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**Governance and Sustainability:
An Investigation of the Role of Policy
Mediators in the European Union
Policy Process**



Andrew Williams



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Governance and Sustainability – An Investigation of the Role of Policy Mediators in the European Union Policy Process

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Abstract

This paper argues that recent changes in modes of governance in the European Union, including the move towards territorial multi-level governance and the gradual dispersion of decision-making authority in horizontal policy networks, as well as the historical separation of functions at all levels of government, cause a variety of types of fragmentation in the policy process. This fragmentation leads to difficulties for policy makers in identifying and avoiding unintended *ex post* policy outcomes, such as 'trade-offs' between economic, social and environmental objectives that, in the context of sustainable development, are sub-optimal. The presentation of a case study of the effects of the implementation of the EU Ozone Depleting Substances Regulation in the United Kingdom tests this hypothesis at the empirical level. An attempt is then made to suggest possible strategies for addressing the types of sub-optimal policy outcomes that can occur. In particular, it is suggested that policy mediators have an important role to play in facilitating the effective co-ordination of policy formulation and implementation in a manner commensurate with broad sustainable development objectives.

Introduction

Recent changes in modes of governance have, in certain cases, resulted in an increase in the number of actors and organisations involved in policy formulation and implementation. These changes include moves towards a system of territorial multi-level governance, particularly within the European Union (EU), and an increased incidence of horizontal policy networks or communities within nation states. Some commentators have suggested that, although perhaps more inclusive, these new governance styles have in some cases resulted in *fragmentation* in the policy process (e.g. Rhodes, 1996). When combined with the historical departmental or institutional separation of functions at all levels of government, this fragmentation can result in a limited capacity to identify or address unintended *ex post* policy outcomes. For example, a policy or regulation aiming to impose certain environmental standards within a region might have a detrimental effect on the economic performance of businesses within that region, perhaps resulting in redundancies and wider social consequences. In the context of the sustainable development agenda this type of sub-optimal outcome presents a problem. Here, the goal of realising economic, social and environmental goals simultaneously (WCED, 1987), necessitates 'positive sum' policy or developmental outcomes, something that cannot be reconciled with trade-offs.

In the EU, practical attempts to remedy this situation, and ensure that current and emerging modes of governance are properly aligned with the objectives of sustainable development, began with the process of Environmental Policy Integration (EPI), adopted at the EU Cardiff Summit (CEC, 1998). In addition, the EU Lisbon Summit (CEC, 2000) set in motion a parallel process to integrate the social and economic dimensions of policy. The subsequent EU Strategy for sustainable development (CEC, 2001), agreed at the Gothenburg summit, aimed to reconcile these twin processes within a single overarching framework for policy-making.

The challenge now is to ensure that this objective of a truly integrated approach to policy design and delivery can be realised in practical terms. Thus far, much important work has been undertaken to assist the measurement of progress towards this goal, in particular through the use of structural, sectoral and issue based indicators within a ‘three corridors model’ (Jiménez-Beltrán, 2001) and through the development of analytical frameworks to investigate the effect of policies on economic, social and environmental sustainability (McClaren *et al.*, 1998). Whilst recognising the merit in adopting such frameworks for the effective monitoring and evaluation of sustainable development policy integration, the analysis in this paper suggests that they should also be complemented by practical initiatives that facilitate substantive improvements in the policy process itself. In particular, it is argued that the establishment of policy mediators, or ‘correspondents’, with the ability and power to address some of the problems caused by fragmentation in policy formulation and implementation processes, could represent a valuable contribution.

The first section of the paper briefly investigates some of the changes in modes of governance that have occurred in the EU and UK in recent years, including the increased influence of policy networks or communities and the move towards systems of multi-level governance, as well as the historical functional separation of governmental departments. In the second section, it is suggested that these changes in governance style have contributed towards at least four types of fragmentation in the policy process. These are identified as network, jurisdictional, territorial and functional. In the next section, some of the identified theoretical implications of this fragmentation are investigated at the practical level through the presentation of a case study of the implementation of the EU Ozone Depleting Substances Regulation in the UK. The final section of the paper outlines some of the practical and theoretical means of addressing the sub-optimal policy outcomes caused as a result of

fragmentation and, in particular, makes some recommendations of how they can be complemented by the use of policy mediators.

Changing Modes of Governance

In order to assist the investigation of how the policy integration challenge outlined above can be addressed, it is useful to explore the complexion of existing policy processes in the EU and the UK, in an effort to understand how they might lead to sub-optimal sustainability outcomes. In this context, two developments are of particular relevance.

