Implementing environmental policy in Scotland: an analysis of water pollution regulation and government support for the voluntary environmental sector.

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Implementing Environmental Policy in Scotland: An Analysis of Water Pollution Regulation and Government Support for the Voluntary Environmental Sector

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Dedicated to my mother, father, and brother

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ABSTRACT

This thesis presents an empirical analysis of the implementation of environmental policy in Scotland as undertaken through the use of specific regulatory and distributive policy instruments. In particular, it examines the implementation of regulatory water pollution control policy by one of Scotland's former River Purification Boards (RPBs) through the policy instrument of the Control of Pollution Act 1974 (COPA 1974). The thesis also examines The Scottish Office's implementation of distributive environmental policy towards the voluntary environmental sector through the policy instrument of the Special Grants Environmental Programme (SGEP).

The study reviews the main themes of the literature on public policy implementation and applies five specific variables (arising from that review) to the empirical case-study findings contained within the thesis in relation to the implementation of the above policies. From the analysis of empirical data, it is argued that the implementation of the case-study River Purification Board's regulatory environmental policy was becoming progressively more formalised during the early 1990s. Factors - both internal and external to the case-study RPB - which contributed to this increased level of formality are identified and discussed. From the analysis of empirical data, the thesis further argues that the implementation of The Scottish Office's distributive environmental policy was also being placed on a more formal footing during the early 1990s. It is contended that a fundamental reason for the formalisation of the implementation process in this policy context related to the Conservative Government's broad policy objective of rationalising its funding of the voluntary sector in general.

On the basis of the empirical case-study findings, in relation to both the regulatory and distributive environmental policies, the thesis concludes that there is no one 'best' way to implement public policy. Instead, it is argued that measures of public policy implementation success are contingent upon the particular constellation of the identified variables within the context of the specific policy being studied.

PREFACE

A substantial literature has been generated on the subject of public policy implementation over the course of the last twenty-five years. Similarly, the study of the environment as a distinct area of public policy has also generated a vast literature, reflecting both its increased importance as a policy area and the diversity of activity which comes under the general rubric of 'environmental policy'. Yet, despite the burgeoning literatures on both public policy implementation and environmental policy, surprisingly little attention has been devoted to the micro-level implementation of Central Government's environmental policy in the United Kingdom. Less attention still has been devoted to Central Government's implementation of environmental policy within a specifically Scottish setting. This thesis is intended as a contribution to filling these gaps in the literature on environmental policy implementation in the United Kingdom. It is also intended as a contribution to the relatively sparse literature on the contingent nature of public policy implementation.

I owe my interest in public policy implementation in general, and environmental policy implementation in particular, to two texts. The first of these, Pressman and Wildavsky's (1973) seminal *'Implementation'*, chronicles the disintegration of the Federal Economic Development Agency's efforts to secure employment opportunities for minorities in the city of Oakland, California and illustrates the complexity, frustrations and obstacles associated with transforming Governmental intentions into Governmental actions. It also provides an illustration of that most difficult of feats; crafting an academic text which combines intellectual insight and precision with an immensely readable writing style. As such, I would urge anyone wishing to appreciate the vagaries of 'real-world' policy implementation to begin by reading Pressman and Wildavsky's book.

The second of these texts is Hawkins' (1984) *'Environment and Enforcement: Regulation and the Social Definition of Pollution'*. This account of the work of Pollution Control Inspectors in two English and Welsh Regional Water Authorities in the 1970s fascinated me for two reasons. Firstly, because of the access which Hawkins obtained in order to study the work of these policy actors. Although I subsequently became aware of the literature based on empirical case-study findings such as those presented by Hawkins, it had not previously occurred to me that it might be possible to undertake an in-depth empirical study of the work of a particular set of policy actors or Governmental agency. The realisation that this could be done was one of the motivating factors for adopting the case-study

methodological approach to this research initiative. The second and enduring source of fascination which Hawkins book holds for me is the portrait of regulatory policy implementation which it contains. In particular, his account of regulatory pollution control illustrates the complexity of the task of putting public policy into practice when it is stripped of the rhetoric which often adorns Governments' macro-level policy statements.

I hope that this thesis conveys something of the complexity and pragmatism which are inevitable by-products of the process of turning Central Government's environmental policy objectives into environmental policy outputs and outcomes. If it does not, then the fault lies squarely with the author and not with the individuals and organisations involved in collaborating with me in the course of completing this research initiative. In this respect, I would like to thank a number of organisations and individuals for their invaluable assistance in helping me complete the study.

First and foremost, I would like to thank both the case-study River Purification Board (RPB) and The Scottish Office for providing me with access to the policy settings from which empirical findings presented in this thesis are derived. In this respect, I would like to register my gratitude to all of the individuals within these organisations who were interviewed in the course of the study. I am equally grateful to the representatives of the SGEP-funded organisations who were also interviewed within the context of the study. All of these above-noted individuals freely gave up of their valuable time and provided illuminating insights to the implementation of the case-study policies which I hope to have used to good effect.

I would like to express special thanks to a number of individuals who provided me with particular assistance in undertaking this research project. In particular, I would like to thank the General Manager of the RPB and the Head of the Rural Affairs Division of The Scottish Office who each gave me permission to use their respective organisations as case-study settings. The RPB's General Manager was very helpful in clarifying factual aspects of the RPB's pollution control policy. The Executive Officer responsible for the day to day administration of the SGEP was also extremely helpful in providing me with documentation relating to consulted Scottish Office Departments in the grant allocation process and in clarifying points in relation to that case-study policy. I'm also grateful to The Scottish Office Central Research Unit for giving me permission to use data collected during the 1992 review of the Scottish Office Environment Department's contribution to the voluntary

PART I
INTRODUCTION

Defining the Research Agenda

1.1 Introduction

In their classic 1973 inquiry into the 'slow dissolution of agreement' (p.92) which thwarted the efforts of the US Economic Development Agency to provide permanent employment opportunities for minorities in the city of Oakland, California, Pressman and Wildavsky bemoaned the apparent lack of a literature on public policy implementation. Such a criticism could scarcely be levelled now. A great deal of attention has been devoted by political scientists to researching the implementation of public policy in the period which has elapsed since Pressman and Wildavsky's study. Initially, studies which pioneered research into this hitherto neglected component of the policy process were stimulated by a perception that Governments within western liberal democracies had promised rather more profound societal change in the formulation of policy than they had been able to deliver in its implementation.[1] This perceived 'implementation gap' (Dunshire, 1978) has led to the generation of a substantial literature (commonly referred to as belonging to the 'top-down' school of implementation theory) which identifies implementation failures as 'managerial' failures to impose sufficient control on the process from the top of implementing agencies' hierarchies so as to more closely match policy outputs and outcomes with policy intent. For the top-down school, the key to achieving implementation success lies in placing emphasis on hierarchical structure and formal lines of authority so as to limit the capacity of lower level administrators to subvert the objectives of policy during the implementation process.

In contrast, a second strand of the policy implementation literature (commonly referred to as the 'bottom-up' school of implementation theory), which has developed over the last two decades, has placed the theoretical focus on deflating policymakers' expectations as to the policy goals which they can realistically hope to accomplish through the implementation process. This strand of the literature places little faith in the ability of policymakers to 'steer' the process from the top down. Instead, emphasis is placed upon engineering consensus from the bottom up between multiple inter-organisational actors operating at the field level of implementation. From this perspective, implementation success is therefore

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[1] For example, the perceived failures of the 'Great Society' Programmes in the US in the late 1960s.

dependent upon the implementation process producing policy outputs and outcomes which satisfy the individual objectives of participants[2] engaged in that process.

As a result of the conflicting views of 'top-down' and 'bottom-up' schools, a cleavage has developed in the implementation theory literature as to the 'best' way to implement public policy.[3] This thesis does not represent an effort to add to this cleavage by portraying policy implementation as a process moulded exclusively from either the 'top down' or from the 'bottom up'. Instead, the study is intended to contribute to the currently limited political science coverage of the contingent nature of public policy implementation which much of top-down and bottom-up theorising has preferred to ignore. It does so by analysing whether measures of success in public policy implementation are contingent upon the characteristics of specific variables which are identified and discussed at the end of chapter 2 of the thesis, following the more detailed review of the implementation theory literature contained within that chapter. In particular, the influence of these variables in determining measures of implementation success is examined on the basis of empirical findings in relation to the implementation of particular regulatory and distributive environmental policies in Scotland. The focus for the regulatory case-study is the water pollution control policy of one of Scotland's seven former[4] River Purification Boards (RPBs), as implemented through use of the Control of Pollution Act 1974 (COPA 1974).[5] The focus for the distributive case-study is The Scottish Office's policy towards the voluntary environmental sector as implemented through the Special Grants Environmental Programme (SGEP).

1.1.1 Chapter Structure

The remaining sections of this chapter define the research agenda which the thesis pursues. Section 1.2 illustrates the diverse nature of environmental policy - in terms of levels of government, policy actors and policy sectors - and identifies a number of core mechanisms through which UK Central Government has implemented its macro environmental policy in Scotland. Section 1.3 presents an overview of the UK environmental policy literature and identifies gaps in that literature where this study aims to make a contribution to knowledge. Section 1.4 moves on to provide a rationale for selecting the specific regulatory and

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[2] 'Participants' can be defined as individual actors or organisational entities.
[3] See Sabatier (1986) for a comprehensive review of the main theoretical propositions of both 'top-down' and 'bottom-up' implementation theory.
[4] These organisations were replaced by a single unified Scottish Environment Protection Agency (SEPA) in April 1996 (See chapter 3 for a fuller discussion of this issue).
[5] As amended by the Water Act 1989.

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distributive policy settings for analysis, while section 1.5 provides a rationale for adopting the case-study approach in undertaking the analysis. Finally, section 1.6 details the objectives of the study and provides an outline of the contents of the remaining chapters of the thesis.

1.2 Environmental Policy: A Framework for Analysis

Blowers (1987) has defined environmental policy as being:

> concerned with the use of land and the regulation of human activities which have an impact on our physical surroundings (pp. 278-279).

In developing this definition Blowers identifies three related functions of environmental policy. Firstly, the *development* function; designed to ensure the availability of land and natural resources for the development of housing, industry, agriculture, transportation and other infrastructure. Secondly, the *conservation* function; to ensure that land and other natural resources are effectively husbanded and conserved. Thirdly, the *ecological* function; involving the promotion of relationships between land uses and activities which are compatible and complimentary.

McCormick (1991) has offered an alternative view of environmental policy as:

> public policy concerned with governing the relationship between people and their natural environment. The emphasis here is on people as part of a natural system.....Ideally, the goal of environmental policy should be to maximise the welfare of people and their environment, and to ensure that all development (economic, social and/or political) is sustainable (p.7).

As each of these definitions partially indicate, when viewed at the macro level 'environmental policy' is a phenomenon which impinges upon a wide variety of public policy sectors (for example: transport; agriculture; education) and which involves a wide range of governmental policy actors (at the supranational, national and local levels) and non-governmental actors (for example, Non-Governmental Organisations (NGOs) and a variety of actors within the business community).

This diversity presents difficult choices in terms of research design for the student wishing to use environmental policy as the case-study setting within which to address theoretical issues regarding public policy implementation in general. Perhaps the most fundamental of these choices involves deciding which aspects of the broad canvas of 'environmental policy' should provide the focus of study. This is partly a question of practicality as the successful

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completion of the research project is after all partly dependent upon the extent to which it is a manageable proposition. It is also a question of establishing the areas in which the research project can make a contribution to knowledge. In seeking to establish this study's research agenda as it relates to environmental policy, it is first worth attempting to impose a structural framework upon to this amorphous policy area as it related to Central Government's macro environmental policy in Scotland prior to April 1996.[6] A useful point of departure in this respect is to consider of the range of resources and techniques available to Governments to achieve their public policy objectives.

