
article

The impact of participatory policy formulation on regulatory legitimacy: the case of Great Britain's Office of Gas and Electricity Markets (Ofgem)

Elizabeth Blakelock, eblakelock21@gmail.com
University of East Anglia, UK

John Turnpenny, j.turnpenny@uea.ac.uk¹
University of East Anglia, UK

Energy markets policy in Great Britain has been largely delegated from elected representatives to a market regulator: the Office of Gas and Electricity Markets (Ofgem). Regulatory legitimacy requires due process and appropriate expertise to expose the regulator to democratic influence. As the legitimacy of regulatory participation processes start to be discussed more intensively in the European context, this timely article examines the relationship between the use of policy formulation tools and the resulting legitimacy gained by an independent market regulator. It employs a detailed case study analysing how participatory policy formulation tools – deliberative focus groups with members of the public, and stakeholder consultations – were used in energy markets policy formulation in Ofgem between 2007 and 2016. Through assessing the actors, venues, capacities and effects associated with selection and use of the tools, it finds there were inequalities of influence between different policy actors which posed a significant challenge to legitimacy.

Key words policy formulation • tools • regulatory legitimacy • energy markets • citizen participation • Ofgem • energy policy • market regulation

To cite this article: Blakelock, E. and Turnpenny, J. (2022) The impact of participatory policy formulation on regulatory legitimacy: the case of Great Britain's Office of Gas and Electricity Markets (Ofgem), *Policy & Politics*, XX(XX): 1–19, DOI: 10.1332/030557321X16510710879298

The legitimacy of regulators (Baldwin et al, 2012) requires procedures that are sufficiently fair, accessible and open to expose regulators to democratic influence. But how far does movement by regulators towards wider stakeholder engagement, and responsiveness to public and political concerns (Braun and Busuioc, 2020; Haber and Heims, 2020; Koop and Lodge, 2020) actually enhance legitimacy? This is a surprisingly under-researched area, notwithstanding recent studies exploring how stakeholders might engage with economic regulators, both opportunities to engage in existing procedures and their effectiveness (Haber and Heims, 2016; Heims and Lodge, 2018; Braun and Busuioc, 2020; Haber and Heims, 2020; Koop and Lodge, 2020). While some studies have focused on cross-national, cross-sectoral comparison, this article explores how such procedures operate in practice through

a detailed case study. It examines how knowledge and evidence – and ways of gathering these – have been employed in the case of energy markets policy formulation in Great Britain.

This provides a pertinent case. The systems of energy regulation in Great Britain were designed to allow competitive markets that would result in lower energy prices, while maintaining investment in the energy system from private firms (Helm, 2004; Ogus, 2004). Within this governance structure, policies influencing energy prices have been largely delegated from elected representatives to a market regulator (Robinson, 2002; Helm, 2004), the Office of Gas and Electricity Markets (Ofgem). Ofgem was founded in 2000 through the Utilities Act which:

updates the regulatory regime for the gas and electricity sectors to take account of and to facilitate further competition.

Utilities Act 2000 Explanatory Notes C2.7 (The National Archive, 2000)

Ofgem has set the rules on how energy market participants interact, and the limits on their behaviour (BIS, 2011; Ofgem, 2016e).

Our way in is by examining specific types of *policy tools*. Extensive scholarship (for example, Howlett, 2000; 2011; Jordan and Turnpenny, 2015; Capano and Howlett, 2020; Bali et al, 2021) distinguishes between *substantive* and *procedural* tools. These relate, respectively, to ‘the technical arrangements of alternatives that can potentially resolve the policy problem at hand’ and ‘processes and activities necessary to coordinate the activities of policy actors in charge of formulating, making decisions, and administering the alternatives’ (Capano and Howlett, 2020: 9). Procedural tools are numerous, and can include committees, assessments, public consultations, targets, and oversight committees. They have many purposes including information-gathering, promoting transparency or participation, and enhancing accountability (for example, Bali et al, 2021). Why such tools are chosen and in what combinations, how, and with what effect (Braun and Busuioc, 2020; Capano and Howlett, 2020; Fraussen et al, 2020) can be highly revealing of whose voices are heard and how, and cast light on regulatory legitimacy.

A framework examining tool use in policy formulation (Jordan and Turnpenny, 2015; Fraussen et al, 2020) at Ofgem provides a useful case for examining combinations of tools and how they work in practice. In 2007, a combination of procedural tools aimed at widening participation was adopted for the first time within Ofgem: deliberative focus groups and stakeholder consultations. This continued until 2016 when Ofgem was required to adopt the requirements of the Competition and Markets Authority following an investigation into the energy market (Competition and Markets Authority, 2016). This article therefore addresses the question:

To what extent did Ofgem’s energy markets policy formulation (2007–2016) meet criteria of regulatory legitimacy?

The article proceeds as follows. The next section reviews the literature on regulation and regulatory legitimacy, along with policy formulation tools as a way in to researching legitimacy. The following section summarises the research methods, and the next section presents the findings from the two specific policy formulation tools. The final section summarises the key points of the article and reflects critically on the implications of the findings for regulatory legitimacy and other sub-fields of research.

Regulation, regulatory legitimacy and policy formulation tools

The 'regulatory state' is a description of the institutional arrangement within a state where the prominent policy paradigm is regulation of public and private markets, rather than 'traditional' taxation and spending (Majone, 1994; Moran, 2003; Lodge, 2008; Baldwin et al, 2010). Specific institutions – regulators – are provided with powers under statute to ensure that delegated powers are enacted efficiently, due to separation from political uncertainty and embedded regulatory expertise (Moran, 2003; Lodge, 2008; Maggetti et al, 2013) which could deliver private sector investment (Ogus, 2004; Baldwin et al, 2010). However, this model does not necessarily lead to optimal societal outcomes (Weatherill, 2007; Tombs, 2016). This is problematic partly due to reliance on regulatory agencies to deliver outcomes traditionally associated with the welfare state, specifically access to essential-for-life services such as water and electricity (Levi-Faur, 2014; Fernández-Gutiérrez, 2017). Conceptualised as the 'Regulatory Welfare State' (Levi-Faur, 2014; Haber, 2017; Benish and Levi-Faur, 2020), the association of the work of regulatory agencies with citizen welfare highlights a challenge to the legitimacy of unelected regulators if there is limited accountability to the public (Baldwin et al, 2010).

