compliance is demonstrated

- Regulation is one of many levers for promoting sustainable development. It must be carefully calibrated to strengthen other levers and work productively with them
- Because of their status in the field, public service regulators can encourage action and

shape attitudes and priorities in favour of sustainable development, not only through direct application of their regulatory functions, but also indirectly, through leadership and influence

- Regulators and regulated bodies must have resources to build their capacity, in terms of knowledge and skills, to promote sustainable development directly through public services and indirectly through regulation.

Endnotes

¹ <http://www.audit-commission.gov.uk/aboutus/>

² <http://www.ofsted.gov.uk/Ofsted-home/About-us>

³ <http://www.cqc.org.uk/pdf/CQC%20manifesto%20November%202008.pdf>

⁴ <http://www.berr.gov.uk/whatwedo/bre/policy/page44059.html>

⁵ *Making it simple, 2008 annual review of the Better Regulation Executive* (p4)
<http://www.berr.gov.uk/files/file49780.pdf>

⁶ *Regulation - Less is More: Reducing Burdens, Improving Outcomes*. Report to the Prime Minister from the Better Regulation Task Force, March 2005
<http://archive.cabinetoffice.gov.uk/brc/upload/assets/www.brc.gov.uk/lessismore.pdf>

⁷ <http://archive.cabinetoffice.gov.uk/brc/publications/principlesentry.html>

⁸ The IMF's *Global Financial Stability Report* (April 2008); <http://www.imf.org/External/Pubs/FT/GFSR/2008/01/>

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¹³ <http://www.audit-commission.gov.uk/caa/whatiscaa.asp>

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- ²⁰ Sunstein, C. (2006) *Irreversible and catastrophic* in *Cornell Law Review* 91: 841-898.
- ²¹ <http://www.defra.gov.uk/sustainable/government/publications/uk-strategy/documents/Chap7.pdf>, p156.
- ²² <http://www.defra.gov.uk/sustainable/government/progress/national/index.htm>
- ²³ Ackerman, F. and Heinserling, L. (2004) *Priceless: On Knowing the Price of Everything and the Value of Nothing*; Sunstein, C. (1993) *After the Rights Revolution*
- ²⁴ The CAA will operate from April 2009. For further information see <http://www.audit-commission.gov.uk/caa/index.asp> and also the SDC publication *Local Decision Making and Sustainable Development* (2008) (http://www.sd-commission.org.uk/publications/downloads/SDC_Localgov_SD_report.pdf)
- ²⁵ Audit Commission *Comprehensive Area Assessment Framework* (February 2009), page 14.
- ²⁶ [http://www.ofsted.gov.uk/Ofsted-home/Publications-and-research/Browse-all-by/Documents-by-type/Miscellaneous/Ofsted-s-Sustainable-Development-Action-Plan-2008-09/\(language\)/eng-GB](http://www.ofsted.gov.uk/Ofsted-home/Publications-and-research/Browse-all-by/Documents-by-type/Miscellaneous/Ofsted-s-Sustainable-Development-Action-Plan-2008-09/(language)/eng-GB)
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