Policy Networks and Policy Communities

Against a background of increasing societal and technological complexity, the challenge for policy-makers has been to adopt a sophisticated and co-ordinated approach in dealing with a variety of often inter-dependent issues or problems. It is partially in response to this challenge that, in some policy sectors, new modes of governance have emerged. At the national level these are often categorised by the gradual erosion of the exclusive policy formulation function of national governments, to be replaced by ‘self-organizing, inter-organizational networks’ (Rhodes, 1996). These networks, or *policy communities*, consist of a variety of public, private and societal actors that converge around a particular policy issue (Coleman & Perl, 1999). They often consist of several sub-groups of actors, or *advocacy coalitions*, each sharing a common set of normative core values or beliefs (Sabatier & Jenkins-Smith, 1993).

Multi-Level Governance

In addition to these ‘horizontal’ changes, many nation states have also witnessed a gradual ‘vertical’ transfer of influence over some elements of policy-making and delivery to sub-

national and supra-national levels. In the EU especially, this phenomenon has come to be understood in terms of a move towards *Multi-Level Governance* (Hooghe & Marks, 2001). Multi-level Governance (MLG) has been described as a ‘dispersion of authority’ to either a limited number of non-overlapping jurisdictions at a fixed number of levels, or to more fluid, task-specific and overlapping jurisdictions at an unlimited number of levels (*Ibid.* pp5-7). In addition, MLG is sometimes extended beyond the EU at a broader international level, especially in the formulation of international treaties (Kellow & Zito, 2002).

The situation is further complicated by the fact that the EU, due to its limited financial and staffing resources, must also utilise policy networks in the fulfilment of its functions (Borzel, 1997; Kellow & Zito, 2002; Eising & Kohler-Koch, 1999).

One of the observable effects of both of these identified changes in modes of governance has been an increase in the amount and diversity of individual policy actors involved in processes of policy formulation and implementation. Furthermore, when it is understood that these developments, at both the horizontal and vertical levels, have occurred over largely similar time frames, it could be said that the level of complexity in the European policy process has greatly increased. However, it is also important to understand that, over this same time-frame, Member State governments and the EU institutions have still exercised the greatest levels of power and influence over policy design and delivery processes. In other words, although there has been an observed horizontal and vertical dispersion of authority over policy decision-making powers, the principal responsibilities still lie within well-established hierarchies. The existing nature of these hierarchies, especially the historical separation of functions into discrete operational boundaries, represents a third dimension to existing modes of governance, and one that is relevant to an investigation of how sub-optimal policy outcomes occur, and how they might be remedied.

Conceptualising the Problem – Fragmentation in the Policy Process

Having outlined some of the recent observable developments in governance modes in the EU, as well as describing some of the still entrenched separations of government functions, it is now helpful to investigate the particular implications of these developments for efforts to achieve the objective of sustainable development policy integration. In order to achieve this, it is suggested that the concept and occurrence of *policy fragmentation* is of strong relevance. Policy fragmentation can take several forms, and is defined in this paper as *a process whereby responsibility for policy formulation and/or implementation is dispersed to an increased number of actors or organisations across functional, jurisdictional, territorial or network boundaries*. Table 1 outlines the basic characteristics of these four possible types of fragmentation.

Table 1 – Typology of Fragmentation in Policy Processes

Type	Characteristics
Functional	Largely arises due to inter-departmental or inter-organisational separation of functions.
Jurisdictional	Occurs as a result of different jurisdictional boundaries applying to policy areas affected by a particular policy.
Territorial	Characterised by a territorial division between actors or institutions responsible for policy formulation and policy implementation.
Network	Activities of some actors or organisations conducted outside formal administrative structures but still exerting some influence over or having responsibility for policy formulation or implementation.

The analysis throughout this paper suggests that each of these types of fragmentation directly relate to, and to some extent might be said to occur as a result of, the current and emerging modes of governance described earlier. This is explored in more detail below.