Baldwin et al (2012), drawing on regulatory theory, strategy and practice (Hancher and Moran, 1989; Weatherill, 2007; Black, 2008), proposed five criteria for an economic regulator to exercise its powers legitimately: support from legislative authority; procedures of accountability; efficiency within the organisation; procedures that are fair, accessible and open; and relevant expertise (Ogus, 2004; Robinson, 2007; Baldwin et al, 2010; 2012). Research on regulatory legitimacy has to date focused more extensively on legal mechanisms like support from legislative authority, rather than other legitimacy criteria (Froomkin, 2000; Cohen and Sabel, 2005; Mashaw, 2006). However, there is a growing focus on the risks to legitimacy in terms of fairness and accountability, linked to procedures (Deller et al, 2018, Blakelock, 2020, Ambrosio-Albala et al, 2020). There is a significant literature about 'regulatory capture', on the interaction of privately-owned regulated firms with economic regulators (Uhr, 1993; Mulgan, 2000; Hong and You, 2018). Powerful interest groups frequently influence regulators and benefit from influence that regulation affords them (Stigler, 1971; Ayres and Braithwaite, 1992). Procedures at regulators for engaging with organisations and institutions can, in some cases, undermine legitimacy (Braun and Busuioc, 2020). On the other hand, engagement with stakeholders beyond firms can increase regulator legitimacy by providing fair, accessible and open procedures of engagement (Haber and Heims, 2020; Koop and Lodge, 2020; Braun and Busuioc, 2020). Evidence from the water and housing sectors shows how citizen participation can affect the interventions regulators might consider, in line with citizen welfare (Haber, 2015; Haber and Heims, 2016). However, private firms have been consistently identified as the core beneficiaries of opportunities to engage with procedures that are accessible and open (Yackee and Yackee, 2006; Bunea, 2013; Joosen, 2020; Blakelock, 2020). This article contributes by applying a framework for detailed analysis of policy tools to assessing regulatory legitimacy, within an economic regulator which has statutory powers to deliver obligations related to both competitive markets and consumer welfare.

This article focuses on two legitimacy criteria which allow us to explore whose knowledge was sought, how was this gathered and filtered, and with what effect. Building on Baldwin et al (2012), first: are procedures sufficiently fair, accessible and

open to expose the regulator to democratic influence? Potential sub-questions include who is/should be allowed to participate, and whether the mode of participation is appropriate. Second, relevant expertise: have specialised knowledge, skills and expertise have been applied in judgments made? Potential sub-questions include the nature of expertise and experts prioritised, trust of experts, and how 'relevant' expertise is defined. These are pertinent given the rise of the 'responsive' regulatory state noted earlier. Trust, for example, requires confidence that regulators have not been captured by particular parties for their own gain (Blakelock, 2020). This can be achieved through openness and accountability by regulatory policy formulation actors (Baldwin et al, 2012; Blakelock, 2020).

More fundamentally, however, examining the role of expertise from beyond the regulator is crucial for understanding both legitimacy criteria. This article critically examines *participatory tools* as a way to embed legitimacy into regulatory policymaking (Deller et al, 2018; Blakelock, 2020). Participatory tools facilitate a dialogue between actors within and outside an institution and provide opportunity for institutions to adopt insight from a diverse range of knowledges (Abrams and Primack, 1980; Felt et al, 2012; Hisschemöller and Cuppen, 2015; Hoppe, 2018). Specific definitions of participatory tools vary, but generally tools that enable participation beyond an institution can open up and evaluate policy problems, as well as evaluate options for policy design (Beierle, 2010; Cuppen et al, 2010; Hisschemöller and Cuppen, 2015), in theory benefiting from a diversity of views to aid policy production (Woodhouse and Nieuwsma, 2001; Smith, 2009; Pallett and Chilvers, 2013). This opportunity is particularly crucial for contemporary energy regulation, which has repeatedly been provided with legislative powers to deliver energy which is both affordable for citizens and is decarbonised (Deller et al, 2018; Blakelock, 2020). However, a rare study of decision-making at Ofgem identified a problematic focus on traditional competitive market procedures and a failure to engage with unaffordable energy and climate change as topics in line with Ofgem's statutory powers (Scrase and Ockwell, 2010). This finding aligns with a significant literature on the role of powerful knowledges within institutions, which identifies the importance of economic knowledges, a focus on competitive procedures, and a 'deficit model' of consumers in competitive markets (Devine-Wright, 2007; Shove and Walker, 2014; Lennon et al, 2019). People who use energy in their homes are known not as voting, participating citizens but as 'lacking interest, care, action, time, knowledge or understanding' (Cotton and Devine-Wright, 2012: 21). If this were a systematic issue at Ofgem it could pose a significant challenge to Ofgem's role as a legitimate rule setter.

This article focuses on two classic participatory tools that were of crucial importance within the venue of Ofgem during 2007–2016. While indicators and impact assessments were employed during this period (Blakelock, 2020), *deliberative focus groups* with members of the public, and *stakeholder consultations*, together were seen as a central part of policy formulation by Ofgem and other actors (BIS, 2011; Blakelock, 2020). These tools embody the distinction between citizen or consumer participants, and (professional) stakeholder participants (Haber and Heims, 2020). Examining how they interact in detail in Ofgem builds on Haber and Heims' study, which found that, across countries, energy is one of the leading sectors in referring to citizen, consumer and customer participation.

For its investigation, this article draws on a framework for analysis of policy formulation. Policy formulation is the set of procedures that translate policy intentions into a policy that can be enacted (Howlett, 2011; Strassheim and Kettunen, 2014; Wu

et al, 2017). Formulation is sometimes seen as ‘a political netherworld, dominated by those with specialist knowledge [and] preferred access to decision makers’ (Turnpenny et al, 2015: 7). Improved insight into this netherworld in the case of Ofgem’s regulatory legitimacy can be gained by examining the participatory tools being used in policy formulation tasks. Such a framework should be able to critically explore the claimed *goals* of the participatory tools, alongside their *means* – the ways they are designed to operate – and how these means play out in practice. So doing can illuminate any disjoints between goals and means, or between goals expressed by different actors, or the in-practice implications of design of particular means for the likelihood of achieving different goals. These require drawing out the ‘content’ of the tools – the ‘story’ of how they worked – specifically around the regulatory legitimacy criteria of due process and relevant expertise outlined earlier.

For this we structure overall investigation of tool content using the framework of Jordan and Turnpenny (2015), who proposed examining four particular aspects of policy formulation tools. First, which *actors* participate in selection and use of tools, and why? Second, in what *venues* are tools used and why? Venues are locations where policy formulation tasks are performed (Baumgartner and Jones, 1991; Timmermans and Scholten, 2006; Jordan and Turnpenny, 2015) and can be institutions within government or outside, such as regulators. Third, what policy formulation *capacities* are enabled – or constrained – by tools and why? Tools can expand capacities for performing policy formulation tasks (Adelle et al, 2016; Dunlop and Radaelli, 2016; Ferretti, 2017; Atkinson et al, 2018); their use can also result in barriers to expanded capacities (Dunlop, 2010; Lehtonen, 2012; Howlett et al, 2015; Howlett and Cuenca, 2017). Capacities of the tools and of the actors are both important (Jordan and Turnpenny, 2015). Fourth, what *effects* result from the tools’ use and why? These include substantive and procedural effects, both intended and unintended (Salamon and Elliott, 2002; Voß and Simons, 2014). Procedural effects include new opportunities to identify problems or engage with novel ones (Salamon and Elliott, 2002; Turnpenny et al, 2009). Substantive effects can change how problems are understood, and new ways of securing policy goals (Smith, 2009; Turnpenny et al, 2009; Lehtonen et al, 2016).

Research methods

We analysed public domain documents from online archives and conducted elite interviews, allowing insight from the formal mechanisms of governance as published in text (Kracauer, 1952; Yanow, 1999; Bazeley, 2013) and context from those involved in the procedures surrounding the policymaking described within those texts (Richards, 1996; Davies, 2001; Lilleker, 2003; Harvey, 2011). Texts were readily available; decision-making institutions were required to meet measures of transparency and publish documents that explain the procedures undertaken and policy scope decisions (Burnham et al, 2008; Keman, 2014). The texts were documents regarding the retail market for domestic consumers, and included policy decisions, stakeholder consultations, responses from stakeholders, submissions to parliamentary inquiries and research reports from between 2007 and 2016. A total of 459 texts were analysed to understand regulatory policymaking (Rimkutė, 2020; Pagliari and Young, 2020; Joosen, 2020).