1.2.1 The Tools of Government

Hood (1986) suggests that Governments have four basic resources with which to manage public policy issues - *information, finance, coercion* and *organisation* - and that these can be used to either monitor society or change its behaviour.[7] The methods through which Governments direct these resources in order to manage public policy issues are commonly termed policy instruments (Howlett, 1991). These policy instruments vary significantly in their characteristics and can include for example, *laws, grant schemes, public consultation exercises*, and *taxes*, to name but four. As with the implementation literature, there is considerable theoretical conflict in the study of policy instruments, with either 'resource' and 'continuum' approaches generally being advocated by theorists in the field.

'Resource' based approaches to the study of policy instruments suggest that instruments have specific capabilities and requisites which necessitate that policymakers carefully match them with the task which the instruments are required to undertake in order to achieve the desired policy output and outcome (Howlett, 1991). To take an example using this approach; it could be argued that particular environmental legislation is an effective policy instrument with which to prevent water pollution beyond certain agreed limits because it can be directed at a particular target group in order to discourage unacceptable polluting behaviour. The application of the instrument is underpinned by the resource of coercion as encapsulated by the threat of sanction in the event of a breach of the legislation. Therefore, within the context of the 'resource' approach to the application of policy instruments, a key

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[6] The fieldwork for this study was undertaken in 1994 prior to the reorganisation of the previously fragmented regulatory administrative framework which led to the creation of the unified Scottish Environment Protection Agency (SEPA) on April 1st 1996.
[7] Government can monitor society through the use of informational resources such as surveys and consultations to ascertain the views of particular groups in relation to policy issues. Alternatively, Government can change society's behaviour by organisational means through the delivery of particular services; or financial means, for example by imposing particular tax rates (Howlett, 1991).

task for policymakers is to assess the technical specifications of a given instrument in order to establish its capacity for solving particular problems. Thereafter, according to Howlett:

> instrument choice is made relatively simple since the nature of the problem faced by governments, the supply of governing resources, and the capabilities and requisites of different instruments serve to restrict the number of feasible and available instruments and to greatly narrow the range of choice available to governments (1991, p.3).

In contrast, 'continuum' models reject the selective application approach of the preceding and instead emphasise the technical substituality of policy instruments. Within this framework contextual rather than technical considerations are highlighted with governments' choice of instruments reflecting their 'particular mix of preferences along the dimensions upon which instruments are ranged' (Howlett, 1991, p.4). To take an example using the 'continuum' approach; Government could choose to implement pollution control policy through a system of tradable permits if it were opposed to the use of regulatory policy instruments to achieve the same goal.

Analysts engaged in 'resource' based policy instrument research in the United States have offered varying perspectives on the range of instruments available to Governments to implement their policy objectives (see for example: Anderson, 1971; Bardach, 1980; Elmore, 1987). Others, such as Salamon (1981), have utilised continua methodology to build upon Dahl and Lindblom's (1953) assertion that there are an infinite number of alternative politico-economic instruments available to Governments in order to resolve policy issues. The focus of this element of the literature therefore moves away from the range of policy instruments available and instead concentrates on the *process* of instrument choice.

More recently, the *policy design* approach has come to the fore within the field of policy instrument research in the United States. In this respect, analysts such as Linder and Peters (1989) have attempted to synthesise elements of the 'resource' and 'continuum' approaches. This has been done by identifying a staple number of general classifications of policy instruments founded on governing resources. From this, they have developed a variety of continua illustrating Governments' available choices in the selection of instruments to address policy issues.

Notwithstanding theoretical debates regarding factors governing policymakers' choice of policy instruments in specific policy contexts, the preceding discussion illustrates that Governments have the capacity to use various combinations of resources and policy instruments to achieve particular policy objectives. With this in mind, the next sub-section identifies key policy types, instruments and implementing agencies through which UK Central Government has pursued its environmental policy objectives within Scotland.

1.2.2 Environmental Policy in Scotland: Core Implementation Mechanisms

Writing at the high point of the politicisation of the environment in 1989, Lowe and Flynn argued that:

> government structures and law relating to environmental protection have been (and largely remain) an accretion of common law, statutes agencies, procedures and policies. There is no overall environmental policy other than the sum of these individual elements, most of which have been pragmatic and incremental responses to specific problems and the evolution of relevant scientific knowledge (p.254).

Their contention that there is no overall environmental policy still holds true. However, from 1990 onwards the then Conservative Government claimed in successive policy documents (1990, 1994) that it aimed to implement a co-ordinated macro-level environmental policy designed to achieve the long term strategic policy objective of sustainable development.[8] This was not a view shared by The Royal Commission on Environmental Pollution which, in its 18th Report (1994), documented what it considered to be an absence of co-ordination and consistency at the inter-sectoral level of Government's macro environmental policy.

Despite perceived limits to co-ordination at the macro level, it is nevertheless possible to identify a number of core mechanisms through which Central Government has attempted to translate its macro-level environmental objectives into micro-level policy outputs and outcomes. These can be classified as: *Regulation*; *the Green Market*; and, *Voluntary Action.* In turn, these mechanisms utilise combinations of the four basic Governmental

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[8]Government's definition of the concept of sustainable development is discussed in more detail in chapter 3. However, for the purposes of this analysis, it is assumed that Government's definition of sustainable development is in accord with that of the World Commission on Environment and Development (WCED) which defined the concept as 'development that meets the needs of the present without compromising the ability of future generations to meet their own needs' (1987, p.43). As such, Government's long term policy objective of sustainable development is assumed to involve balancing environmental, economic and social development so as to enable development in each area to continue indefinitely without compromising development in either of the other areas.

resources (Hood, 1986) to implement various types of policy (Lowi, 1966, 1972).[9] These policy types are themselves implemented by a variety of different agencies using particular policy instruments (either individually or in combination) in pursuit of the overall long term policy objective of sustainable development. These core mechanisms and a selection of their attendant resources, policy types, implementing agencies and policy instruments (as they related to Central Government environmental policy prior to April 1996) are shown in Table 1.1.

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[9] Lowi distinguishes four policy types and the degrees of coercion associated with each: *Distributive* policies, weakly sanctioned and individually targeted; *Regulatory* policies, strongly sanctioned and individually targeted; *Redistribute* policies, strongly sanctioned and generally targeted; and, *Constituent* policies, weakly sanctioned and generally targeted.

Table 1.1 Core Mechanisms for Implementing
Central Government's Environmental Policy[10]

	Regulation	The 'Green Market'	Voluntary Action
Policy Resources	Coercion; Organisation	Finance; Information; Organisation	Finance; Organisation
Policy Type	Regulatory	Distributive; Redistribute;	Distributive
Key Implementing Agencies	River Purification Authorities[11]; HMIPI for Scotland;[12] Local Government; HWI[13]	CBI Scotland; Trade Associations; Scottish Enterprise; Local Enterprise Companies[14]	The Scottish Office Environment Department; UK2000 Scotland; Scottish Natural Heritage
Policy Instruments	Control of Pollution Act 1974; Environmental Pollution Act 1990	Environmental Business Forum; Environmental Best Practice Programme	SGEP; UK2000 Scotland Grant Programme, SNH Grant Programmes
Policy Objective	SUSTAINABLE DEVELOPMENT		

By far the most well established of these mechanisms is that of regulation with a lineage dating back to the creation of the Alkali Inspectorate in 1863 (Rhodes, 1981). Within the confines of environmental policy, a prime justification for state intervention in the private economy has been framed by classical or 'public interest' theory (Wolfe, 1970). Thus, the state intervenes to negate a form of market failure arising when interdependencies between production and consumption units generate external costs which producers of these costs are not motivated to account for in the production process (Pigou, 1920). Consequently, as Richardson et al have noted:

> The failure of the market to provide socially efficient levels of production and consumption activities has been regarded as a *prima facie* case for attempting to

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[10] This schema is by no means exhaustive. However, it illustrates main ways in which Central Government has attempted to modify behaviour within society (either directly or indirectly) in order to achieve its overall environmental policy objective.

[11] These Authorities were comprised of 7 mainland River Purification Boards and the three Islands Councils of the Western Isles, Orkney, and Shetland which together comprised River Purification Authorities. The term 'River Purification Authorities' is used in the main text of the thesis to collectively refer to all of these organisations unless reference is specifically being made to the case-study RPB.

[12] Her Majesty's Industrial Pollution Inspectorate for Scotland.

[13] Hazardous Waste Inspectorate for Scotland.

[14] See Fairley and Lloyd (1996) for a discussion of the work undertaken by Local Enterprise Companies under the co-ordination of Scottish Enterprise and Highlands and Island Enterprise.

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regulate the external cost-generating activities and for attempting to encourage the external benefit generating activities (1982, p.7, emphasis in original).

In Scotland, prior to the creation of the Scottish Environment Protection Agency (SEPA) in April 1996, responsibility for implementing regulatory environmental policy rested with River Purification Authorities, Her Majesty's Industrial Pollution Control Inspectorate for Scotland (HMIPI), District and Islands local authorities and the Hazardous Waste Inspectorate (HWI).[15] Collectively, these organisations applied a variety of different regulatory policy instruments - for example, The Control of Pollution Act (1974) and the Environmental Protection Act (1990) - in order to carry out their pollution control functions.

A more recent addition to Government's repertoire of mechanisms with which to achieve its overall policy objective of sustainable development is that of the 'green market' (McCulloch and Moxen 1994). In this respect Government has sought to encourage the UK business community to place itself in a position whereby it can meet perceived shifts in consumer demands towards more environmentally benign products produced via environmentally benign processes. The need for the business community to take a more proactive approach to reducing its adverse environmental impacts was articulated by Michael Heseltine, the then Secretary of State for the Environment in a speech in 1991. He stated:

> It is on the relationship between Government, business and the environment that most depends - environmentally and economically.....(T)he central task of delivering sustainable development, and thus of solving environmental problems, will fall to business (1991a, p.6).

Heseltine elaborated on the need for the business community to adopt proactive environmental measures during his 1991 address to the annual conference of the Confederation of British Industry (CBI). At the same time, he also highlighted the increasing influence being exerted by (primarily EC driven) regulatory pressure, stating:

> you can only compete and win if you reach out for higher environmental standards than your competitors......that is what - more and more - the market is demanding. The market set by our own advanced legislation; the market set by European Community legislation; above all, the market set by the consumer - increasingly the green consumer (Heseltine, 1991b, p.2).

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[15] The regulatory functions of these organisations are discussed in more detail in chapter 3.

In the interim, a number different agencies have deployed a variety of policy instruments with the intention of better equipping the UK business community to compete within the evolving 'green market'. These have included Government led initiatives such as the Department of Trade and Industry's (DTI) implementation of its 'Environmental Best Practice Programme' established in 1994 to award grants to companies which adopted environmentally benign technological processes. Other non-Governmental policy instruments with a specifically Scottish focus have included CBI Scotland's launching of the 'Environmental Business Forum' and the Centre for Environment and Business in Scotland' (CEBIS)'s environmental information service for Scottish industry.[16]

A third core mechanism through which Central Government has pursued the overall environmental policy goal of sustainable development is that of encouraging 'voluntary action' through the work of organisations located within what can loosely be defined as the voluntary environmental sector. There is a long tradition of voluntary action on the part of groups and individual citizens to bring about environmental improvement (Lowe and Goyder, 1983). However, it is only comparatively recently that Government has devised distributive policy instruments to deliver its environmental policy objectives in the voluntary environmental sector in a co-ordinated fashion. In Scotland, these instruments are composed of the UK2000 Scotland[17] initiative founded in July 1986, the Special Grants Environmental Programme established in 1987 and administered from within the Rural Affairs Division of The Scottish Office, and a range of distributive instruments[18] administered by Scottish Natural Heritage (SNH).[19]

Even when simplified into three core mechanisms, it can be seen that the implementation of Government's environmental policy involves a wide variety of organisations and instruments. However, from the plethora of agencies and instruments which have been used by Government to pursue its overall policy objective of sustainable development the selection of regulatory policy, (as implemented within the RPA system) and distributive

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[16] Although not under the control of Central Government, these agencies and instruments can be viewed as working in partnership with Government in order to achieve the long term policy objective of sustainable development.