Functional Fragmentation

A logical result of the functional separation of government, *at any level*, is that individual departments develop competencies in dealing with a specific set of policy issues, but do not have the remit to develop competencies in dealing with issues in another policy area. This delineation of responsibilities ensures that government departments have a clear focus and are largely free to exercise discretion in making policy choices relating to their specialism. However, in the context of sustainability, this arrangement might be less advantageous. Here, the need to realise economic, social and environmental goals simultaneously, requires a more holistic approach to policy design and delivery than is possible under the prevailing arrangement (WCED, 1987, p9). Take, for instance, the implementation of the landfill tax in England and Wales. Quite clearly, the task of establishing a new fiscal instrument of this nature lies with the Treasury. However, the tax has fiscal and *environmental* implications for waste management, an area that is the responsibility of the Department of Environment, Food and Rural Affairs (DEFRA). In addition, there is a direct *economic* impact on companies that might affect competitiveness, a matter for the Department of Trade and Industry. There might also be *social* implications in terms of job losses due to increased costs, a matter for the Departments of Employment and Social Services. This example shows the level of complexity that can emerge when policy decisions are viewed through the lens of sustainability, and illustrates the difficulty faced by policy makers when responsibilities for addressing different aspects of the same policy are identified as lying across several functional boundaries.

This type of functional fragmentation is not confined to central governments either. At the EU level, division of the functions of the Commission is evidenced by the existence of directorates responsible for clearly defined policy areas. In addition, many, if not most local and regional authorities at the sub-national level are characterised by this clear delineation of responsibilities.

Jurisdictional Fragmentation

This type of fragmentation can be observed when the responsibilities for administering distinct, yet sometimes related, policy areas lies at different jurisdictional levels. For example, responsibility for tax raising may lie with national government, yet administration of waste management activities might occur at the regional or local level. In this example, the situation might present difficulties in co-ordinating the use of economic instruments to restrict, for instance, landfill use. In the context of sustainable development, these types of arrangements might be problematic since the requirement for a more holistic approach means more policy areas across a more complex mix of jurisdictional arenas must be accounted for in policy design.

Territorial Fragmentation

This type of fragmentation occurs when organisations across territorial boundaries are responsible for different elements of the same policy process. For example, in the case of a European Union directive, the ultimate responsibility for policy design lies with the EU institutions. However, since directives are not directly applicable to Member States, but must instead be transposed into national legislation, national governments must take responsibility

for a further stage of policy design. In addition, it might be necessary to involve local or regional authorities to ensure effective implementation. This arrangement necessarily dictates that a larger number of actors are engaged in the policy process across more levels of government. In this context, co-ordination between relevant policy actors becomes more challenging since it must be facilitated within an increasingly dispersed spatial context.

Network Fragmentation

This form of fragmentation is directly related to the type of horizontal transfer function and decision-making authority witnessed by policy networks or communities. Rhodes (1996:666) concisely outlines some of the problems that emerge in this altered governance context. These can be summarized as follows:

- Reforms in governance style deliberately *fragment* service delivery systems, generating functional imperatives for inter-organizational co-ordination. The centre's capacity to regulate them remains undeveloped;
- Existing government management styles are often ill-equipped to address the need for trust and co-operation within policy networks. 'Such networks require a distinctive managerial style based on facilitation, accommodation and bargaining.'

Given the analysis above, the hypothesis in this paper is that these four types of policy fragmentation occur as a result of current and emerging modes of governance throughout the EU, and that, in terms of sustainability objectives, they directly contribute to sub-optimal policy outcomes. In order to substantiate this claim it is helpful to carry out an investigation at the empirical level. The section below, concerning the implementation of the EU ozone depleting substances regulation (OJEC, 2000) in the UK provides a useful case study for

analysis. As was well documented in the UK media, one of the effects of implementation was a situation whereby huge quantities of used domestic refrigerators, so called ‘fridge mountains’, were stockpiled at local authority waste sites across the country with no available route for appropriate disposal under the terms of the regulation. In the context of the above hypothesis, closer analysis of the series of events that occurred during the formulation and implementation of the regulation reveals some interesting observations

The Effects of Fragmentation – Implementation of the Ozone Depleting Substances (ODS) Regulation in the UK

From the mid 1970’s onwards, there has been increased awareness and concern about the deleterious effects of certain substances on the ozone layer, and the subsequent potentially harmful effects to human health through the resultant increase in UV-B radiation. At a global level, these concerns culminated in the establishment of the so called ‘Montreal Protocol’ (UNEP, 2000). Signatories to this international agreement ‘determined to protect the ozone layer by taking precautionary measures to control equitably total global emissions of substances that deplete it, with the ultimate objective of their elimination on the basis of developments in scientific knowledge...’ (*Ibid.* p1). As a signatory of the protocol, the European Union subsequently published a *Regulation on Substances that Deplete the Ozone Layer* (OJEC, 2000). The provisions of the regulation became law in the United Kingdom from June 2000.