Thirty-five elite interviews were conducted and transcribed to draw out insight from influential actors with unique knowledge based on their experiences in a

particular setting or position (Davies, 2001; Burnham et al, 2008). Seven individuals were working within economic regulators [anonymised interview codes RG1–7], five within democratic governance institutions including civil servants, ministers and elected representatives from relevant parliamentary committees [DG1–5], eight had a formal role in representing a particular group, including campaigning organisations, charities and the statutory consumer advocate [Re1–8], eight who played an informal advisory role [Ad1–8], and seven were market participants from regulated firms [Ma1–7]. This resulted in an initial documentary corpus of 494 PDF texts which were loaded into the qualitative data analysis software Nvivo for thematic analysis and process tracing.

Policy formulation tools case studies: their actors, venues, capacities, and effects

'Consumer First' deliberative focus groups

Deliberative focus groups at Ofgem, called Consumer First Panels, were introduced in 2007. Their scope was:

to help improve our understanding of what really matters to consumers and to increase direct consumer contributions to Ofgem's deliberations. They are a unique resource that we can call on regularly to provide feedback on key energy topics and regulatory issues, and act as the 'voice of the consumer'. (Ofgem, 2011a: 1)

Each year, 80 to 100 British energy consumers were recruited through door to door and snowballing approaches to form a demographically representative sample. This group of participants met three times over the course of a year to deliberate topics selected by Ofgem. The events were held over the course of a year with each 'wave' of panellists asked to:

become 'expert' consumers – meaning that they are able to discuss issues from a consumer perspective with a rounded view of how the energy industry works and knowledge of the business models involved. (Ofgem 2009b: 3)

Between 2007 and 2016, 13 focus groups discussed topics linked to energy supply market regulation (Table 1).

The topics selected by Ofgem largely focused on two interlinked themes. First, discussions on energy market engagement included switching energy suppliers and trust in energy supply firms, and the extent to which trust impacted market engagement (Panels 1–5, 8, 10–13). Second, discussion on information requirements for consumers to engage with the market included the regularity of information from energy supply firms and the formatting of that information (Panels 1, 2, 4–6, 10, 11). Only four of the panels were invited to discuss topics beyond these. A discussion of fairness (Panel 3) focused on firms who offered a 'prompt pay' discount of approximately £30. This was related to a process that made up part of the Retail Market Review that discussed the removal of the range of discounts and surcharges on the basis that they added complexity to comparing offers (Ofgem, 2011b). The consideration of fairness of this

Table 1: Consumer First Panels and topics (2007–16)

| Panel | Report name | Topics covered | | | |
|-------|---|--------------------------|--------------------------|----------|--------------------------------|
| | | Information requirements | Energy market engagement | Fairness | Vulnerable Consumer Experience |
| 1 | Energy Market, Billing and Price Metrics (Ofgem, 2009b) | Y | Y | | |
| 2 | Tariffs Structures (Ofgem, 2010b) | Y | Y | | |
| 3 | Supplier Standards of Conduct and Prompt Pay Discounts (Ofgem, 2010a) | | Y | Y | |
| 4 | Energy Market and Tariff Structures (Ofgem, 2011a) | Y | Y | | |
| 5 | Consumer engagement with the energy market, information needs and perceptions of Ofgem (Ofgem, 2012a) | Y | Y | | |
| 6 | Consumer views on Tariff Comparison Rates (TCRs) (Ofgem, 2012b) | Y | | | |
| 7 | Priority Services Register (Ofgem, 2013b) | | | | Y |
| 8 | Change of Supplier Process (Ofgem, 2013a) | | Y | | |
| 9 | Affordability, Environmental and Social Schemes (Ofgem, 2014a) | | | | Y |
| 10 | Consumer engagement and trust in the energy market – Retail Market Review Reforms (Ofgem, 2014b) | Y | Y | | |
| 11 | Third Party Intermediaries and Price Comparison Websites (Ofgem, 2015c) | Y | Y | | |
| 12 | Exploring Trust and some Retail Market Review Remedies (Ofgem, 2015a) | | Y | | |
| 13 | Switching Suppliers for Domestic Customers in Debt (Ofgem, 2015b) | | Y | | Y |

discount focused on encouraging the perceived ‘correct’ behaviour of early payment and whether others who did not pay early, even those who paid on time, would be in effect funding this discount. Two panels focused on considerations linked to the experiences of consumers in vulnerable circumstances – their identification by energy firms (Panel 7) and the extent to which schemes administered by the regulator could support those struggling to pay their bills (Panel 9).

A central capacity of the focus groups was to expand the number of actors, and Consumer First did draw in actors from beyond the regulator. This could in theory have led to expanded capacities for those actors to influence policy formulation. The programme did indeed appear to expand some actors’ capacities. Some interviewees who held, or had held, policy formulation roles at Ofgem welcomed the insights from Consumer First. For example, one interviewee explained:

‘I think that they are such are such a useful vehicle for us. To test certain issues and to go, well, more “deep dive2” with them.’ (Reg2 (in line with Reg4, Reg5, Ad3))

However, the topics discussed were set by staff within the regulator, and did not allow for participants to challenge this agenda. The topics as a whole maintained a focus on two ways of knowing people that were already embedded within Ofgem: the public as ‘vulnerable consumers’ and as ‘consumers in the market’ (Blakelock, 2020). Interviewees described the result as a technocratic discussion of the operation of markets which only provided a limited role for knowing consumers (see also Devine-Wright, 2007) beyond their purchasing decisions rather than their lived experience of energy. The topics discussed may not have been those that the public viewed as most central to energy market regulation. Indeed, the reports highlighted participants maintaining their own views rather than responding to the topic as envisaged. One report noted:

Many Panellists do not feel that it is acceptable for the additional costs of prepayment meters to be spread to all customers. They find it difficult to get beyond the view that any extra costs should come from suppliers’ profits. (Ofgem, 2014a: 29)

Overall, though, the tool’s use in practice bounded public participants’ capacities to influence policy formulation. As one interviewee explained:

‘They [Ofgem and Government] just started from a default ideological position that they should not interfere in the market’. (Ad8 (in line with Re1, Re2, Re4, Re5, Re7, Ad3, Ad4, Ad5, Ad7, Ma3, Ma6))

Regarding procedural effects of the focus groups, reports of five of the panels were explicitly cited in four regulatory policy outputs. Proposals from Panel 1 (Ofgem, 2009b) regarding the structure of information were cited within the Energy Supply Market Probe (Ofgem, 2009c). The Retail Market Review (Ofgem, 2013e), drew on focus group attendees’ assessing options of information displayed (Panels 1, 4 and 6: Ofgem, 2009b; Ofgem, 2011a; Ofgem, 2012b). Two outputs related to consumer protection cited focus group reports: the Consumer Vulnerability Strategy (Ofgem, 2013c) cited Panel 7 (Ofgem, 2013b), and Prepayment meters installed under warrant: Final Proposals (Ofgem, 2016b) cited Panel 9 (Ofgem, 2014a).