[17] 'UK 2000 Scotland' has subsequently changed its name to 'Forward Scotland'. However, the name 'UK2000 Scotland' is used throughout the thesis when referring to the initiative.

[18] These include grants for environmental education and interpretation; for community and voluntary action; for school grounds; and for land managers, farmers and crofters.

[19] SNH was founded in 1992 and replaced the previously existing Countryside Commission for Scotland (CCS) and the Nature Conservancy Council (NCC). The CCS provided 'financial assistance for tree planting, landscape enhancement and recreations provisions' (The Environment Council, 1989).

policy (as implemented by The Scottish Office via the policy instrument of the SGEP) constitute particularly suitable environmental policy case-study settings for this thesis. Section 1.4 explains why this is the case in more detail. As a prelude to that however, and in order to better illustrate what the study of these particular policies can contribute to the environmental policy literature, the next section reviews major themes of that literature.

1.3 UK Environmental Policy: An Overview of the Literature

The multi-faceted nature of environmental policy is reflected in the somewhat eclectic body of literature which has been amassed as a result of academic coverage of the policy area in the UK. A brief review of the main themes of this literature suggests two broad clusters within which the published material may be classified. The first of these categories relates to what can generally be considered to be macro-level issues. In this respect, a prime area of inquiry has been the politicisation of the environment which is said to have occurred in the UK in the late 1980s. Significant work in this field has included Blowers' (1987) appraisal of the then Conservative Government's approach to environmental policy under the leadership of Margaret Thatcher. More generally, Owens (1986) has charted the perceived shift in mainstream UK political parties receptiveness to environmental issues. Similarly, Lowe and Flynn (1989) have traced the emerging dynamics of environmental politics and policy at this time.

More recently, the work of McCormick (1991) and Robinson (1992) has made important contributions in pursuing this line of investigation. Their texts were the first to analyse in depth the variety of pressures which led mainstream political parties to promote their environmental policies in an increasingly high profile manner. In particular, McCormick presents a wide-ranging analysis of factors which brought environmental issues to political prominence (ranging from the impact of the environmental lobby to the increasingly significant influence being exerted by the EC on domestic environmental policy). While covering some of the same ground, Robinson offers a more detailed discussion of factors which increased the importance of the environment as a political issue as the 1980s neared their close. In a similar vein, Flynn and Lowe (1992) have outlined the variety of factors which led the Conservative Government to embrace the environment as a policy issue during the late 1980s. More expansively, Young's (1993) discussion of the politics of the environment provides a brief summary of significant UK environmental policy developments dating from the 19th century to the late 1980s. Other writers, most notably O'Riordan et

al (1989), Weale (1992) and Lowe and Carter (1994) have examined evolving policy approaches within UK regulatory environmental structures. Meanwhile, Plant and Wilder's (1993) edited volume also examines the role of environmental institutions in UK environmental policy. Boehmer-Christianson (1995a, 1995b) has charted the British Government's efforts to assume the mantle of leadership in the policy field of climatic change. Golub (1996) offers an interesting contrast to this in his account of the UK Government's efforts to balance the traditional British approach to pollution control with the new environmental provisions contained within the Single European Act. In a broadly similar vein, Weale et. al. (1996) have examined the approach to environmental administration in the UK along with that undertaken in five other European states to conclude that national context is of more importance than common secular trends in environmental administration. Gray's (1994) edited collection embraces a wide range of policy issues relating to UK environmental policy in the 1990s including the impact of the European Union on national policy making, policy at the level of local government, and the use of the precautionary principle in UK environmental law and policy. Voisecy and O'Riordan (1997) provide an institutional analysis of the UK Government's approach to incorporating the concept of sustainable development into the policy process. They suggest that there has to date been little in the way of policy realignment or the development of new administrative cultures to meet the challenge of sustainable development and highlight a number of reasons as to why this has been the case. Finally, within this strand of the literature Lowe and Ward's (1998) edited volume charts the transitional nature of British environmental policy within a European context.

The second broadly identifiable cluster of the literature on UK environmental policy focuses on policy at the sectoral or micro level. In this respect, a favoured area of investigation has been that of environmental regulation in general and water pollution control in particular. For example, Richardson et al (1982) provide an excellent commentary on the rationale for environmental regulatory enforcement, while one of the earliest accounts of water pollution control in the UK is contained in a chapter of Rhodes' (1981) volume on the work of Inspectorates in British Government. This was followed by Hawkins' (1984) richly detailed study of the process of pollution control as undertaken by field level Pollution Control Inspectors within two English and Welsh Regional Water Authorities during the 1970s. Brittain's (1984) examination of the process of water pollution control from the perspective of regulated dischargers compliments these accounts of environmental regulators work. Watchman et al (1988) and Rowen-Robinson et al (1990) have also

contributed studies which deal with aspects of water pollution control in Scotland. Alternatively, Huttor's (1988) volume provides an insight into regulatory enforcement as undertaken by Environmental Health Officers in England. Meanwhile, Ashby and Anderson's (1981) text provides a definitive history of the politics of domestic air pollution regulation in the UK from its origins in the 19th century to the 1970s. Hughes (1987) provides an account of the work of Her Majesty's Inspectorate of Pollution (HMIP) while Bowman (1992) shifts the focus to another element of what was a fragmented regulatory system by detailing the increasingly confrontational approach to regulation being adopted by the National Rivers Authority following its creation in 1989. Following this theme of environmental enforcement, Carnwath (1992) provides an analysis which advocates the use of a specialist court within the context of environmental regulation.

More generally, writers such as Vogel (1986) and Weale et al (1991) have significantly contributed to our understanding of the complexities associated with enforcing environmental regulation in the UK by offering comparative insights into the process. In this respect, Vogel's (1986) account of environmental regulation in the UK and the US has portrayed what he considers to be a distinctive British 'style' of environmental regulation. Weale et al's (1991) study also highlights distinctive aspects of the UK approach to pollution control in comparison to that adopted in Germany. O' Riordan (1993) has also provided an account of industrial pollution control in the UK.

The introduction of a system of Integrated Pollution Control (IPC) by the UK Government has become a favoured area of focus within this second strand of the UK environmental policy literature. An early contribution to the literature in this respect (predating the introduction of the system in 1990) is that of Owens (1989) article which speculates upon the implications of the system in relation to environmental regulation. Purdue (1991) questions whether the introduction of IPC heralded a 'coming of age' of UK environmental law. More recently, Jordan (1993) has used the IPC system as the backcloth upon which to chart the evolving style and structure of environmental regulation in the UK.

1.3.1 Gaps in the Literature

Taken together, the two strands of literature discussed in the preceding provide a valuable, if fragmented, account of the development of UK environmental policy at both the macro and micro levels. At the same time, however, there are important and rather surprising gaps in the literature which this thesis aims to fill. As a starting point in identifying these gaps, it

should be noted that this author's classification of the literature as focusing on 'UK environmental policy' is perilously close to a misnomer. With the exceptions of the sources identified in the above review, the vast majority of the literature in fact focuses on environmental policy as the process relates to an English context. This point is made, not for parochial reasons, but in order to indicate that in key areas the Scottish experience of implementing environmental policy has exhibited subtle yet important differences by comparison with the English experience.

Nowhere is this more evident than in relation to regulatory environmental policy. It is no coincidence that when unified administrative arrangements came into existence in April 1996 they did so in the form of separate Environmental Protection Agencies for Scotland and for England and Wales. This development merely reinforced the fact that while the same basic legislative policy instruments have been used to control pollution in Scotland and the rest of the United Kingdom, these have been implemented within quite distinctive administrative landscapes. Thus, while Buller et al (1993) rightly state that '(t)he tradition of voluntary regulation and of negotiation which has prevailed throughout the long history of British environmental policy....is giving way to a more formal regulation' (p.191), their assertion that its 'origin is clearly that of the European Community' (p.191) is open to question. As this thesis will demonstrate, the shift towards an increasingly formal regulation within the RPA system of water pollution control policy in Scotland during the first half of the 1990s was attributable to a number of other factors in addition to the influence of the European Community. Consequently, one area in which this thesis aims to contribute to the study of environmental policy is by adding to our understanding as to the reasons for the adoption of an increasingly formal approach to environmental regulation within the UK, by examining the process within a specifically Scottish context.

A second area in which there is a gap in the existing literature is in relation to the study of different *types* of environmental policies which are implemented by Central Government. As the preceding overview of the literature indicates, the dominant area of micro-level inquiry has been that of regulatory policy. This strand of the literature has proved extremely valuable in providing insights into the process and outputs of regulation. However, it has also come to represent a somewhat limiting view of the range of tools which Governments' use to achieve their environmental policy objectives. In particular, there has been little

empirical study of the implementation of *distributive* environmental policy in the UK.[20] This is unfortunate because, as indicated in the preceding section, distributive policies have come to represent an important element in Government's efforts to achieve its environmental policy objectives. Consequently, a second way in which this thesis aims to contribute to the study of environmental policy is by adding to our understanding of the role of distributive policies in achieving Government environmental policy objectives.

1.4 Structural Parameters: Why Choose the Case-Study Policies?

There are a number of characteristics associated with the selected regulatory and distributive environmental policies of the case-study RPB and The Scottish Office respectively which make them appropriate foci for the analysis conducted in this study. In particular, examining the implementation of these policies enables the thesis to contribute to the environmental policy literature in the ways discussed in the previous section. By studying and comparing the implementation of these distinctive types of environmental policy, it is also possible to draw conclusions in relation to the contingent nature of public policy implementation in general and, in so doing, fulfil a main aim of this thesis by adding to the political science coverage of this aspect of the implementation process. The following sub-sections provide a rationale for selecting the particular case-study settings for the analysis.

1.4.1 The Case for Studying the RPAs' Regulatory Water Pollution Control Policy

Sub-section 1.2.2 indicated that regulatory policy is the oldest and most well established mechanism with which UK Central Government attempts to deliver its environmental policy objectives. While Government has progressively broadened the range of policy types with which to pursue the long term goal of sustainable development, regulatory environmental policy remains *the* main policy type with which it pursues this overall policy goal. This is reflected by the body of environmental legislation on the statute book.[21] Within the context of Government regulatory environmental policy there are three reasons why RPA pollution control policy represents an appropriate case-study setting for the analysis contained within this thesis.

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[20] Notable exceptions have included the work of McCulloch and Moxen (1994) and McCulloch, Moxen and Baxter (1996).

[21] See for example, the Clean Air Act of 1956, the Control of Pollution Act 1974 and the Environmental Protection Act 1990. Its primacy as an instrument of policy implementation is further illustrated by the extensive literature devoted to its study in comparison to that focusing on other environmental policy instruments.

Firstly, the RPAs comprised the single largest organisational element (in terms of staff and resources) of the fragmented administrative structure which existed in Scotland prior to the creation of SEPA in April 1996 (The Scottish Office, 1992a). As such, studying policy in this area of regulation offers as representative an account of pollution control policy implementation as it is possible to attain within what was a disjointed administrative structure. Secondly, the importance of water as a resource for both social and economic development provides one explanation for the dominance (in terms of staff numbers and financial resources) of the RPAs in the pre-SEPA administrative structure of pollution control. The variety of functions (economic, amenity and recreational) which water fulfils in society makes examining the process whereby this resource is protected a useful case-study in illustrating the types of deliberations which policy practitioners make when attempting to interpret and operationalise a concept as complex as sustainable development. Thirdly, (and directly relating to the preceding) an account of water pollution control, as undertaken within the RPA system, provides the literature with an important analytical link in explaining the continuing evolution of environmental regulation within Scotland in particular and the UK in general.