So, how did the European regulation result in the ‘fridge mountain’ situation in the UK? The answer lies in analysis of two articles of the regulation. The first, article 11, which came into force from October 2001, imposed a complete ban on the export outside the EU of controlled substances, identified as deleterious to the ozone layer, as well as products and equipment containing these substances (*ibid.*, p10). The second, article 16 (in effect from January 2002)

required, amongst other things, the recovery of controlled substances from used domestic refrigerators and their ‘environmentally acceptable destruction’, reclamation or recycling (*ibid.*, p11). It was when the provisions of these two articles came into effect that a complex chain of inter-related economic, social and environmental interactions commenced. The effect of each of the articles is explored in closer detail below.

Effect of the Export ban

To assist the analysis of the economic, social and environmental effect of the export ban it is helpful to investigate the used-fridge market infrastructure in the UK prior to its coming into force. Until the ban, several of the major electrical retailers operated a product take-back service, whereby upon the purchase and delivery of a new fridge, a consumers’ used one was collected free of charge. Approximately half of all used fridges were collected in this way, with local authorities picking up the remainder. The provision of this service was used by retailers to distinguish themselves from other retailers in terms of after-sales care. As such it was a source of competitive advantage, although not profitable to the retailers themselves. The profitability lay with those waste management contractors that collected the used-fridges from retailers’ depots. These often relatively small businesses refurbished many of the fridges for onward sale. There was a thriving trade in the export of refurbished refrigerators to the developing countries of West Africa. In fact, 40% of used refrigerators were sold in this manner, with a further 15% sold to the UK second-hand market (EFRAC, 2002). As such, refurbished fridges were a valuable source of income to these businesses and helped to finance their handling of other, less profitable, white goods from retailer depots.

Of course, all this changed from June 2000, when the blanket ban on export to countries outside the EU came into effect. Very quickly, vast quantities of refurbished fridges started

gathering at UK ports, prohibited from leaving the country. Virtually overnight, the most profitable activity of many smaller waste contractors ceased. In many cases this resulted in a drastic reduction in profit margins or even a loss-making situation. The inevitable happened, and many of them were forced out of business. This left the large electrical retailers in a predicament, one that they responded to by withdrawing the take-back services provided to customers indefinitely. This meant a drastic increase in the burden placed upon local authorities to collect used fridges from householders.

Effect of the Recycling Requirements

The situation was further complicated by the stricter requirements on the reprocessing of used fridges, as outlined in article 16. The problem lay in the fact that the UK recycling infrastructure at that time was not technically capable of meeting the requirements of the regulation. This left local authorities with no option but to stockpile all used fridges at civic waste sites, until such time as the recycling infrastructure was able to deal with them in a manner commensurate with the terms of the regulation. This situation led to what many commentators, including the UK media, called ‘fridge mountains.’ The resolution to the problem finally came in the form of an initial lump sum payment from central government funds of £40 million (with more to follow), to finance the increased collection responsibilities of local authorities as well as contributing towards the technical upgrades required for reprocessing.

This brief account of the series of events that led to the ‘fridge mountain’ scenario illustrates how unintended *ex post* policy outcomes can occur. Even though, eventually, the intended effect of the ODS regulation was realised (i.e. a reduction in the dispersal of ozone depleting substances to the ozone layer), it came at the expense of the socio-economic effect of lost jobs

in the waste management industry and, it could be argued, the loss of a valuable source of affordable used fridges to the people of West Africa. In addition, there was a substantial cost to the tax payer incurred in remedying the situation. When viewed in the context of sustainable development it can be seen that greater environmental sustainability was achieved at the expense of social and economic sustainability. The table below provides a summary of the positive and negative effects of the regulation on economic, social and environmental sustainability.

Table 2 – Ex-post sustainability impact of the ODS regulation

<i>Economic Sustainability</i>	<p>-ve impact on UK waste management industry. Many small companies forced out of business.</p> <p>-ve impact in terms of cost incurred by treasury to fund increased collection responsibilities of local authorities.</p> <p>Possible -ve financial impact on people of West Africa due to loss of source of affordable used refrigerators.</p>
<i>Social Sustainability</i>	<p>-ve effect of lost jobs in waste management industry.</p>
<i>Environmental Sustainability</i>	<p>+ve impact due to decrease in the volume of ozone depleting substances released to the atmosphere.</p> <p>Possible +ve long-term effect due to reduction of West African dependence on 'old generation' ozone depleting refrigerators.</p>

The analysis above has provided a clearer picture of the *ex post* policy impact of the implementation of the ODS regulation in the UK, not just on the volume of harmful substances dispersed to the atmosphere, but also in terms of the broader socio-economic implications. Given the largely negative effect of the regulation on some aspects of social and economic sustainability, it is argued here that the net impact of the regulation was sub-optimal.