Stakeholder consultations

The most commonly used tool of policy formulation in energy market regulation between 2007 and 2016 was the stakeholder consultation. Stakeholder consultations were mandated by guidance from the UK government for all economic regulators (BIS, 2011) and the Utilities Act (2007) specified that Ofgem was to consult on and publish key decisions. Stakeholder consultations were conducted in public and provided an equal opportunity to engage with actors at Ofgem. Between 2007 and 2016, 21 consultations were issued by Ofgem regarding the retail market.

A large and diverse range of stakeholders regularly responded to these consultations. Indeed, one publication specifically noted the challenges faced by Ofgem in processing an unexpectedly high number of responses to the Retail Market Review consultation (Ofgem, 2012e). Although the number of respondents increased over time, with the average number of respondents doubling between

2007 and 2016, the sole group of actors consistently engaged over time were the ex-monopoly supply firms and the statutory consumer advocate. The repeated engagement with Ofgem by firms was described by interviewees in third sector organisations and firms as providing an opportunity to build relationships with other actors. One interviewee explained:

‘That might reflect the fact that we were the former monopoly provider for [removed] that there is a long-term relationship there for us. Which isn’t true for all of the new players in the market ... we work really hard to maintain good relationships right the way across – from Ofgem CEO right down to the analysts.’ (Ma5 (in line with Ma1, Ma2, Ma4, Ma6, Ad2, Ad3, Ad4, Ad6, Re3, Re4, Re7, Re8))

Capacities to engage were important. Interviewees described a significant resource difference between energy supply firms and charities and third sector organisations who wished to engage with Ofgem but were unable to do so. Ofgem acknowledged this resource challenge in 2012:

We recognise that many of the organisations that we would like to engage with are facing considerable constraints on their time and resources. We therefore propose to use a variety of methods of communicating to try to make it easier for organisations to engage in our work. (Ofgem, 2012c: 16)

Energy supply firms, however, consistently described teams of regulatory specialists whose role was to directly engage with actors of policy formulation at Ofgem. While the majority described this as a required resource burden, one interviewee was more blunt, stating:

‘The first thing to say is that we resource up. There are significant numbers of employees whose role full-time is interacting with them [Ofgem].’ (Ma5)

Capacity challenges also related to the type of knowledge resources required. Interviewees described a challenge in articulating their views in response to Ofgem, due to the technocratic nature of discussions regarding competition. One interviewee explained:

‘We have to frame any concern we have in relation to generally “competition” or “efficiency” objectives. Because if we could frame them as competition policy issues then they are much more likely to be tackled. Because then they [our concerns] would be regarded by them [Ofgem] as genuine.’ (Re3 (in line with DG2, Ad2, Ad3, Ad4, Ad5, Ad6, Ad7, R1, Re2, Re4, Re5, Re6, Re7, Ma1))

This experience – widely expressed by interviewees from representative bodies, democratic governance institutions, advisory groups and an energy supply firm who had engaged with stakeholder consultations – suggested that consultations did not necessarily result in the open dialogue of diverse views to aid in knowledge production. This may be explained by the timing and purpose of the consultations: they were

largely used to assess policy options rather than to set policy objectives, characterise problems or consider the role of ex-monopoly firms and other participants (Blakelock, 2020). More broadly, in line with research on UK policymaking (Chilvers, 2010; Pallett and Chilvers, 2013; Hoppe, 2018), consultations provided limited opportunities to challenge embedded ways of knowing. It is notable that fairness of market outcomes and affordability challenges were a regular feature of consultation responses from stakeholders between 2007 and 2016 (Ofgem, 2009a; 2012f; 2013d; 2016d). But the pre-eminent importance of maintaining a competitive market was reiterated even where Ofgem noted the negative impact of existing market structures on vulnerable consumers (Ofgem, 2005b; 2012c). For example, in discussing a new licence condition to protect vulnerable consumers in 2009, Ofgem explained:

We would need to be sure that such a condition is a proportionate measure and serves to help, rather than hinder, progress towards an effective competitive market. (Ofgem, 2009b: 3)

Stakeholder consultation had a significant procedural effect. It was used in the majority of procedures of regulatory activities between 2007 and 2016 and, when used, brought the findings from other participatory tools and indicators together to conduct the tasks of problem evaluation and option assessment. For example, in the case of Ofgem's Retail Market Review, the stakeholder consultation tool was also used to apply the findings of indicators regarding energy market engagement and focus group findings that assessed options in policy design (Ofgem, 2011b; 2012b; 2013e). It appeared to be the most significant tool of policy formulation employed by Ofgem.

Both tools: substantive effects

The extent to which knowledges brought together by either of the tools had identifiable *substantive* effects was less clear. We identified only two regulatory outputs during the period studied which indicated potential substantive effects: a change from considering consumers as irrational, based on insight from behavioural economics; and the change to consider adopting a more universal definition of 'vulnerable consumer' (Ofgem, 2012d; 2013c). Both these cases were informed by a combination of deliberative focus groups and stakeholder consultations (Ofgem, 2013c; 2013e). Each of these new ways of understanding consumers led (procedural effect) to adapted indicators to measure the outcome of regulatory decisions (Ofgem, 2015d; 2015e).

In the first case, there was a substantive effect in terms of knowing consumers, which appeared in a new regulatory policy output – the implementation of the Retail Market Review (Ofgem, 2013e). However, this output was short-lived. A subsequent Competition and Markets Authority (CMA) Energy Market Investigation overturned the Retail Market Review implementation, arguing that it had an adverse effect on competition (Competition and Markets Authority, 2016; Ofgem, 2016a).

In the second case, while the new definition appeared in the Consumer Vulnerability Strategy (Ofgem, 2013c), it was less clear whether this had a substantive effect. No new rules that impacted energy supply markets were introduced as a result of this Consumer Vulnerability Strategy in the period studied. But the new definition *was* cited as part of the background to the regulatory output regarding Pre-Payment Meter

(PPM) installations (Ofgem, 2016b), though not in the implementation of the new rules (Ofgem, 2016c). The new definition was also included, endorsed by Ofgem, in the voluntary code introduced by Energy UK, the trade association for the energy industry (Energy UK, 2016). There was therefore a substantive effect in a different venue of policy formulation, which had the possibility of impacting energy supply firm behaviour. But in the period analysed, the definition did not have substantive effects within Ofgem or play any role in the CMA Energy Market Investigation.

Implications for regulatory legitimacy, policy formulation tools, and their study

Participatory tools provided an opportunity for Ofgem to formulate legitimate policies between 2007 and 2016 (Blakelock, 2020; Braun and Busuioc, 2020). Stakeholder consultations (Ofgem, 2009a; 2009d) and deliberative focus groups (Ofgem, 2010a; 2014a) provided opportunity for fair, accessible and open procedures, and inclusion of relevant expertise from beyond the regulator. However, it is difficult to conclude that the goals of participatory tools were fully realised in this case. Examining actors, venues, capacities and effects of policy formulation tools has revealed significant disjoints between their goals and means, with implications for the two regulatory legitimacy criteria examined.