Regarding the selection of only one of Scotland's seven former mainland River Purification Boards as a case-study for this research initiative the following should be noted. Firstly, as mentioned earlier in this chapter, there was an important organisational distinction to be drawn between the mainland River Purification Boards and their three counterparts located on the Scottish islands. Thus, the mainland RPBs were individualised organisations, constructed with the purpose of protecting the aquatic environment under their particular jurisdictions. In contrast, the three islands River Purification Authorities were part of the organisational structures of the Western, Shetland and Orkney Islands Councils respectively. Nevertheless, mainland RPBs and the Islands RPAs collectively shared a broadly similar approach to the implementation of pollution control policy.

Secondly, as chapters three and four of this study make clear, the institutional arrangements for protecting the aquatic environment of Scotland have traditionally varied quite considerably from those located in England and Wales. River Purification Boards, charged with the responsibility of protecting Scotland's aquatic environment, have been in place since the 1950s. In contrast, in England and Wales this function was the responsibility of Regional Water Authorities and latterly that of the National Rivers Authority following its

establishment in 1989. These differing institutional frameworks on either side of the border are especially important to note in view of policy developments unique to the Scottish experience of pollution control which are discussed in chapter four of this thesis.

1.4.2 The Case for Studying The Scottish Office's Distributive Voluntary Environmental Sector Policy as Implemented through the SGEP

As explained in section 1.3, this study seeks to fill gaps in the environmental policy literature regarding coverage of distributive policy in particular and environmental policy within a Scottish context in general. In this respect, the selection of The Scottish Office's distributive policy, as implemented through the policy instrument of the Special Grants Environmental Programme, represents an appropriate choice of case-study setting for the thesis. This is because the SGEP is the only policy instrument applied *directly* by The Scottish Office itself in order to implement its distributive environmental policy objectives with regard to the voluntary environmental sector in Scotland.[22] As such, this case-study provides insights into the intra-organisational decision-making process within The Scottish Office, and the interaction between The Scottish Office and SGEP-funded voluntary organisations, which ultimately determine the policy outputs and outcomes of this aspect of Central Government's distributive environmental policy. This in turn enables conclusions to be drawn in relation to the policy implementation process as it relates to the distributive case-study in particular and public policy in general.

1.4.3 Evaluating Implementation Success via the Case-Study Policies

As stated in section 1.1, this thesis seeks to examine whether measures of success in public policy implementation are contingent upon the characteristics of particular variables as they apply within the contexts of specific policy settings. In this respect, the selection of the case-study RPB's regulatory environmental policy and Scottish Office's distributive environmental policy provide suitable implementation case-studies through which to examine this issue. In particular, the suitability of each of these policies lies in the distinctiveness of their individual case-study settings. Both the RPB's regulatory policy and The Scottish Office's distributive policy were designed to apply their specific instruments - COPA (1974) and the SGEP, respectively - to fulfil very different purposes. The case-study RPB's regulatory policy was intended to meet the objective of ensuring that pollution of

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[22] The other policy instruments with which The Scottish Office implements its environmental policy objectives towards the voluntary environmental sector are applied indirectly by Scottish Natural Heritage and UK2000 Scotland respectively. These are discussed in more detail in chapter 3.

controlled waters did not occur beyond levels permitted by the RPB. As such, the policy's overall objective was one of *enforcement*. In contrast, The Scottish Office's distributive policy was intended to meet the objective of assisting voluntary environmental organisations to deliver environmental improvement. As such, this policy's overall objective was one of *enabling*. These individual policies were in turn intended to produce specific and quite different outputs in order to contribute to Government's long term environmental policy objective of sustainable development. The implementation process as it related to each policy is illustrated in figure 1.2.

Figure 1.2 Implementation Process for the Case-Study Policies
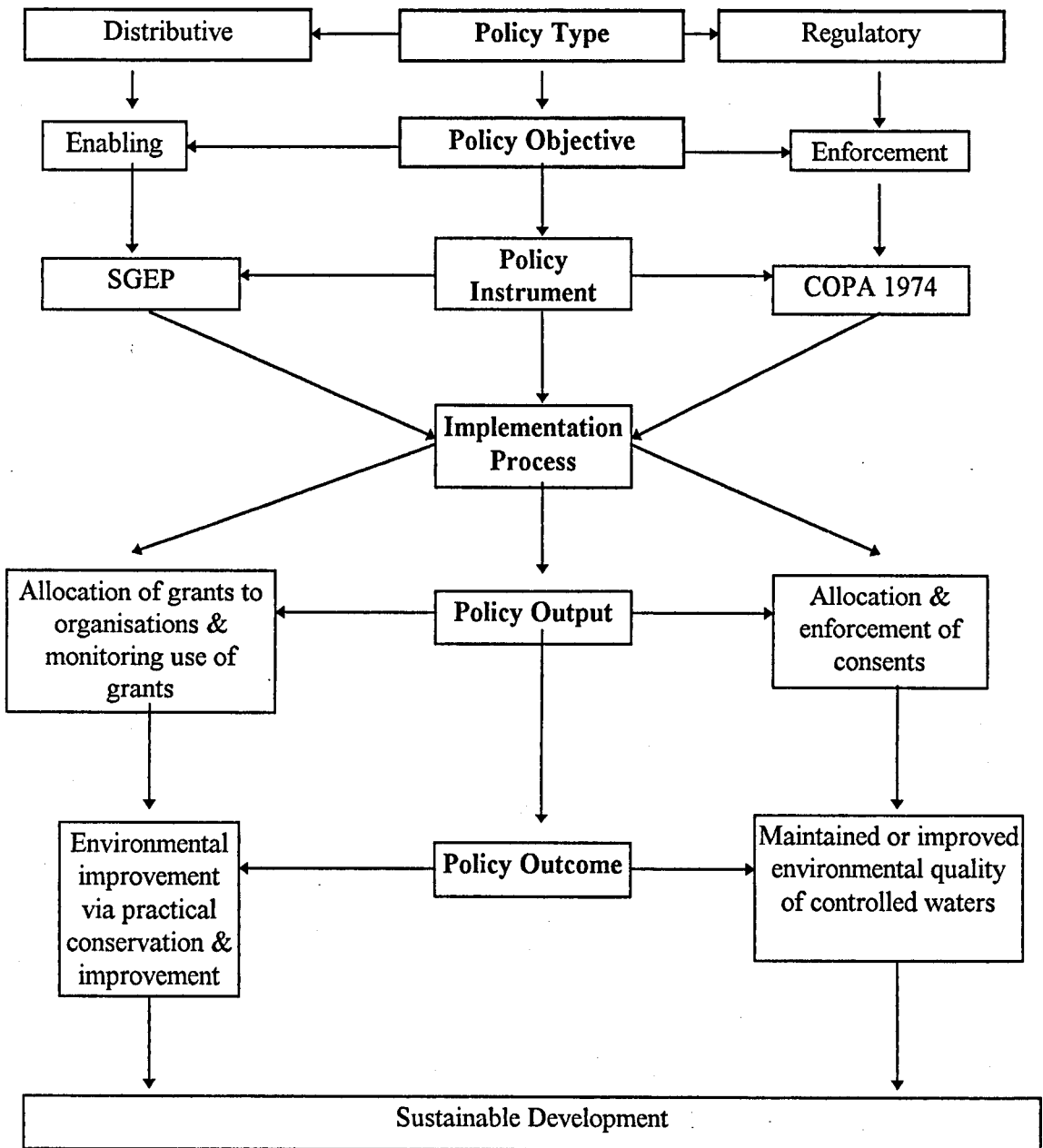
Consequently, by examining the selected variables as they relate to the implementation of these separate and distinct policies, it is possible to compare the empirical findings derived from each case-study and thereby draw conclusions regarding the measurement of policy implementation success.

1.5 Methodological Parameters:
Why Choose the Case-Study Approach?

In section 1.2 it was explained that there are difficult choices to be made in terms of research design when the focus of study is on as broadly defined a policy area as that of environmental policy. Having decided on *what* is to be researched, an equally important issue to resolve is *how* the topic is to be researched. This thesis adopts a case-study approach and draws much of its evidence from semi-structured interviewing in order to fulfil its research objectives.[23] In so doing, the study leaves itself open to potential criticism on two counts; inadequate design and inadequate data collection techniques. The thesis's examination of specific case-study settings focusing exclusively on single Government Departments' or agencies' implementation of policy could potentially be criticised on the grounds that it constitutes poor research design. In particular, the design choice could lead to the accusation that examining implementation as undertaken within these single case-study settings generates unrepresentative, and therefore intellectually dubious, research findings. Equally, policy implementation analysis which relies mainly on interviewing policy participants for evidence upon which to base conclusions cannot be considered to be other than an imperfect methodological approach. This is due to the fact that evidence upon which researcher's conclusions are based is largely gathered from second-hand interviewee accounts of the implementation process, instead of through the researcher observing that process for him or her self.

The charge of unrepresentative findings is not one which can be made as readily in relation to the choice of case-study setting for examining the implementation of distributive environmental policy as it can for regulatory environmental policy. At the time when the field work for this study was being undertaken in 1994, the SGEP was the only environmental policy instrument administered directly by The Scottish Office in order to implement its policy objectives in relation to the voluntary environmental sector. Therefore, in this instance, limitations in the choice of case-study are externally imposed by the lack of

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[23] See Appendix 1 for a more detailed account of the methodology employed in undertaking the data collection for the study.

a viable alternative to study, rather than as a direct result of the researcher's deliberations. This also means that, as the *only* distributive environmental policy implemented directly by The Scottish Office, the case-study findings are representative of Government distributive policy in this regard.

The decision to select only one out of ten River Purification Authorities as a case-study focus may initially appear more difficult to defend in terms of the representativeness of the case-study research findings. However, this choice in research design can be justified for two main reasons. Firstly, it can be argued that studying one RPB's implementation of its pollution control policy *does* enable a representative account of policy implementation within the entire RPA system to be produced. This is because these agencies were responsible for implementing the same policy instrument - COPA (1974) - within their particular localities. Thus, while RPAs set and enforced their own individualised pollution control standards, the process of policy implementation by each of these agencies exhibited a number of characteristics, including pragmatism and a reluctance to use prosecution of offenders as an enforcement tool (Watchman, et al, 1988), common to all of the RPAs. Moreover, as this thesis demonstrates in chapter 4, these agencies were collectively adopting an increasingly uniform approach to policy implementation in the period prior to their demise. This in turn enhances the validity of general conclusions based upon the particular findings presented in this case-study context.

Secondly, this study's aim of adding to our understanding of the contingent nature of public policy implementation provides a further justification for selecting only one RPA as a setting for analysis. Given this aim, it is necessary to focus on case-study implementation in at least two different policy settings in order to generate sufficiently robust empirical findings from which to base generalisations regarding the implementation process. At the same time, focusing on a greater number of case-studies would dilute the depth of analysis available from which to generalise from the particular empirical research findings. As such, the study's emphasis on analytical depth at the expense of analytical breadth is considered by the author to be a methodological price worth paying.

Turning to potential criticisms of the main data collection technique employed, while there are undoubted draw-backs to semi-structured interviewing as a research method through which to characterise policy implementation, these are outweighed by its main advantage. Specifically, identifying key policy implementation actors and eliciting their perceptions of

the process, via interview, enables the researcher to piece together pictures of implementation which - through the analysis of interview evidence, in conjunction with appropriate qualification from secondary data sources - provide detailed accounts of the process in each case-study setting.

1.6 Objectives of the Study

From the discussion contained in the preceding sections, it can be seen that there are two areas in relation to political science in which this thesis seeks to make a contribution to knowledge. These relate to the study of *public policy implementation in general* and to the study of *UK environmental policy in particular*. As such, the thesis seeks to make specific contributions in the following areas:

- To add to the political science coverage of the contingent nature of public policy implementation.