It is now interesting to explore whether or not this sub-optimal sustainability outcome is in some way attributable to the types of policy fragmentation outlined earlier. In doing so, a more detailed investigation of the activities of certain policy actors at the policy formulation and implementation stages is very revealing. At the UK central government level, the *Environment, Food and Rural Affairs Committee* set up a sub-committee 'to consider the effects of the [regulation]... and to analyse the Government's preparations for the coming into force of the regulation' (EFRAC, 2002). The analysis below is largely based on the findings of this sub-committee, as published in a subsequent report (*ibid.*).

To begin with, it appears that communication between representatives of the UK government and the EU, before the regulation was implemented, failed to clarify certain technical elements. Between early 1999 and mid 2001 the UK government made repeated requests to the European Commission to discover whether the provisions of article 16 (setting out the requirements for environmentally acceptable destruction) did in fact apply to used domestic refrigerators. It seems that some confusion had arisen due to amendments to the regulation put forward during the Austrian presidency. However, while seeking this clarification, the government failed to make contingency plans to ensure that the infrastructure was able to cope with this waste stream should the article prove, as it ultimately did, to apply to domestic refrigerators (*ibid.*, point 30).

Secondly, one of the largest waste management company's in the UK wrote to the Department of Trade and Industry (DTI), at least a year before the regulation came into force, asking for clarification of the exact requirements before it committed itself to a £2 million investment to upgrade its reprocessing facilities in line with possibly stricter standards (*ibid.* point 41). The DTI made no formal reply. Six months later, in March 2001, the company wrote a letter to the Environment Agency with the same request. A further three months later

the Environment Agency informed the company that it was still unable to clarify the situation. At this stage, perhaps unsurprisingly, the company decided not to make its planned infrastructure investment.

Thirdly, the Department of Food, Environment and Rural Affairs (DEFRA), the lead government department responsible for implementing the regulation, was unaware of the existence of the sizeable export market for used fridges in West Africa. It seems that the Customs & Excise Department neglected to inform them of the 1-1.5 million fridges sold in this way annually (*ibid.*, point 23).

Fourthly, as early as two years before implementation, one of the UK's largest electrical retailers wrote to both the environment minister and DEFRA expressing concerns that the proposed ban on export outside the EU could lead to the end of take back schemes. These warnings, it appears, were not heeded. In the subsequent inquiry, a representative of the retailer told the sub-committee 'I think for a long time we were dealing with government at the wrong level. We repeatedly dealt with officials who seemed not to take our concerns seriously and seemed not to accept our assessment of the problem,' (*ibid.*, point 62).

Finally, it appears that local authorities in the UK were not informed by central government of the requirements of the regulation until October 2001, four months after the definitive interpretation was received from Europe. This happened even though it was known by some government departments that local authorities, with their statutory duty to collect used fridges, would be likely to face increased responsibilities, following the likely withdrawal of retailer take-back services. At an inquiry organised by the environment sub-committee, a representative of the Local Government Association (LGA) stated 'local authorities are having to bear the brunt of a problem outside their own making.' (*ibid.*, point 52).

Although the case study represents only one example, the above analysis of the patterns of policy actor communication throughout the policy process, as well as the earlier discussion of the *ex post* policy impact of the ODS regulation, now allows us to conceptualise some of the potential linkages between the findings of this case study and the policy fragmentation framework outlined earlier. The case study provides clear evidence of a causal link between policy fragmentation and sub-optimal policy outcomes. In terms of functional fragmentation, an example is provided by the breakdown in effective communication between DEFRA and Customs & Excise regarding the export trade in used refrigerators. There is evidence of territorial fragmentation in the confusion that arose about the provisions of article 16 between the UK government and the EU. Jurisdictional fragmentation arose due to the fact that although responsibility for policy formulation rested largely with the EU (and, to a lesser extent, central UK government), much of the responsibility for ensuring effective policy implementation lay with local authorities through ensuring that used fridges continued to be collected, stored and, eventually, transferred to an appropriate site for disposal. At the same time, network fragmentation occurred in the ‘behind the scenes’ correspondence between waste management companies, electrical retailers and government. There is also evidence in that, although retailers and waste contractors had limited influence within the formal policy design process they were implicitly, given the nature of the recycling infrastructure, expected to exercise some part of the policy implementation function.