First, though regulatory policy formulation usually included the transparent publication of intentions and the opportunity for a range of actors to contribute, there were questions over whether these procedures were sufficiently fair due to the significant inequalities of resources between organisations, in particular energy supply firms' resource superiority. This suggests that opportunities to benefit from open procedures were not equally accessible. This reinforces research that measured public opinion within the period 2007 to 2016 which showed public concern regarding the trustworthiness of energy supply companies who were powerful policy actors (Pidgeon, 2012; Demski et al, 2017; Becker et al, 2019).

Second, regarding expertise, both tools were limited to assessing options within a limited selection of outcomes that were in line with their founding aim of facilitating retail market competition and development. This bounded consultation to technocratic discussions of markets and bounded some participants' capacities to bring lived experiences of energy into formulation processes. This was despite that the need for experts in the lived experience of consumers within regulatory policy formulation was specifically articulated: by the government for stakeholder consultations (BIS, 2011) as well as a specific aim of Ofgem in conducting deliberative focus groups (Ofgem, 2011a). Specialised knowledge, skills and expertise were a significant perceived barrier for some actors to engage with the regulator, which further embedded the technocratic economic concept of people as users and consumers of energy, being defined by deficits in motivation and understanding (Blakelock, 2020).

This is the most in-depth study of Ofgem to date, and has added much-needed detail on the interaction between stakeholder engagement and legitimacy. The study also speaks to the wider research agenda on tools, including the impact of policy paradigms or ideas on tool choices, constraints on tool choice, and the dynamics of mixes involving procedural tools (Capano and Howlett, 2020; Fraussen et al, 2020). A market-based energy paradigm strongly influenced both tools' operations, and the responses to realisations that tools had not been operating as explicitly intended. The combination of stakeholder consultations and deliberative focus groups, while

intended to be complementary, ended up reinforcing a bounding of who participated (actors, and associated capacities), reinforcing in turn the market-based paradigm. The way these tools were established and fed into each other was crucial. For example, stakeholder consultations were mandatory while deliberative focus groups were not. The latter's results fed into the former, but partly to show that the public had been consulted rather than bringing a major challenge to the overarching paradigm. The impact of this cascaded to both tools' procedural and substantive effects. While there is evidence that stakeholder consultations in particular had significant procedural effects, including drawing on insights from deliberative focus groups, the two tools' substantive effects were much more limited, and less persistent over time. The overall picture is one where intentions and commitments to use participatory procedural tools to increase regulatory legitimacy ended up having very different results.

Beyond the case of Ofgem, and Great Britain, this article concurs, first, that regulatory legitimacy can be very usefully examined via study of procedural tools, especially those related to policy formulation. Identifying knowledges and their influence, specifically within economic regulators using participatory tools, broadens research on regulatory capture beyond the traditional focus on the risks of asymmetry between regulatory firms and regulators. Further detailed case studies in this field could help improve the legitimacy of regulatory procedures in the processes and decisions that impact the lives of citizens. In the case of energy, this is crucial in the contemporary discussion of the role of consumers and regulated firms in countries' climate action plans – 'nationally determined contributions to the global response to climate change' under the Paris Agreement (UN, 2015: 3) – in particular the transition to net zero societies. It is also crucial as regulators across the European Union continue to proceed with the market model for energy (for example, EU, 2019) and implement energy poverty programmes as a result. Future investigations along similar lines to this article would be useful, comparing for example across policy areas, regulators and countries. Second, examining actors, capacities, venues and effects associated with specific policy formulation tools is a helpful way to structure understanding of overall tool content. Such structuring helps reveal disjoints between tool goals and means, and sheds light on the 'netherworld' of policy formulation.

Note

¹ Corresponding author

Funding

This research was funded by a Centre for Competition Policy PhD studentship at the University of East Anglia between 2013–2017.

Acknowledgements

We thank the journal editors and two anonymous reviewers for their constructive and supportive comments, which helped us improve the article.

Conflict of interest

Lead author (EB)'s current affiliation: Principal Policy Manager, Citizens Advice, UK. At time of initial article submission, EB was on secondment to the GB energy regulator, Ofgem, while employed at Citizens Advice. The research described in this article was completed before this secondment.

References

- Abrams, N.E. and Primack, J.R. (1980) Helping the public decide: the case of radioactive waste management, *Environment: Science and Policy for Sustainable Development*, 22(1): 14–40. doi: [10.1080/00139157.1980.9929753](https://doi.org/10.1080/00139157.1980.9929753)
- Adelle, C., Weiland, S., Dick, J., González Olivo, D., Marquardt, J., Rots, G., Wübbecke, J. and Zasada, I. (2016) Regulatory impact assessment: a survey of selected developing and emerging economies, *Public Money & Management*, 36(2): 89–96. doi: [10.1080/09540962.2016.1118930](https://doi.org/10.1080/09540962.2016.1118930)
- Ambrosio-Albala, P., Middlemiss, L., Owen, A., Hargreaves, T., Emmel, N., Gilbertson, J., Tod, A., Snell, C., Mullen, C., Longhurst, N. and Gillard, R. (2020) From rational to relational: how energy poor households engage with the British retail energy market, *Energy Research and Social Science*, 70, doi: [10.1016/j.erss.2020.101765](https://doi.org/10.1016/j.erss.2020.101765).
- Atkinson, G., Groom, B., Hanley, N. and Mourato, S. (2018) Environmental valuation and benefit–cost analysis in UK policy, *Journal of Benefit–Cost Analysis*, 9(1): 97–119. doi: [10.1017/bca.2018.6](https://doi.org/10.1017/bca.2018.6)
- Ayres, I. and Braithwaite, J. (1992) *Responsive Regulation: Transcending the Deregulation Debate*, New York: Oxford University Press.
- Baldwin, R., Cave, M. and Lodge, M. (2012) *Understanding Regulation: Theory, Strategy, and Practice*, 2nd edn, New York: Oxford University Press.
- Baldwin, R., Cave, M. and Lodge, M. (eds) (2010) *The Oxford Handbook of Regulation*, Oxford: Oxford University Press.
- Bali, A.S., Howlett, M. and Ramesh, M. (2021) Unpacking policy portfolios: primary and secondary aspects of tool use in policy mixes, *Journal of Asian Public Policy*, doi: [10.1080/17516234.2021.1907653](https://doi.org/10.1080/17516234.2021.1907653).
- Baumgartner, F.R. and Jones, B.D. (1991) Agenda dynamics and policy subsystems, *Journal of Politics*, 53(4): 1044–1074. doi: [10.2307/2131866](https://doi.org/10.2307/2131866)
- Bazeley, P. (2013) *Qualitative Data Analysis: Practical Strategies*, London: Sage.
- Becker, S., Demski, C., Evensen, D. and Pidgeon, N. (2019) Of profits, transparency, and responsibility: public views on financing energy system change in Great Britain, *Energy Research & Social Science*, 55: 236–46.
- Beierle, T.C. (2010) *Democracy in Practice: Public Participation in Environmental Decisions*, Abingdon: Routledge.
- Benish, A. and Levi-Faur, D. (2020) The reassertion of the regulatory welfare state: a preface, *The ANNALS of the American Academy of Political and Social Science*, 691(1): 7–16. doi: [10.1177/0002716220949216](https://doi.org/10.1177/0002716220949216)
- BIS (Department for Business, Innovation and Skills) (2011) *Principles for Economic Regulation*, London: BIS (Crown copyright).
- Black, J. (2008) Constructing and contesting legitimacy and accountability in polycentric regulatory regimes, *Regulation & Governance*, 2(2): 137–64.
- Blakelock, E.E. (2020) *What Role Did Knowledges of ‘Consumers’ Play in the Formulation of GB Energy Market Regulation Between 2000 and 2016?*, PhD Thesis, Norwich: University of East Anglia.
- Braun, C. and Busuioc, M. (2020) Stakeholder engagement as a conduit for regulatory legitimacy?, *Journal of European Public Policy*, 27(11): 1599–611. doi: [10.1080/13501763.2020.1817133](https://doi.org/10.1080/13501763.2020.1817133)
- Bunea, A. (2013) Issues, preferences and ties: determinants of interest groups’ preference attainment in the EU environmental policy, *Journal of European Public Policy*, 20(4): 552–70. doi: [10.1080/13501763.2012.726467](https://doi.org/10.1080/13501763.2012.726467)