- To provide a definitive characterisation of the implementation of water pollution control policy within the former Scottish River Purification Authority system.

- To provide a definitive characterisation of The Scottish Office's distributive environmental policy as implemented through the Special Grants Environmental Programme.

- To explain the shift towards an increasingly formal approach to regulation being adopted within the former River Purification Authority system.

1.6.1 Synopsis

The remaining sections of the thesis are structured as follows. Part II is developmental in nature. Chapter 2 provides a review of the public policy implementation literature. The key theoretical propositions of the two main implementation theory schools ('top-down' and 'bottom-up') are identified and discussed, as are efforts at theoretical synthesis within the literature. From this, the variables subsequently examined in relation to the case-study policy implementation settings are identified and a rationale for their selection is provided. Chapter 3 acts as a precursor to the empirical analysis undertaken in Parts III and IV. It fulfils this function by charting the evolving environmental policy context at the macro level

during the late 1980s and early 1990s, during which time UK Central Government explicitly articulated the achievement of sustainable development to be its main environmental policy objective. The chapter also provides the broad policy context for the empirical analysis contained in chapters 4-6. In particular, the chapter presents an overview of the evolving system of environmental regulation in Scotland and of government-voluntary sector relations in general.[24] Part III of the thesis shifts the focus of analysis to the case-study RPB's regulatory pollution control policy as implemented through the policy instrument of COPA 1974. This is done in chapter 4 which presents the empirical findings upon which some of the conclusions of the thesis are based. Part IV analyses the policy implementation process within the case-study setting of The Scottish Office's distributive environmental policy as administered through the policy instrument of the SGEP. Chapter 5 analyses the intra-organisational decision-process whereby SGEP grants were allocated to applicant organisations. Chapter 6 examines the implementation of the policy from the perspective of SGEP-funded organisations. Finally, Part V analyses the influence of the selected variables on the implementation process within the individual case-study settings and draws conclusions with regard to the objectives that have been identified for the study. The thesis now turns to a review of the literature on public policy implementation.

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[24] The focus is on the development of government-voluntary sector relations in general because the changing nature of that relationship has had a particular influence on Central Government's environmental policy towards the Scottish voluntary environmental sector as implemented through the policy instrument of the SGEP.

PART II
ESTABLISHING THE THEORETICAL AND POLICY CONTEXTS

Implementation Theory: A Review of the Literature

2.1 Introduction

In his 1972 article on the nascent field of policy analysis Heclo declared that the majority of policy case studies consisted of:

> a series of isolated, episodic descriptions - particularly of legal enactments - which are apparently thought to be of intrinsic interest. To only a very limited extent does this legacy constitute a body of scientific observations helping to discern larger patterns. (Heclo, 1972, p.90).

During the same period, political scientists in the United States were beginning to turn their attention to a previously ignored area of inquiry; that of analysing public policy implementation. The field of policy implementation studies which has evolved over the last two decades has been exposed to criticisms which to a large extent parallel some of those made by Heclo in relation to the broader canvas of policy analysis. Thus, while implementation studies have been instrumental in reversing what Heclo (1972, p.87) described as the post-war trend of focusing on the inputs of the political system (Easton, 1965) to the exclusion of policy outputs, the literature has been criticised on the grounds that its theoretical pluralism, restricted context and non-cumulative nature (Lester et al, 1987) represent serious impediments to its future development. However, in spite of the existence of what Palumbo (1987, p.96) describes as 'idea entrepreneurs', scholars who seem more intent on carving out their own intellectual models than on building on the work of others, two broadly distinct theoretical orientations can be discerned within the literature. Consequently, reviews of the field frequently refer to studies as belonging to either the 'top-down' or 'bottom-up' schools of implementation (see for example: Alexander, 1985; Sabatier, 1986; Goggin et al, 1990).

Proponents of the older approach, that of 'top-down' theory, adopt an essentially 'managerial' perspective on policy implementation. Such an approach tends to emphasise the influential role of statute in determining the implementation of clearly specified goals and the extent to which hierarchical structure and lines of formal authority can be manipulated 'from the top' by decision-makers in order to ensure that outputs are consistent with stated objectives. To this end, 'top-downers' stress the need for policy-makers to control, insofar as is possible, lower level

administrators' scope for exercising discretion which may distort or subvert the policy's original objectives. Consequently, viewed from a 'top-down' perspective, the journey from policy formulation to the execution of explicitly articulated policy goals is envisaged as progressing in an orderly and sequential fashion.

In contrast, 'bottom-up' studies which first began to emerge in the late 1970s portray implementation as being framed largely by the discretionary activities of lower level administrators which 'top-down' theorists are at pains to minimise. Many of these studies characterise implementation as a more open process than do their 'top-down' counterparts in that they stress inter-organisational relationships between relevant actors as well as intra-organisational relationships between actors within an implementing agency. From a 'bottom-up' perspective, policy-makers' ability to structure implementation so as to achieve statutory objectives is displaced by the bargaining and compromise which is said to characterise interaction between various actors with a stake in the implementation process. Therefore, 'top-downers'' preoccupation with controlled implementation is replaced by 'bottom-uppers'' concern with examining the ways in which consensus is engineered among multiple actors in order to ensure implementation outputs.

2.1.1 Chapter Structure

This chapter traces the evolution of the field of implementation research. Section 2.2 clarifies the concept of policy more closely and in so doing draws some distinctions with regard to the role of implementation and implementation research in relation to policy. Sections 2.3 and 2.4 explore the main themes to be found within the 'top-down' and 'bottom-up' schools of implementation in more detail by focusing on the work of a number of key theorists within each camp. Section 2.5 provides a critique of the two approaches and examines efforts at theoretical synthesis within the literature. Finally, section 2.6 identifies and discusses the variables which are applied to the case-study findings contained within the thesis in order to address the objectives set out in section 1.6 of chapter 1.

2.2 Conceptualising 'Policy'

In elaborating upon Heclo's (1972, p.84) observation that policy is not self-evident, Hogwood and Gunn (1984, pp.13-19) list a number of categorisations which demonstrate the phenomenon's various usages. Thus, the term 'policy' can refer to: *'fields' of Government activity; a general purpose* or a desired state of affairs; *statements of specific proposals* which

government wishes to enact; the *'decisions'* of Government arising from key 'moments of choice'; *formal authorisation*, for example the enactment of legislation; a particular *programme*, encompassing a specific package of legislation, organisation and resources'; *outputs*, or what is actually delivered by Government; *outcomes*, or the impact of Government activities; or, a *model* incorporating theories of cause and effect. While acknowledging that such categorisations offer important clues as to the dimensions of policy, Hogwood and Gunn suggest that, considered individually, they fail to capture the essence of policy as a complex phenomenon which unfolds over often long periods of time. Consequently, the authors advocate replacing the 'still photograph' (p.19) nature of many of the preceding usages with the analytic equivalent of a film. They do this by conceptualising policy as a *dynamic process*.

The view of policy as a process has considerable currency among analysts with many contemporary textbooks and articles on public policy adopting such an approach in studying the phenomenon. (Ham and Hill, 1993, p.98; Linder and Peters, 1987a, p.122). Heclo (1972), for example, draws on a number of other writers' definitions by way of illustration (see for example; Rose, 1969, Etzioni, 1968, Braybrooke and Lindblom, 1963, Lasswell and Kaplan, 1950, Friedrich, 1963, and Robinson, 1962), to demonstrate that rather than being a 'self-defining phenomenon' (p.85), policy is an analytic category to be found approximately in the middle range of application between 'something 'bigger' than particular decisions, but 'smaller' than general social movements' (p.84). Heclo further suggests that most analysts using the term understand policy to incorporate purposiveness of some kind. Consequently, there is wide-scale agreement among policy analysts that, at a fundamental level, 'policy is *a course of action* intended to accomplish some end' (Heclo, 1972, p.84, emphasis added).

In adopting a view of policy as process, some analysts (Hogwood and Gunn, 1984) have constructed analytic frameworks which parallel Easton's (1965) model of the political process referred to previously. In Easton's model, the political process is represented as inputs being fed into a decision system or 'black box', which in turn transforms these inputs into outputs (Ham and Hill, 1993, p.98). Although policy analysts' frameworks commonly list a variety of stages in the policy process (Hogwood and Gunn, 1984, list 9 stages ranging from issue search to policy maintenance, succession or termination), these can generally be aggregated into the following elements; policy *formulation*, policy *implementation* and policy *evaluation*. Within a 'policy as process' framework, implementation takes the place of Easton's 'black box', thus constituting what Hargrove (1975) has termed the 'missing link' which connects the stages of formulation and evaluation.

The conceptualisation of policy as a process incorporating a purposive course of action is useful in illustrating the dynamic nature of the phenomenon. However, in spite of the undoubted utility of the process model in studying policy, it has paradoxically served to highlight arguably *the* enduring source of conceptual disagreement among implementation scholars which in turn lies at the heart of the theoretical divergence within the literature. In short, there is considerable variance in opinion regarding where policy is shaped within the implementation process. For top-downers the issue is comparatively clear-cut. Policy is formulated by decision-makers in Government or, depending on the circumstances, at senior management level within an implementing organisation. Implementation then becomes a programmed, linear exercise orientated towards achieving the ends specified by the authoritative decision-makers. Failures in implementation thus become failures of management in ensuring that lower-level implementors adhere to their specified roles in the implementation process. Bottom-uppers, on the other hand, take an altogether more jaundiced view of the policy-implementation distinction promoted by their top-down counterparts. They point to increasingly complex and fragmented policy environments as symptomatic of the 'overload' of government (King, 1975) which has nullified the distinction between politics and administration (Hjern, 1982). For bottom-uppers, therefore, policy is formulated and reformulated within complex webs of decision-making where the distinctions between formulation and implementation have become increasingly blurred. In this way, policy is as likely to evolve within the implementation stage of the process as it is during the formative phase of decision-making designed to address a particular societal problem. Thus, there is general agreement among implementation theorists that the policy process entails a purposive course of action charted through often highly complex decision networks unfolding over time. However, as will be demonstrated in the course of this chapter, the opposing theoretical schools within the implementation literature have yet to satisfactorily resolve where policy formulation ends and policy implementation begins.

Notwithstanding debates regarding the validity of the policy-implementation distinction, conceptualisation of policy as a process nevertheless provides valuable guidance as to which aspects of that process are relevant to implementation research. Ham and Hill (1993, p.103), for example, contend that the facets of 'policy' of interest to the implementation student relate to the complex phenomena which emerge at the end of the legislative process. Therefore, within this context, and in view of the longitudinal dimension of implementation, key aspects of the policy process on which implementation research must inevitably focus are policy programmes, outputs and outcomes.

While implementation research has been characterised as a comparatively recent addition to the pantheon of policy analysis, one can discern, as Berman (1980, p.206) notes, reverberations of older themes. In part, the prescriptions offered by both top-down and bottom-up theorists bear the hallmarks of the debate concerning the utility of expanding decision-makers rationality as opposed to merely muddling through, best personified by the writings of Simon (1947, 1957, 1960) and Lindblom (1959, 1968, 1979) respectively. Top-downers argue that perceived implementation failures such as those unearthed by studies in the early 1970s can be ameliorated by weighting the decision network more explicitly in favour of policy-makers' desired ends. Bottom-uppers retort that a more conservative estimate of Government's capacity to solve societal problems is needed. From the bottom-up perspective, problem solving becomes an incremental process, interwoven by bargaining among competing interests, and geared to achieving what *can* be done as opposed to what *ought* to be done. Similarly, top-down and bottom-up theorising in search of the 'best' way to implement policy with which much of the literature is preoccupied echoes the discourse regarding the relative merits of scientific management and organisational development in its consideration of the desirability of control and discretion in the implementation process. Elmore's (1978) typology of organisational models adopted in implementation research illustrates the pervasive influence of such debates. In constructing this typology he identifies 4 models which are used by theorists to analyse policy implementation. These are the 'Rational', 'Bureaucratic Process', 'Organisational Development', and, 'Conflict and Bargaining' models. As will be seen, both the rational and bureaucratic process models have been favoured by top-downers in theory building while the organisational development and conflict and bargaining models have been adopted mainly by bottom-uppers.