Strategies to Address the Problems of Policy Fragmentation

At the EU level, as outlined earlier, the process of Environmental Policy Integration (EPI), agreed at the European Council in Cardiff (CEC, 1998), is currently the principal mechanism for the integration of EU level environmental and sustainable development objectives into

sectoral policies. Amongst other things, the ‘Cardiff process’ charged sector councils with the task of establishing strategies for integrating environmental concerns into their policies and to propose mechanisms, based on indicators, to report on progress. It also agreed that strategic environmental assessments should be carried out on all key policy proposals and that current organisational arrangements be reviewed to ensure that decision making takes account of the need to integrate the environment into other policies.

Prior to the Cardiff agreement the Commission had also, for some time, undertaken work in an effort to ‘green’ its own activities. This work included a requirement for the Commission to report annually on overall process in EPI, a requirement for each directorate to draw up regular sectoral policy statements on integration, and the appointment of ‘environmental integration correspondents’ within each directorate to guarantee that all policy proposals take into account environmental and sustainability concerns (Grimeaud, 2000).

Taken together, these initiatives form the overarching strategy for ensuring effective integration of environmental and sustainable development objectives into sectoral policies across departments and institutions of the EU. However, it has been recognised that the challenge of EPI is not one that faces the EU alone. On the contrary, EPI is a *multi-level* challenge and one that must be addressed by all levels of government, from the European, through the national, the regional and the local (Jordan & Lenschow, 2000). In this context, it is evident that strategies to integrate sustainable development in government decisions must also be undertaken at the level of individual nation states and at sub-national levels of government. In the UK, the *Sustainable Development in Government* initiative (DEFRA, 2002) establishes a strategy for integrating sustainable development into central government policy and continues support for so called ‘green ministers’ in each department, charged with facilitating improvement in the performance of their department in contributing to sustainable

development. There is also a formal Ministerial Sub-committee of Green Ministers – ENV(G), that considers the overall impact of government policies on sustainable development and reports as necessary to the Committee on the Environment. At the local level also, a variety of strategies have been adopted in an effort to establish an integrated approach to policy-making and activities (Gouldson & Roberts, 2000).

All of these initiatives, at the European, national and local level, represent laudable attempts at addressing the issue of EPI in an institutional context. However, as we have seen, it is clear that sub-optimal policy outcomes can still occur, even given these efforts to establish a more holistic approach to the policy process. This paper argues that there are two reasons for this. Firstly, in the context of the broader discussion of how policy fragmentation can be dealt with in practice, it can be seen that the various initiatives outlined are only aimed at addressing problems arising as a result of functional fragmentation and not any of the other three identified types. A cohesive strategy for effective sustainable development policy integration must address not only functional, but also territorial, jurisdictional and network fragmentation. Secondly, the initiatives, in their current form seem unable to achieve even the limited objective of combating the effects of functional fragmentation.

These limitations to current EPI initiatives represent a barrier to the effective avoidance of sub-optimal policy outcomes. The challenge now must be for policy-makers to devise innovative strategies to overcome this deficiency. An important element of such strategies must be the facilitation of a structured and effective dialogue process between key stakeholders in the policy process. In this respect, individuals or teams acting as mediators between policy actors and groups might have an important role to play.

The Potential Role of Policy Mediators in Addressing the Problems of Policy Fragmentation

In each of the above examples of efforts to establish an integrated approach to the policy process, a role has been allocated to individuals or teams, responsible for facilitating all or parts of the overall strategy. Within the European Commission, *Environmental Integration Correspondents* have a role in overseeing the formulation of policy proposals, and guaranteeing that sustainable development concerns are taken into account. At the UK central government level, *Green Ministers* oversee the environmental aspects of departmental policies and, through a sub-committee, the environmental aspects of government policy as a whole. Similarly, at the local level, responsibility for cross sectoral sustainable development policy integration is often vested in an individual or team. This paper argues that dedicated individuals such as this could i) play a vital role in the improvement of current institutional strategies aimed at overcoming the effects of functional fragmentation and ii) also contribute towards addressing the wider policy integration problems caused by network, territorial and jurisdictional fragmentation. The points below outline some ways in which overall policy integration strategies and the roles and responsibilities of such individuals could change in order to facilitate these two contributions.