- Burnham, P., Lutz, K.G., Grant, W. and Layton-Henry, Z. (2008) *Research Methods in Politics*, London: Macmillan International Higher Education.
- Capano, G. and Howlett, M. (2020) The knowns and unknowns of policy instrument analysis: policy tools and the current research agenda on policy mixes, *SAGE Open*, 10(Jan–Mar 2020), doi: [10.1177/2158244019900568](https://doi.org/10.1177/2158244019900568).
- Chilvers, J. (2010) *Sustainable Participation? Mapping Out and Reflecting on the Field of Public Dialogue on Science and Technology*, Harwell: Sciencewise Expert Resource Centre.
- Cohen, J. and Sabel, C.F. (2005) Global democracy?, *New York University Journal of International Law and Politics*, 37: 763–97.
- Competition and Markets Authority (2016) *Energy Market Investigation: Final Report*. CMA, UK Crown Copyright.
- Cotton, M. and Devine-Wright, P. (2012) Making electricity networks ‘visible’: industry actor representations of ‘publics’ and public engagement in infrastructure planning, *Public Understanding of Science*, 21(1): 17–35. doi: [10.1177/0963662510362658](https://doi.org/10.1177/0963662510362658)
- Cuppen, E., Breukers, S., Hisschemöller, M. and Bergsma, E. (2010) Q methodology to select participants for a stakeholder dialogue on energy options from biomass in the Netherlands, *Ecological Economics*, 69(3): 579–91. doi: [10.1016/j.ecolecon.2009.09.005](https://doi.org/10.1016/j.ecolecon.2009.09.005)
- Davies, P. (2001) Spies as informants: triangulation and the interpretation of elite interview data in the study of the intelligence and security services, *Politics*, 21(1): 73–80. doi: [10.1111/1467-9256.00138](https://doi.org/10.1111/1467-9256.00138)
- Deller, D., Waddams Price, C., Errington, E., Fletcher, A., Hargreaves, T., Harker, M., Longhurst, N., Reader, D. and Turner, G. (2018) *Fairness in retail energy markets? Evidence from the UK*. University of East Anglia, Norwich: Centre for Competition Policy.
- Demski, C., Evensen, D., Pidgeon, N. and Spence, A. (2017) Public prioritisation of energy affordability in the UK, *Energy Policy*, 110: 404–9. doi: [10.1016/j.enpol.2017.08.044](https://doi.org/10.1016/j.enpol.2017.08.044)
- Devine-Wright, P. (2007) Energy citizenship: psychological aspects of evolution in sustainable energy technologies, in J. Murphy (ed) *Governing Technology for Sustainability*, London: Earthscan, pp 63–86.
- Dunlop, C.A. (2010) The temporal dimension of knowledge and the limits of policy appraisal: biofuels policy in the UK, *Policy Sciences*, 43(4): 343–63. doi: [10.1007/s11077-009-9101-7](https://doi.org/10.1007/s11077-009-9101-7)
- Dunlop, C.A., Radaelli, C.M. (2016) The politics and economics of regulatory impact assessment, in C.A. Dunlop and C.M. Radaelli (eds) *Handbook of Regulatory Impact Assessment*, Cheltenham: Edward Elgar, pp 3–17.
- Energy UK (2016) *The Energy UK Safety Net*, February, London: Energy UK.
- EU (2019) Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU. *Official Journal of the European Union* OJ L 158, 14.6.2019: 125–199.
- Felt, U., Igelsboeck, J., Schikowitz, A. and Voelker, T. (2012) Challenging participation in sustainability research, *International Journal of Deliberative Mechanisms in Science*, 1(1): 4–34.
- Fernández-Gutiérrez, M., James, O. and Jilke, S. (2017) Competition and switching in public service markets: can they reduce inequalities?, *Regulation and Governance*, 11(1): 41–63.

- Ferretti, J. (2017) *Do Policy Impact Assessment Processes Promote Stringent Environmental Policy? A Comparative Analysis between Great Britain and Germany*, PhD Thesis, Berlin: Freie Universitaet Berlin.
- Fraussen, B., Albareda, A. and Braun, C. (2020) Conceptualizing consultation approaches: identifying combinations of consultation tools and analyzing their implications for stakeholder diversity, *Policy Sciences*, 53: 473–93. doi: [10.1007/s11077-020-09382-3](https://doi.org/10.1007/s11077-020-09382-3)
- Froomkin, A.M. (2000) Wrong turn in cyberspace: using ICANN to route around the APA and the constitution, *Duke Law Journal*, 50: 17–184. doi: [10.2307/1373113](https://doi.org/10.2307/1373113)
- Haber, H. (2015) Regulation as social policy: home evictions and repossessions in the UK and Sweden, *Public Administration*, 93(3): 806–21. doi: [10.1111/padm.12171](https://doi.org/10.1111/padm.12171)
- Haber, H. (2017) Rise of the regulatory welfare state? Social regulation in utilities in Israel, *Social Policy and Administration*, 51(3): 442–63. doi: [10.1111/spol.12194](https://doi.org/10.1111/spol.12194)
- Haber, H. and Heims, E. (2016) Regulating for and with the masses: a new era of regulation?, *Risk & Regulation Magazine*, 32: 16–17.
- Haber, H. and Heims, E. (2020) Regulating with the masses? Mapping the spread of participatory regulation, *Journal of European Public Policy*, 27(11): 1742–62. doi: [10.1080/13501763.2020.1817128](https://doi.org/10.1080/13501763.2020.1817128)
- Hancher, L. and Moran, M. (1989) *Capitalism, Culture, and Economic Regulation*, Oxford: Oxford University Press.
- Harvey, W.S. (2011) Strategies for conducting elite interviews, *Qualitative Research*, 11(4): 431–41. doi: [10.1177/1468794111404329](https://doi.org/10.1177/1468794111404329)
- Heims, E. and Lodge, M. (2018) Customer engagement in UK water regulation: towards a collaborative regulatory state?, *Policy & Politics*, 46(1): 81–100.
- Helm, D. (2004) *Energy, the State, and the Market: British Energy Policy since 1979*, Oxford: Oxford University Press.
- Hisschemöller, M. and Cuppen, E. (2015) Participatory assessment: tools for empowering, learning and legitimating?, in A.J. Jordan and J.R. Turnpenny (eds) *The Tools of Policy Formulation: Actors, Capacities, Venues and Effects*, Cheltenham: Edward Elgar, pp 33–51.
- Hong, S.H. and You, J.S. (2018) Limits of regulatory responsiveness: democratic credentials of responsive regulation, *Regulation & Governance*, 12(3): 413–27.
- Hoppe, R. (2018) *Knowledge, Power, and Participation in Environmental Policy Analysis*, Abingdon: Routledge.
- Howlett, M. (2000) Managing the hollow state. Procedural policy instruments and modern governance, *Canadian Public Administration*, 43(4): 412–31. doi: [10.1111/j.1754-7121.2000.tb01152.x](https://doi.org/10.1111/j.1754-7121.2000.tb01152.x)
- Howlett, M. (2011) *Designing Public Policies: Principles and Instruments*, Abingdon: Routledge.
- Howlett, M., Mukherjee, I. and Woo, J.J. (2015) From tools to toolkits in policy design studies: the new design orientation towards policy formulation research, *Policy & Politics*, 43(2): 291–311.
- Howlett, M.P. and Cuenca, J.S. (2017) The use of indicators in environmental policy appraisal: lessons from the design and evolution of water security policy measures, *Journal of Environmental Policy & Planning*, 19(2): 229–43. doi: [10.1080/1523908X.2016.1207507](https://doi.org/10.1080/1523908X.2016.1207507)
- Joosen, R. (2020) The tip of the iceberg – interest group behaviour in rule drafting and consultations during EU agency rulemaking, *Journal of European Public Policy*, 27(11): 1677–97. doi: [10.1080/13501763.2020.1817131](https://doi.org/10.1080/13501763.2020.1817131)