However, while the study of implementation has to some extent been fuelled by such long-standing debates, the literature has nevertheless made important contributions to our understanding of the policy process. These will be examined in greater detail in the following sections, the first of which reviews some of the key themes to have emanated from early forays into the field, along with major theoretical contributions of the 'top-down' school which emerged in their wake.

2.3 The 'Top-Down' School of Implementation Theory

Many of the initial studies of policy implementation which began to appear in the early 1970s were prompted by what were perceived to be the disappointing results of Governments efforts to

translate ambitious intent into action matching the scale of that ambition. The United States in particular proved fertile ground for inquiry in light of the apparent failure of President Lyndon B. Johnson's administration to initiate many of the profound changes which large parts of its 'Great Society' programmes had promised during the 1960s. Thus, the most influential of the early studies of implementation were primarily North American. Indeed, one of the very earliest (Derthick, 1972) documented the meagre policy outputs of a programme which had been the brain-child of the President himself. In chronicling the obstacles facing policy actors in attempting to implement a programme of urban renewal, Derthick noted that such impediments took the form of:

> weak mayors, objections from Capitol Hill, racial concerns, clashes between conservationists and urban planners, difficulties in making the federal bureaucracy responsive to presidential initiatives.

While the substance of many of these obstacles may have been specific to the 'New Towns In-Town' programme which was the focus of Derthick's study, her findings nevertheless contain a number of important indicators as to the complexity associated with implementation which were explored further as the field of study evolved. Of the early contributions to that literature, the most influential in framing the field of analysis has been Pressman and Wildavsky's (1973) appraisal of the efforts of the US Economic Development Agency (EDA) to provide permanent employment for minorities through economic development. Their research presented a case-study in failed implementation in the city of Oakland, California, which the EDA had selected to pilot the agency's policy of providing public works and building loans to generate appropriate incentives for employers to hire minorities.

As noted in the chapter 1 of this thesis, Pressman and Wildavsky were of the opinion that policy implementation had been a neglected area of study prior to the commencement of their own inquiry. In voicing surprise that their literature search on the implementation process had yielded no books or articles containing either 'implementation' or 'execution' in their titles they state:

> There is (or there must be) a large literature about implementation in the social sciences - or so we have been told by numerous people. None of them can come up with specific citations to this literature, but they are certain it must exist. Surely, they will say, the vast scholarly attention paid to poverty programs and the efforts to secure compliance in the field of human rights has generated work on problems of implementation. It must be there; it should be there; but in fact it is not.....except for the few pieces mentioned in the body of this book, we have been unable to find any significant analytic work dealing with implementation (Pressman and Wildavsky, 1973, p.166).

Pressman and Wildavsky's misgivings regarding what they perceived to be the 'non-literature' on implementation have subsequently been criticised by Van Meter and Van Horn as 'unnecessarily harsh and short-sighted' (1975, p.452). While agreeing that policy implementation had received little explicit attention prior to the early 1970s, Van Meter and Van Horn assert that the social sciences contain a rich heritage which those claiming to examine implementation had frequently overlooked. Consequently, they argue, theoretical and empirical work in disciplines such as sociology, public administration, social psychology and political science, while not addressing implementation specifically, have significant contributions to make in the area. Similarly, Dunshire (1978), in his expansive review of the implementation literature, cites earlier writers working within the discipline of organisational theory as making important, if not necessarily explicit, contributions to our understanding of implementation (See for example, Fayol, 1916; Gullick, 1937; Barnard, 1938; March and Simon, 1958). More charitably, Ham and Hill (1993, p.97) suggest that while the absence of theory and literature on implementation at Pressman and Wildavsky's time of writing had been exaggerated, there was a gap in that literature, especially in the field of political science.

Notwithstanding the alleged myopia of Pressman and Wildavsky's literature search, the publication of 'Implementation' marked a watershed in the evolution of implementation research as the authors dissection of the so-called Oakland Experiment in which the EDA had become engaged constituted the first explicit political science treatment of policy implementation. Moreover, in identifying a variety of factors which had the capacity to profoundly influence the course of implementation, their study laid foundations for much of the theory construction which followed within both the top-down and bottom-up schools.

In a conceptual development which was to have particularly significant ramifications for subsequent top-down attempts at theory construction, Pressman and Wildavsky dismiss usages of policy encompassing either broad statements of intent or actual behaviour as rendering study of implementation impossible. The authors instead conceptualise policy as a hypothesis incorporating initial conditions and predicted consequences. Therefore, implementation in this policy context constitutes the ability to achieve the predicted consequences after the initial conditions are met. Thus, suggest Pressman and Wildavsky, if X is done at time t1 then Y will result at time t2. A critical distinction is made by the authors between a policy and a programme in their conceptualisation of policy as theory:

A programme consists of governmental action initiated in order to secure objectives whose attainment is problematical. A programme exists when the initial conditions - the "if" stage of the hypothesis - have been met. The word "programme" signifies the conversion of a hypothesis into governmental action. The initial premise of the hypothesis has been authorised. The degree to which the predicted consequences (the "then" stage) take place we will call implementation. Implementation may be viewed as a process of interaction between the setting of goals and actions geared to achieving them (1973, p.xxi).

Consequently, policies are said to incorporate, either implicitly or explicitly, a 'causal chain' between initial conditions and predicted consequences. Programmes evolve as a result of the creation of initial conditions and serve the purpose of operationalising the theory which underpins policy formulation by forging the first link in the causal chain attaching actions to objectives. Thereafter, implementation can be viewed as 'the ability to forge subsequent links in the causal chain so as to obtain the desired results' (Pressman and Wildavsky, 1973, p.xxi). Within this conceptualisation of policy, an explicit distinction is made between policy formulation (the "if" stage of establishing initial conditions required to achieve some specified end) and policy implementation, the process connecting the initial hypothesis to desired ends. This distinction has subsequently been adopted by top-down theorists as the foundation upon which they have built their models of the implementation process.

While the policy/implementation distinction has become largely the preserve of 'top-down' theory, Pressman and Wildavsky's study produced a number of findings which are more universally recognised within the field of inquiry. Sifting through the debris of 'ruined hopes' which the disintegrating Oakland Experiment had precipitated, the authors articulated what was to become the 'article of faith' uniting implementation analysts (Berman, 1978, p.160) by concluding that 'the apparently simple and straight-forward is really complex and convoluted'. In this vein, a pivotal factor highlighted in explaining the perceived failings of the EDA initiative is the 'complexity of joint action'. Thus, the causal chain linking initial conditions to desired results can be viewed as a decision path with each link in the chain constituting what Pressman and Wildavsky call a 'decision point'. Such decision points are of critical significance in determining the future course of implementation as it is here that participants in the implementation process must register acts of agreement to secure the clearance required to enable implementation to proceed to the next stage. Consequently, the longer the causal chain, the more complex the implementation process becomes as the number of decision points, and thus the scope for participant disagreement, is increased. Much of the 'slow dissolution of agreement' which

characterised the failings of the Oakland Experiment centered on an ever-lengthening causal chain as an increasing number of participants became embroiled in the implementation process.

An insight which has conversely become a linchpin of many bottom-up analyses of implementation is Pressman and Wildavsky's finding that multiple participants in turn bring their own perspectives and agendas to the implementation process. In particular, they suggest that each actor's relationship to a programme will influence the course of implementation. This relationship can be plotted along three dimensions: firstly, the direction of the actor's preference regarding the matter at issue. Is he for or against? Secondly, the intensity of a particular actor's preference. Is he passionate or indifferent regarding the matter at hand? Thirdly, the resources which the participant can bring to bear to influence the outcome of the matter at issue. Differing perspectives on programmes by extension lead particular actors to construct their own measures of success regarding their participation in the process. For the original EDA leadership the number of jobs created for minority hard-core unemployed persons in Oakland was the major criterion of success. However, the Port of Oakland, another participant in the programme, measured its success by the degree to which the programme enabled it to expand its facilities. The participation of yet another actor, the Department of Health Education and Welfare, could be traced to its desire to secure increased funding for its established skills centres. Consequently, securing the agreement of the various participants required to move from one stage of the implementation process to the next proved difficult for the EDA. Delays ensued while participants negotiated to have their perspectives accommodated or while they stepped back to assess the development of the programme. Thus, a lengthening causal chain, and difficulties in securing agreements as various actors perceptions of the programme changed, led to the gradual subjugating of the goals which the EDA had intended to achieve when it originally formulated the policy.

In highlighting the diverse number of programme participants and the inability of the EDA to achieve its policy objectives, Pressman and Wildavsky's study was pivotal in paving the way for theory development within both the top-down and bottom-up schools. However, much of the early work produced in the field of implementation research followed Pressman and Wildavsky's approach in restricting itself to tracing a series of 'one-off' events as opposed to an on-going routine (Murphy, 1973; Bardach 1977). The rather bleak conclusion at which the majority of such studies arrived was that Government programmes seldom achieved their objectives. There was, in other words, a perception among scholars that an 'implementation deficit' existed, in the form of a downward spiral from initially high expectations on the part of policy-makers to often

mundane policy outputs and outcomes. While many of these early case-studies offered a litany of perceived implementation failure, their authors were noticeably more reticent in terms of offering guidance to ameliorate such failings. Consequently, it was not until the mid-1970s that writers began to construct dynamic models designed to reduce the gulf between action and intent which 'first-generation' studies (Goggin, et al, 1990) had identified.

The first such attempt at theory construction was undertaken by Van Meter and Van Horn (1975). Working from a resolutely 'top-down' perspective (p.453) their model lists a number of factors which, they contend, mould the linkage between policy and performance. These include: *policy objectives and standards; policy resources; interorganisational communications and enforcement activities; implementing agencies characteristics; economic, social and political conditions;* and, *the disposition of implementors.*

As with Pressman and Wildavsky, there is a clear separation between the stages of policy formulation and implementation in Van Meter and Van Horn's approach. Indeed, the authors build their model on the premise that policy, in the form of authoritative decisions, has been made regarding desired ends and has been expressed as such in legislative documents. Consequently, their model's utility is envisaged as demonstrating to policy-makers which variables they can manipulate in order that implementation may proceed in accordance with their specified intent, thereby avoiding the disappointing implementation outputs which were perceived to have afflicted Governments' earlier policy initiatives. At the most explicit level, argue Van Meter and Van Horn, policy can be more faithfully implemented through the drafting of *policy objectives and standards* which provide concrete and specific criteria with which to assess programme performance. Such objectives and standards are envisaged as moving from the generalities of the statute containing the original 'policy decision' (p.464) towards providing performance indicators against which to evaluate implementation. These in turn must be furnished with sufficient *policy resources* in the form of funds or other incentives to ensure their administration.

While these components are cited as fundamental to the model, reflecting Pressman and Wildavsky's assertion that 'implementation cannot succeed or fail without a goal against which to judge it' (1973, p.xiv), a number of other factors leading on from objectives and resources require to be fashioned to ensure implementation in accordance with policy-makers intent. Thus, regarding *'interorganisational communication and enforcement activities'*, the need for accuracy and consistency in communicating clearly specified objectives and standards through successive

layers of the organisation's hierarchy is emphasised. This is in order to minimise confusion on the part of lower level implementors as to what the objectives of the policy are, as such confusion may lead to deviation from the policy-makers stated objectives. It is within the context of this factor that the subsequently familiar top-down refrain concerning the need for managerial control of lower level implementors is first mooted. The authors state:

> Successful implementation often requires institutional mechanisms and procedures whereby higher authorities (superiors) may increase the likelihood that implementors (subordinates) will act in a manner consistent with a policy's standards and objectives (1975, p.466).