A Possible Strategy to address functional fragmentation

- Whenever a new policy or regulation is planned, a ‘lead department’ is identified and charged with the responsibility of overseeing the policy formulation and implementation function at the particular governance level.
- Within the lead department a policy mediation team is established. Within this team, one or more individuals are assigned a *functional policy mediation* role to facilitate a structured and effective dialogue between each department that might affect of be

affected by the policy under consideration. To achieve this, the individual would be responsible for *a.* identifying the relevant individuals to talk to in other government departments; *b.* contacting them to discuss the implications of the policy or regulation on their particular policy area, and to gather any information relevant to the policy design or delivery process; and, *c.* if necessary, organising regular round table discussions between departmental representatives to facilitate the cross-fertilisation of ideas and ensure that vital information does not remain undisclosed.

- Crucially, these policy mediators must be vested with sufficient power to ensure that the dialogue process is properly adhered to.

A process such as this could ensure that policy making institutions are better equipped to avoid some of the policy integration problems that arise as a result of functional fragmentation. It is interesting to observe that, in the case of the ODS regulation, the UK government did assign DEFRA as the lead department responsible for overseeing the policy process at the UK level. In exercising this function, the environment section of DEFRA (at that time located within the Department of the Environment, Transport and the Regions – DETR) identified all other departments that were affected by the regulation. To facilitate dialogue between these departments, DEFRA also established a ‘management committee.’ However, at the government inquiry into the implementation of the regulation (EFRAC, 2002) it emerged that representatives of HM Customs & Excise failed to attend any of the management committee meetings. This breakdown in the dialogue process meant that DEFRA was not informed of the valuable export market in used fridges and was therefore unable to devise appropriate contingency plans prior to the imposition of the export ban. In the context of the recommendations above, it can be seen that the UK government, by allocating a lead department and establishing a management committee, created an appropriate structure for facilitating inter-departmental dialogue. However, appropriate

mechanisms were not put in place to ensure that the structure fulfilled its function appropriately. In this regard, a policy mediating individual or team, based within DEFRA could have complemented the formal administrative structure at a personal level, through direct communication with relevant personnel in other departments, and also had the power to ensure that representatives of Customs & Excise attended the management committee meetings.

Strategies to address network fragmentation

The role of a policy mediator discussed above is closely linked to earlier concepts of *policy community mediators* (Coleman & Perl, 1999), *policy brokers* (Sabatier & Jenkins-Smith, 1993, p227) and *policy entrepreneurs* (Kingdon, 1984). In each of these articles, it is suggested that individuals have a role to play in the policy process through mediating between policy communities or advocacy coalitions in the resolution of conflicts. In the context of policy fragmentation, it is clear that this previous research suggests that there may be a role for policy mediators in addressing the effects of network fragmentation. At the practical level, the function of network policy mediators could be largely the same as those charged with ensuring integration across government departments, as outlined below:

- The ‘lead department’ outlined above assigns one or more individuals within the policy mediation team the role of *network policy mediator*.
- These individuals are charged with facilitating a structured and effective dialogue between each actor and organisation within the wider policy network that has a stake in the particular policy process. This would be achieved by *a.* identifying the relevant actors or organisations to include in the process (from the public, private and social sectors); *b.* contacting them to discuss the implications of the policy or regulation on

their particular interest area, and to gather any information relevant to the policy design or delivery process; and, *c.* if necessary, organising regular round table discussions between different policy communities to facilitate the cross-fertilisation of ideas and ensure that vital information does not remain undisclosed.

- Proper co-ordination between functional policy mediators and network policy mediators would be ensured through close liaison and regular meetings.

Returning to the case study, if a network policy mediator had been in place at the time of implementation of the ODS regulation, he or she would have been the first point of contact for private or voluntary sector organisations. For example, when the large electrical retailer wrote to government representatives warning about the likely effect of the export ban on take-back systems, it would have been addressed direct to the network policy mediator. This would have ensured that the concerns of the company were swiftly conveyed to the appropriate government representative.

Strategies to address territorial/jurisdictional fragmentation

To extend the analysis, there is ostensibly no reason why policy mediators could not also be usefully employed to address territorial and jurisdictional fragmentation. Indeed, the European Commission has suggested that there might be a role for national level ‘correspondents’ responsible for co-ordinating the transposition and application of EU laws (CEC, 2002). This is one of a suite of initiatives aimed at breaking down the boundaries between EU and national levels through the promotion of exchanges of information on implementation of EU laws, the use and results of regulatory impact assessments and national consultation standards (ENDS, 2002).