- Jordan, A.J. and Turnpenny, J.R. (eds) (2015) *The Tools of Policy Formulation: Actors, Capacities, Venues and Effects*, Cheltenham: Edward Elgar.
- Keman, H. (2014) Comparative research methods, in D. Caramani (ed) *Comparative Politics*, Oxford: Oxford University Press, pp 47–59.
- Koop, C. and Lodge, M. (2020) British economic regulators in an age of politicisation: from the responsible to the responsive regulatory state?, *Journal of European Public Policy*, 27(11): 1612–35. doi: [10.1080/13501763.2020.1817127](https://doi.org/10.1080/13501763.2020.1817127)
- Kracauer, S. (1952) The challenge of qualitative content analysis, *Public Opinion Quarterly*, 16(4): 631–42. doi: [10.1086/266427](https://doi.org/10.1086/266427)
- Lehtonen, M. (2012) Indicators as an appraisal technology: framework for analysing the policy influence of the UK energy sector indicators, in A. von Raggamby and F. Rubik (eds) *Sustainable Development, Evaluation and Policy-Making: Theory, Practise and Quality Assurance*, Cheltenham: Edward Elgar, pp 175–206.
- Lehtonen, M., Sébastien, L. and Bauler, T. (2016) The multiple roles of sustainability indicators in informational governance: between intended use and unanticipated influence, *Current Opinion in Environmental Sustainability*, 18: 1–9. doi: [10.1016/j.cosust.2015.05.009](https://doi.org/10.1016/j.cosust.2015.05.009)
- Lennon, B., Dunphy, N.P. and Sanvicente, E. (2019) Community acceptability and the energy transition: a citizens' perspective, *Energy, Sustainability and Society*, 9: 35. doi: [10.1186/s13705-019-0218-z](https://doi.org/10.1186/s13705-019-0218-z)
- Levi-Faur, D. (2014) The welfare state: a regulatory perspective, *Public Administration*, 92(3): 599–614.
- Lilleker, D.G. (2003) Interviewing the political elite: navigating a potential minefield, *Politics*, 23(3): 207–14. doi: [10.1111/1467-9256.00198](https://doi.org/10.1111/1467-9256.00198)
- Lodge, M. (2008) Regulation, the regulatory state and European politics, *West European Politics*, 31(1–2): 280–301. doi: [10.1080/01402380701835074](https://doi.org/10.1080/01402380701835074)
- Maggetti, M., Ingold, K. and Varone, F. (2013) Having your cake and eating it, too: can regulatory agencies be both independent and accountable?, *Swiss Political Science Review*, 19(1): 1–25. doi: [10.1111/spsr.12015](https://doi.org/10.1111/spsr.12015)
- Majone, G. (1994) The rise of the regulatory state in Europe, *West European Politics*, 17(3): 77–101. doi: [10.1080/01402389408425031](https://doi.org/10.1080/01402389408425031)
- Mashaw, J.L. (2006) Accountability and institutional design: some thoughts on the grammar of governance, in M. Dowdle (ed) *Public Accountability: Designs, Dilemmas and Experiences*, Cambridge: Cambridge University Press, pp 115–56.
- Moran, M. (2003) *The British Regulatory State: High Modernism and Hyper-Innovation*, Oxford: Oxford University Press.
- Mulgan, R. (2000) 'Accountability': an ever-expanding concept?, *Public Administration*, 78(3): 555–73. doi: [10.1111/1467-9299.00218](https://doi.org/10.1111/1467-9299.00218)
- Ofgem (2005b) *Social Action Strategy*, London: Ofgem.
- Ofgem (2009a) *Addressing Unfair Price Differentials: Consultation Responses*, London: Ofgem.
- Ofgem (2009b) *Consumer First: Energy Market, Billing and Prices*, London: Ofgem.
- Ofgem (2009c) *Energy Supply Probe – Proposed Retail Market Remedies*, London: Ofgem.
- Ofgem (2009d) *Energy Supply Probe Addressing Unfair Price Differentials*, London: Ofgem.
- Ofgem (2010a) *Consumer First: Supplier Standards of Conduct and Prompt Pay Discounts*, London: Ofgem.
- Ofgem (2010b) *Consumer First: Tariff Structures*, London: Ofgem.
- Ofgem (2011a) *Consumer First: Energy Market and Tariff Structures*, London: Ofgem.