Within single organisations the established personnel powers of recruitment and selection, assignment and relocation, advancement and promotion and, in extreme cases, dismissal (p.466), along with control of budgetary allocations are cited as examples of the institutional mechanisms with which superiors can substantially influence their subordinates' behaviour. At an intergovernmental level such mechanisms are said to be largely absent. Consequently, enforcement activities available to higher level officials can take the form of technical advice and assistance. Alternatively, superiors, for example Government officials, may invoke a variety of either positive or negative sanctions (p.467). Positive sanctions could include allocation of funds. On the other hand, the threat of negative sanctions could ensure 'compliance in advance' (Derthick, 1972, p.209) by stipulating that implementing organisations draw up detailed plans for programme administration before funds are allocated, with the proviso that funds may be withdrawn if conditions detailed in the plan are not met.

In focusing on the *characteristics of the implementing agencies*, Van Meter and Van Horn extend the concept of control to the realm of individual implementing agencies. Within this context, a variety of factors are cited as potentially impinging upon an agency's capacity to implement policy in line with policy-makers' stated objectives. These include, among others, the extent of hierarchical control of sub-unit decisions and processes within an implementing organisation and the nature of formal and informal linkages with the 'policy-making', for example, Central Government, and the 'policy-enforcing' body (p.471), for example, the implementing agency. The implication contained within the model is that hierarchical control should be extensive in order to eliminate discretionary sub-unit decision-making which may lead to deviations from the implementation path mapped out by policy-makers.

Issues considered to be significant regarding *economic, social and political conditions* include the extent to which prevailing economic and social conditions will be affected by the particular

policy; the nature of public opinion regarding the salience of the policy; and the disposition of elites regarding implementation of the policy. Thus, by accounting for these various factors, policy-makers should be able to construct a sufficiently robust hypothesis when formulating policy to achieve their desired ends.

In a component of the model which recalls Pressman and Wildavsky's (1973) insight regarding the influence of participants relationship to a programme, Van Meter and Van Horn (p.472) argue that the *'disposition of implementors'* will also impact upon the implementation process. The critical variables in this respect are said to relate to implementors comprehension of the policy, the direction of their response to it (acceptance, neutrality, rejection), and the intensity of that response, all of which will affect their ability and willingness to implement that policy (p.472). A key issue therefore for superiors is to ensure, insofar as possible, that lower level implementors exhibit a favourable disposition to both the broad intent expressed within the original policy decision and objectives clarifying generalities of the legislative document. Consequently, it is suggested (p.472) that superiors' manipulation of the preceding components of the model can elicit a favourable disposition to the policy on the part of subordinates, thereby ensuring that the policy programme is implemented so as to realise the intent articulated in the original policy decision.

Van Meter and Van Horn's model is useful in rounding up what top down theorists have come to view as the usual suspects in terms of broad variables which, unless properly managed, can lead to implementation failure. Edwards (1980), for example, has developed a model identifying communication; resources; dispositions of the implementors; and bureaucratic structure, as variables which can directly and indirectly influence the implementation process. While both models display a distinctly top-down orientation, they are nevertheless distinguishable in that Van Meter and Van Horn's framework is embedded within Elmore's (1978) rational organisational model whereas Edwards' analyses implementation from within the context of the bureaucratic process approach.

Bardach (1977), in a volume which encapsulates themes of both top-down and bottom-up theory, offers a rather less restrictive view of implementation which he defines as:

> (1) a process of assembling the elements required to produce a particular programmatic outcome, and (2) the playing out of a number of loosely interconnected games whereby these elements are withheld from or delivered to the program assembly process on particular terms (1977, pp.57-58).

These elements, including administrative and financial accountability mechanisms, clearances or permits by regulatory agencies or elected officials, willing participation of presumptive clients, and political support sustaining and protecting the assembly process (p.36), are in the hands of a variety of, to some extent, independent parties. Bardach uses the 'games' metaphor (p.56) to describe the tactics and strategies which these semi-autonomous parties use in attempting to access and control aspects of the profusion of activities which together comprise the implementation process. Much of the volume is concerned with describing the variety of implementation games which impede the implementation process from achieving mandated objectives. Such games are classified under four general types (p.66): *diversion of resources* away from obtaining or creating programme elements; *deflection of policy goals* stipulated in the original mandate; *resistance to explicit attempts to control behaviour administratively*; and *the dissipation of personal and political energies* in game-playing which alternatively may have been directed towards more positive programme action.

Bottom-up theorists would (with some justification) cite the 'games' which Bardach identifies as an indication that policy-makers can never hope to control the implementation process. Indeed, by his own admission (p.6 & p.280), Bardach is not optimistic about the scope for designing policies to overcome implementation problems which can subvert the achievement of mandated policy objectives. He does, however, offer the essentially top-down concept of 'fixing' the overall implementation game (p.274) as a method with which to achieve policy goals more in keeping with policy-makers' original intentions. In one sense, 'fixing' is used in its 'repairing' definitional context, referring, for example, to the addition of new policy dimensions to the addressing of problems or to the grafting of new amendments to legislation. More importantly, 'fixing' is used to refer to the adjustment of particular elements in the vast system of games played out against the original policy mandate (p.274) in order to achieve a policy outcome which is more attuned to that mandate. At one level, the 'fixer' may be in a formal position of authority, able to utilise resources to shape the overall implementation game in an approximation of the policy mandate's image. However, given the multitude of players in the overall game, a more realistic conceptualisation of 'fixer' suggested by Bardach is that of 'a coalition of political partners with diverse but complementary resources' (p.278).

Almost immediately, however, the utility of the 'fixer' concept is called into question on the grounds that 'fixing' may unduly drain public funds and that such activities may be covert and therefore unaccountable. More fundamentally, Bardach asserts that:

The real problem, however, is that too few of the would-be fixers know how to do the right thing, are willing to do it if they do know how, and have the political resources to make their will effective (p. 279).

This dispiriting conclusion for all with aspirations to make good perceived implementation deficits has strong parallels with Gunn's (1978) list of 10 necessary preconditions for 'perfect implementation', itself derived in part from Hood's (1976) five-component model of 'perfect administration'. In seeking to illustrate to policy-makers the inherent difficulties associated with achieving 'perfect implementation' from a top-down perspective, Gunn's model specifies the following as necessary preconditions for it to occur:

1)   That circumstances external to the implementing agency do not impose crippling constraints.

2)   That adequate time and sufficient resources are made available to the programme.

3)   That the required combination of resources is actually available.

4)   That the policy to be implemented is based upon a valid theory of cause and effect.

5)   That the relationship between cause and effect is direct and that there are few, if any, intervening links.

6)   That dependency relationships are minimal.

7)   That there is understanding of, and agreement on, objectives.

8)   That tasks are fully specified in correct sequence.

9)   That there is perfect communication and co-ordination.

10)   That those in authority can demand and obtain perfect compliance.

Both Hood and Gunn are extremely sceptical regarding the likelihood of all of the preconditions included in their models being satisfied within the confines of policy implementation as it occurs in reality. Indeed, as Pressman and Wildavsky's study of the EDA programme in Oakland illustrates, guaranteeing any one of Gunn's preconditions, far less all ten, can prove to be beyond the grasp of policy-makers. The value of both Hood and Gunn's 'ideal-type' models therefore lies not in their prescriptive utility but in mapping out the factors which would require to be satisfied for perfect implementation to occur. Yet while the real world of policy-making and implementation may make 'perfect' implementation an unattainable goal, 'top-down' theorists such as Van Meter and Van Horn (1975) and Edwards (1980) have not been deterred from constructing prescriptive models which address at least some of these preconditions in order to more closely align implemented policy to original objectives.

However, of attempts to develop theories with which to enable policy-makers to make good the implementation deficits which top-downers identify as bedeviling the policy process, the most comprehensive to date has emerged from the work of Mazmanian and Sabatier (1979, 1980, 1981, 1983). Their 1980 model, while also highlighting the significance of many of the variables identified in earlier research, provides a rather more detailed and wide-ranging perspective on variables which they view as impinging upon the implementation process.

Building upon their checklist of five 'conditions for effective implementation' (1979, p.501) Mazmanian and Sabatier's 1980 model contains arguably the most explicit distinction between policy and implementation to be found within the top-down school. Mazmanian and Sabatier define implementation as:

> the carrying out of a basic policy decision, usually made in a statute (although also possible through important executive orders or court decisions). Ideally, that decision identifies the problems to be addressed, stipulates the objectives to be pursued, and, in a variety of ways, "structures" the implementation process (1980, p.540).

For Mazmanian and Sabatier, the fundamental role of implementation analysis concerns the identification of factors affecting the achievement of statutory objectives throughout the entirety of the implementation process (p.540). To this end, in developing their theoretical framework and in an effort to eliminate some of the perceived shortcomings of earlier models, the authors identify seventeen variables placed within the broad categories of *tractability of the problem*; *ability of statute to structure implementation*; and *nonstatutory* variables, as impinging upon policy implementation.

Variables cited as affecting the *tractability of a particular problem* include the following. Firstly, difficulties in measuring changes in the seriousness of a problem and associating such changes to modifications in target group behaviour. Secondly, diversity of target group behaviour; the more diverse behaviour is, the harder it is to formulate clear regulations to control behaviour. Thirdly, size of the target group; the smaller and more defined a group is, the easier to mobilise political support for a programme. Fourthly, the extent of behaviour change required; the greater the change, the greater the complexity attached to securing successful implementation.

The second category, that of '*ability of statute to structure implementation*' contains a number of variables which have become the staple recommendations of top-down theorists seeking to more

closely align policy outputs with objectives. Thus, Mazmanian and Sabatier argue that statute should incorporate adequate causal theory; unambiguous policy directives; and adequate financial resources for programme implementation. Within this category it is further argued that statute can determine the extent of hierarchical integration within and between implementing agencies. This can be done through the statute's provision of inducements or sanctions to ensure that resistance at clearance/veto points (p.546) in what Pressman and Wildavsky (1973) term the causal chain is limited. The decision rules of implementing agencies can also be framed by statute to meet policy objectives with, for example, the burden of proof in pollution cases falling on the implementing agency, thereby moulding its decisions to be more consistent with statutory objectives. Statute can also influence implementation by assigning responsibility for the achievement of statutory objectives with agencies and officials sympathetic to such objectives. Finally, statute can bias opportunities for external actors' participation in the implementation process to those who support statutory objectives.

The final category, that of *'non-statutory'* variables affecting implementation includes the following: socio-economic conditions and technology; media attention on the problem; public support for statutory objectives; attitudes and resources of constituency groups; support from sovereigns; and the commitment and leadership skills of implementing officials (pp. 548-553).

Mazmanian and Sabatier's model is an important variation on other top-down orientated theory construction as it represents an attempt to increase the rationality of policy-makers in formulating policy by alerting them to the influence of a much wider assortment of variables than earlier models do. To some extent therefore, the model is designed to move beyond the slightly amorphous variables contained within Van Meter and Van Horn's framework to provide a prescription for implementation which policy-makers can actually make operational. Thus, while perfect implementation may remain unattainable, Mazmanian and Sabatier are clearly intent on providing a framework which at least guides implementation towards an approximation of that ideal. At the heart of their prescription is the model's emphasis on the ability of authoritative policy-makers to structure the implementation process in favour of their desired ends by statutory means. In this respect, Mazmanian and Sabatier's model represents the clearest example of the top-downers' favoured distinction between policy formulation (wherein objectives are expressed in statute) and the implementation process by which statutory objectives are realised. Moreover, in focusing on aspects of the target groups whose behaviour a policy is designed to alter, the framework highlights a dimension which other models, with their emphasis on variables within implementing agencies, have tended to ignore. Mazmanian and Sabatier's

model suggests that if policy-makers are to ensure successful policy implementation, they must broaden the scope of their deliberations beyond intergovernmental variables to encompass target group variables. This oversight which they identify regarding the existing top-down literature is in some ways surprising as from a top-down perspective it is the extent to which implementing agencies can be 'programmed' to alter problematic target group behaviour that ultimately determines whether policy implementation is successful. Consequently, incorporating target group variables into the formulation of policy is intended to ensure that the objectives defined in statute will in fact ameliorate the problem in question. What the Mazmanian and Sabatier model is in effect proposing is an operational guide to constructing the policy hypothesis linking means to ends.