It seems reasonable to suggest that these national policy correspondents should form part of the broader policy mediation team described above. Through close liaison with other members of the lead department policy mediation team, as well as relevant representatives at the sub-national and supra-national level, these individuals could ensure that strategies to address territorial and jurisdictional fragmentation are aligned with overall policy integration goals.

The analysis above has made some suggestions of how a policy mediation team, consisting of dedicated individuals addressing respectively the integration challenge posed by functional, network and territorial/jurisdictional fragmentation, might be created at the level of national government. However, in order to further improve stakeholder dialogue throughout the EU policy process, similar policy mediation teams would need to be established within the EU and at the local or regional level. For example, in the case of the ODS regulation, the environment directorate of the European Commission could have been assigned the 'lead department' function and allocated policy mediators to work across other directorates and the broader European policy community. Similarly, at the local level, the representatives of the department responsible for waste management activities could have been assigned the role of consultation with local policy networks and so on.

Policy mediators then, could represent a valuable contribution towards efforts to address the effects of various types of policy fragmentation. In addition, many of the individuals or teams that could usefully fulfil the necessary functions either already exist or have been suggested in policy documents. The table below provides an overview of the individuals that are currently, or might possibly, perform a policy mediator function at various levels of government.

Table 3 – Overview of current or suggested individuals with policy mediator function

Level of Governance	Policy Mediation Role		
	<i>Functional mediation</i>	<i>Territorial/Jurisdictional mediation</i>	<i>Network mediation</i>
<i>European Union</i>	Environmental integration correspondents	International policy correspondents	<i>Local, national and international policy community mediators</i>
<i>National (UK)</i>	Green ministers	National policy correspondents	
<i>Regional/Local</i>	Local authority sustainable development (SD) Officers		

The table shows that individuals are already in place at the EU and UK national and local level to address the problems of functional fragmentation, albeit after an enhancement in their power and responsibilities. This is no surprise since, as discussed above, EPI initiatives have largely focused on the intra-institutional aspects.

As far as territorial and jurisdictional fragmentation is concerned, the national policy correspondents suggested by the European Commission (CEC, 2000), seem ideal candidates for carrying out the type of policy mediation required at the national level. In addition, at the EU level, *international* policy correspondents could perform a similar liaison function to national policy correspondents, but instead liaise between Commission environmental integration officers and *international* policy community mediators. They could also facilitate communication between national policy correspondents across Member States in a spirit of cross-border learning. Finally, they could form a part of EU delegations at an international level when treaties and framework agreements are being formulated, in an attempt to ensure that potential future complications at the European, national and sub-national levels are minimised. Depending on the level of complexity associated with the design and delivery of

the policy or regulation under consideration, a further individual may need to undertake this role at the local or regional level. However, in practice, it might be more efficient if national policy correspondents liaised directly with local authority sustainable development officers, or representatives of the Local Government Association (LGA). A key point here is that the design of the overall policy mediation strategy must be flexible enough to adapt to the relative complexity demanded by the policy or regulation under consideration. Some policies are likely to be far easier to formulate and implement than others, meaning that a full complement of policy mediator teams might not be required across all levels of governance.

There are currently no individuals or teams solely undertaking the network policy mediation role at EU or UK national or local level. However, both the EU and UK governing institutions regularly carry out consultation exercises with the wider policy community. It is within this type of consultative framework that a network policy mediator could discharge their role, thus adding more credence to the dialogue process.

Conclusion

Although the creation of these policy mediation roles might on the surface appear a complicated arrangement, in practice the responsibility for discharging this integration function would only fall to a maximum of three teams (one each at the national, sub-national and supra-national governance levels) for any given policy or regulation. It is possible that policy mediation teams could form the foundation of a coherent framework to assist effective sustainable development policy integration. It could also help to eliminate or minimise some of the sub-optimal *ex post* policy outcomes that can occur, especially when policy is formulated or implemented across several levels of governance. The emerging nature of policy making, especially within the European Union demands that a holistic approach be

adopted in co-ordinating the actions of those actors and organisations involved throughout the process. In particular, an impending raft of legislation (such as EU Directives on waste electrical equipment and end of life vehicles) will test the capacity of the existing governance structures to achieve truly sustainable outcomes.

It is likely that the trend of increasing fragmentation in policy processes will continue. This is not a wholly negative development. Complex problems often require complex solutions across a whole range of actors and organisations. What is important, however, is that some of the negative developments that appear as a result of fragmentation, particularly barriers to the achievement of effective co-ordination and management of the policy process, are counterbalanced by intelligent strategies to ensure an integrated and sustainable approach.

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