- Ofgem (2011b) *The Retail Market Review – Findings and Initial Proposals*, London: Ofgem.
- Ofgem (2012a) *Consumer First: Consumer Engagement with the Energy Market, Information Needs and Perceptions of Ofgem I*, London: Ofgem.
- Ofgem (2012b) *Consumer First: Consumer Views on Tariff Comparison Rates (TCRs)*, London: Ofgem.
- Ofgem (2012c) *Proposal for A New Consumer Vulnerability Strategy*, London: Ofgem.
- Ofgem (2012d) *Retail Market Review – Final Domestic Proposals*, London: Ofgem.
- Ofgem (2012e) *Retail Market Review – Updated Domestic Proposals*, London: Ofgem.
- Ofgem (2012f) *The Retail Market Review: Domestic Proposals, Consultation Responses*, London: Ofgem.
- Ofgem (2013a) *Consumer First: Change of Supplier Process*, London: Ofgem.
- Ofgem (2013b) *Consumer First: Priority Services Register*, London: Ofgem.
- Ofgem (2013c) *Consumer Vulnerability Strategy*, London: Ofgem.
- Ofgem (2013d) *Consumer Vulnerability Strategy, Consultation Responses*, London: Ofgem.
- Ofgem (2013e) *The Retail Market Review – Implementation of Simpler Tariff Choices and Clearer Information*, London: Ofgem.
- Ofgem (2014a) *Consumer First: Affordability, Environmental and Social Schemes*, London: Ofgem.
- Ofgem (2014b) *Consumer First: Consumer Engagement and Trust in the Energy Market – Retail Market Review Reforms*, London: Ofgem.
- Ofgem (2015a) *Consumer First: Exploring Trust and Some Retail Market Review Remedies*, London: Ofgem.
- Ofgem (2015b) *Consumer First: Switching Suppliers for Domestic Customers in Debt*, London: Ofgem.
- Ofgem (2015c) *Consumer First: Third Party Intermediaries and Price Comparison Websites*, London: Ofgem.
- Ofgem (2015d) *Consumer Vulnerability Strategy Progress Report*, London: Ofgem.
- Ofgem (2015e) *Retail Market Review – 2015 Survey*, London: Ofgem.
- Ofgem (2016a) *CMA Provisional Remedies: Removal of Certain RMR ‘Simpler Choices’ Rules*, London: Ofgem.
- Ofgem (2016b) *Prepayment Meters Installed Under Warrant: Final Proposals*, London: Ofgem.
- Ofgem (2016c) *Prepayment Meters Installed Under Warrant for Non-payment of Debt – Draft Impact Assessment*, London: Ofgem.
- Ofgem (2016d) *Proposals to Improve Outcomes for Prepayment Customers, Consultation Responses*, London: Ofgem.
- Ofgem (2016e) *The Future of Retail Market Regulation*, London: Ofgem.
- Ogus, A.I. (2004) *Regulation: Legal Form and Economic Theory*, London: Bloomsbury.
- Pagliari, S. and Young, K.L. (2020) Exploring information exchange among interest groups: a text-reuse approach, *Journal of European Public Policy*, 27(11): 1698–717. doi: [10.1080/13501763.2020.1817132](https://doi.org/10.1080/13501763.2020.1817132)
- Pallett, H. and Chilvers, J. (2013) A decade of learning about publics, participation, and climate change: institutionalising reflexivity?, *Environment and Planning A*, 45(5): 1162–83. doi: [10.1068/a45252](https://doi.org/10.1068/a45252)
- Pidgeon, N. (2012) Public understanding of, and attitudes to, climate change: UK and international perspectives and policy, *Climate Policy*, 12(sup01): S85–S106. doi: [10.1080/14693062.2012.702982](https://doi.org/10.1080/14693062.2012.702982)

- Richards, D. (1996) Elite interviewing: approaches and pitfalls, *Politics*, 16(3): 199–204. doi: [10.1111/j.1467-9256.1996.tb00039.x](https://doi.org/10.1111/j.1467-9256.1996.tb00039.x)
- Rimkutė, D. (2020) Strategic silence or regulatory talk? Regulatory agency responses to public allegations amidst the glyphosate controversy, *Journal of European Public Policy*, 27(11): 1636–56.
- Robinson, C. (2002) *Utility Regulation and Competition Policy*, Cheltenham: Edward Elgar.
- Robinson, C. (2007) *Utility Regulation in Competitive Markets: Problems and Progress*, Cheltenham: Edward Elgar.
- Salamon, L.M. and Elliott, O.V. (eds) (2002) *The Tools of Government: A Guide to the New Governance*, New York: Oxford University Press.
- Scrase, J.I. and Ockwell, D.G. (2010) The role of discourse and linguistic framing effects in sustaining high carbon energy policy – an accessible introduction, *Energy Policy*, 38(5): 2225–33. doi: [10.1016/j.enpol.2009.12.010](https://doi.org/10.1016/j.enpol.2009.12.010)
- Shove, E and Walker, G. (2014) What is energy for? Social practice and energy demand, *Theory, Culture & Society*, 31(5): 41–58. doi: [10.1177/0263276414536746](https://doi.org/10.1177/0263276414536746)
- Smith, G. (2009) *Democratic Innovations: Designing Institutions for Citizen Participation*, Cambridge: Cambridge University Press.
- Stigler, G.J. (1971) The theory of economic regulation, *The Bell Journal of Economics and Management Science*, 2(1): 3–21. doi: [10.2307/3003160](https://doi.org/10.2307/3003160)
- Strassheim, H. and Kettunen, P. (2014) When does evidence-based policy turn into policy-based evidence? Configurations, contexts and mechanisms, *Evidence & Policy*, 10(2): 259–77.
- The National Archive (2000) Utilities act 2000: explanatory notes.
- Timmermans, A. and Scholten, P. (2006) The political flow of wisdom: science institutions as policy venues in the Netherlands, *Journal of European Public Policy*, 13(7): 1104–118. doi: [10.1080/13501760600924209](https://doi.org/10.1080/13501760600924209)
- Tombs, S. (2016) Making better regulation, making regulation better?, *Policy Studies*, 37(4): 332–49. doi: [10.1080/01442872.2016.1157854](https://doi.org/10.1080/01442872.2016.1157854)
- Turnpenny, J., Radaelli, C.M., Jordan, A. and Jacob, K. (2009) The policy and politics of policy appraisal: emerging trends and new directions, *Journal of European Public Policy*, 16(4): 640–53. doi: [10.1080/13501760902872783](https://doi.org/10.1080/13501760902872783)
- Turnpenny, J.R., Jordan, A.J., Benson, D. and Rayner, T. (2015) The tools of policy formulation: an introduction, in A.J. Jordan and J.R. Turnpenny (eds) *The Tools of Policy Formulation: Actors, Capacities, Venues and Effects*, Cheltenham: Edward Elgar, pp 3–29.
- Uhr, J. (1993) Redesigning accountability: from muddles to maps, *The Australian Quarterly*, 65(2): 1–16. doi: [10.2307/20635716](https://doi.org/10.2307/20635716)
- UN (United Nations) (2015) Paris agreement, https://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf.
- Voß, J.P. and Simons, A. (2014) Instrument constituencies and the supply side of policy innovation: the social life of emissions trading, *Environmental Politics*, 23(5): 735–54.
- Weatherill, S. (2007) The challenge of better regulation, in S. Weatherill (ed) *Better Regulation*, Oxford: Hart Publishing, pp 1–17.
- Woodhouse, E.J. and Nieuwsma, D. (2001) Democratic expertise: integrating knowledge, power, and participation, in M. Hisschemöller, R. Hoppe, W.N. Dunn and J.R. Ravetz. (eds) *Knowledge, Power, and Participation in Environmental Policy Analysis*, Policy Studies Review Annual, Vol 12, pp 73–96.

- Wu, X., Ramesh, M., Howlett, M. and Fritzen, S.A. (2017) *The Public Policy Primer: Managing the Policy Process*, Abingdon: Routledge.
- Yackee, J.W. and Yackee, S.W. (2006) A bias towards business? Assessing interest group influence on the U.S. Bureaucracy, *Journal of Politics*, 68(1): 128–39. doi: [10.1111/j.1468-2508.2006.00375.x](https://doi.org/10.1111/j.1468-2508.2006.00375.x)
- Yanow, D. (1999) *Conducting Interpretive Policy Analysis*, Qualitative Research Methods Series 47, London: Sage.