In building on the work of earlier writers, Mazmanian and Sabatier's model represents the most sophisticated 'top-down' effort to date to construct a theory of implementation designed to minimise some of the difficulties associated with achieving 'perfect' implementation described by both Hood and Gunn. As with Van Meter and Van Horn (1975) and Edwards (1980), the implication of Mazmanian and Sabatier's model is that if certain key variables can be brought under the control of policy-makers, then the implemented policy will be in greater harmony with intentions expressed by these authoritative decision-makers during the formulation stage of the policy process. Thus, from this theoretical vantage point, the implementation deficits which top-downers perceive to have been the bane of policy will be minimised.

During the late 1970s, however, a competing school of implementation theory emerged which called into question the assertion that implementation could largely be controlled from the 'top-down'. In particular, the evolving bottom-up school of implementation analysis refuted the central tenet of the top-down approach which stated that policy and implementation were clearly distinguishable (Whitmore, 1984, p.241). It is to consideration of 'bottom-up' contributions to the implementation literature that this chapter now turns.

2.4 The 'Bottom-Up' School of Implementation Theory

While many of the early bottom-up orientated studies originated in Western Europe, a shift in perspective away from overtly top-down explanations of policy implementation was under way in the United States by the late 1970s. Berman (1978), for example, explores a number of themes similar to those identified by Van Meter and Van Horn (1975) but takes a broader view of policy implementation by viewing it within an intergovernmental framework. In tracing the

macro-implementation of policy in US social service delivery sectors, he suggests four distinct phases associated with the process (p.167). Firstly, *administration*, where an authoritative policy decision leads to a Government programme. Secondly, *adoption*, where the Government programme leads to the adoption of a local project. Thirdly, *micro-implementation*, where the local project leads to an implemented practice and finally, *technical validity*, where the implemented practice leads to outcomes.

The point at which Berman's framework comes closest to intersecting with that of Van Meter and Van Horn's 1975 model is at the micro-implementation stage. According to Berman, micro-implementation implies a need for organisational change in order to accommodate new polices (p.172). Such change is conceptualised in terms of a three-stage model (p.176) consisting of the following stages; *mobilisation, deliverer implementation,* and *institutionalisation.* At the mobilisation stage, 'the local organisation's officials (managers, supervisors, superintendents) decide about project adoption and plan for its execution' (Berman, 1978, p.177). The next stage, that of deliverer implementation, requires that lower level personnel make the project operational. At this point, it is argued that one of four possible outcomes can result; 'non-implementation', where neither the project plan nor implementors behaviour are adapted; 'cooptation', where deliverer behaviour is not adapted but the project is adapted to accommodate existing routines; 'technological learning', where the project plan is not adapted but routinised behaviour is adapted to accommodate the plan; and 'mutual adaptation', where both the project and deliverer behaviour undergo adaptation. Finally, officials in the implementing agency must take steps to institutionalise the implemented practice within the organisation's standard operating procedures.

Although similar to a number of top-down theorists' work with its emphasis on the important role of authoritative (Governmental) decision-makers in initiating policy, Berman's model is rather more ambiguous regarding the policy/implementation distinction as the process proceeds through the various stages from the macro to micro level. In particular, Berman's hypothesis (p.172) that effective micro-implementation is characterised by mutual adaptation between the project and the organisational setting is a forerunner of subsequent 'bottom-up' models of implementation which more explicitly advocate this perspective as a normative stance.

Elmore (1979), for example, dismisses as 'the noble lie' top-down theory's (or to use his terminology, 'forward mapping's'):

implicit and unquestioned assumption that *policy-makers control the organisational, political, and technological processes that affect implementation....* By assuming that more explicit policy directives, greater attention to administrative responsibilities, and clearer statements of intended outcomes will improve implementation, forward mapping reinforces the myth that implementation is controlled from the top (p.603, emphasis in original).

Rather than beginning with a statement of intent, as do most top-down theorists, Elmore's preferred analytical approach of 'backward-mapping' instead starts with a statement of specific behaviour at the final stage of implementation where administrative actions intersect with target group behaviour. Within this context, policy objectives are defined as a set of organisational operations and the outcomes resulting from these operations. The analysis then proceeds back up through the implementing agencies structure and assesses the ability of particular units to influence the behaviour which is the target of policy. In focusing on lower level administrators' capacity for influencing the implementation process, Elmore in effect dismisses the analytic relevance of the rigid policy/implementation distinction cherished by top-down theorists. Indeed, while acknowledging that problems associated with the complexity of joint action have been fundamental to explanations for policy failure, he contends that the 'top-down' view of implementation as a 'hierarchically ordered set of authority relationships' offers little scope for ameliorating such failures. The great irony for Elmore is that top-downers' prescriptions of increasingly tightly structured hierarchical relationships increase the number of decision points required to secure compliance which, in turn, create more opportunities for diversion and delay. In rejecting such prescriptions, Elmore emphasises the reciprocal nature of authority relationships. He states:

> Formal authority travels from top to bottom in organisations, but the informal authority that derives from expertise, skill and proximity to the essential tasks that an organisation performs travels in the opposite direction (p. 606).

Consequently, administrative discretion, far from being perceived as a debilitating factor to be minimised as is the case within much of top-down theory, is instead portrayed as an asset to be deployed at delivery level, particularly when unanticipated, adaptive responses are required in relation to extremely specialised problems. Top-downers' efforts to limit discretion in turn fail to accommodate the bargaining which Elmore views as intrinsic to the implementation process. He argues:

> The terms of the deal cannot be fixed in advance by law and regulation; sufficient flexibility must exist in the outlines of a policy to allow the local bargaining process to

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work. Carefully specified, hierarchically controlled policies limit incentives to form local bargaining conditions (p. 611).

This altogether more flexible image of implementation marks a radical departure from top-down conceptualisations of the process. Viewed as a bargaining process unshackled from close hierarchical control, implementation becomes a phenomenon with no clear, decisive point of termination. Instead, it evolves continually with the outcomes of each round of bargaining determining the starting points for succeeding rounds. In this context, top-downers' emphasis on compliance with policy-makers' intent as the main measure of implementation success is rendered obsolete. Rather:

> Each participant judges success in terms of his own objectives, not in terms of an overall set of objectives that applies to all participants. The only measure of success that all participants can agree on is maintenance of the bargaining arena, since it provides them with access to the goods that are dispensed there (p.612).

Such a 'conditional' barometer of implementation success is also championed by Barrett and Fudge (1981). They similarly dismiss the 'policy-centred' approach of top-down theorists, whereby policy is the trigger for action and implementation a logical, sequential progression from intent to action. This 'recipe book' approach to implementation analysis with its emphasis on securing administrative compliance is, they argue, of only limited application. As an alternative, Barrett and Fudge advocate conceptualising implementation as a negotiating process wherein differing actors and agencies to some degree share value systems and objectives thus making them more or less willing to support particular polices. The contrast between compliance and consensus-orientated conceptualisations of the implementation process, along with their differing measures of success, is illustrated by Barrett and Fudge who state:

> If implementation is defined as 'putting policy into effect', that is, action in conformance with policy, then compromise will be seen as policy failure. But if implementation is regarded as 'getting something done' then *performance* rather than conformance is the central objective, and compromise a means of achieving performance albeit at the expense of some of the original intentions. Emphasis thus shifts to the *interaction* between policy-makers and implementors, with negotiation, bargaining and compromise forming central elements in a process that might be characterised as 'the art of the possible' (p.21, emphasis in original).

From Barrett and Fudge's perspective, the relationship between what they term 'policy and action' is a complex assembly task involving the inter-locking of varying priorities and interests.

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However, they take issue with the clear distinction which many top-down theorists make between policy and implementation, stating:

> individuals and organisations actions and reactions may determine policy as much as policy itself determines action and response....policy cannot be regarded as a constant. It is mediated by actors who may be operating within different assumptive worlds from those formulating the policy, and inevitably, it undergoes interpretation and modification, and in some cases, subversion (p.251).

The authors argue that in viewing implementation as a negotiating process, the groups of actors involved in that process need not always reflect formal organisational structures or hierarchies. Similarly, they contend that when actors from several agencies are involved in the implementation process, these actors do not necessarily have a formal relationship with each other.

This representation of implementation as being largely independent of formal structure and lines of authority parallels Hjern and Porter's (1981) 'implementation structures' model of the process. Hjern and Porter reject the notion of 'Lonely Organisation Syndrome' (p.212) wherein comprehensive, functionally uniform and hierarchical organisations carry out the functions of a particular policy such as manpower or education policy. Instead, in view of the post-war emergence of the 'organisational society' in which many significant services are provided through multi-organisational programmes, they propose the concept of 'implementation structures' as a new unit of analysis for implementation research.

Implementation structures are defined by Hjern and Porter as comprising of 'interconnected clusters of firms, governments, and associations which come together within the framework of these programmes' (p.213). Consequently, they argue, all organisations possess an organisational rationale wherein organisational actors adapt the goals of programmes within the organisation to conform to their perception of the organisation's overall 'niche' in its environment. Thus, high performance in any one of an organisation's frequently numerous programme areas is subsumed to high performance of the organisation in its entirety (p.216). Hjern and Porter suggest that programme rationales also exist quite separately from organisational rationales. Within this context, it is argued (p.216), *subsets* of members within various programme implementing agencies view the programme in question as their primary interest and therefore undertake purposive action through interaction with other relevant sets of organisational actors who also operate within the boundaries of that particular implementation structure.

Along with programme rationales, a number of other elements are identified as characterising implementation structures (p.222). These include: varying goals and motives for participation; minimal influence of traditional hierarchical authority relationships; significant levels of local discretion; subgroups of actors and organisations performing specialised roles such as policy-making or resource provision; multiple implementation structures for particular programmes; and, variation in the relative cohesiveness of implementation structures, with some being highly developed and regular while others are underdeveloped and ad hoc.

Hjern and Porter's implementation structures approach heralds a marked departure from the top-down method of using formal organisation as the staple unit of analysis. In advocating 'empirical constitutionalism' (Hjern and Hull, 1982) as a framework for investigation wherein informal patterns of interaction and resource exchange represent the unit of analysis, Hjern and Porter extend the parameters of implementation research to incorporate network analysis. This is particularly so in view of their claim that highly developed implementation structures may be viewed as networks (Hjern and Porter, 1981, p.223). The conceptualisation of implementation being played out within networks of organisations and actors has been explored in some detail by other bottom-up theorists. Thresher, (1983), for example, concurs with the view that implementation structures or 'exchange networks' as he terms them (p.376), evolve due to an insufficient concentration of resources to enable policy implementation to be undertaken by individual organisations. Thus, Thresher suggests, individual actors within these networks engage in the exchange of resources which vary with regard to their 'concreteness', the extent to which they are symbolic or tangible; and with regard to their 'particularism', the degree to which a resource's value is influenced by the people involved in its exchange and the nature of their relationship (p.377). Such resource exchange may also be 'value added' with, for example, fragments of information possessed by network members not achieving relevance until they had been brought together like the separate sections of a map (p.377).

The resource exchange envisaged by Thresher as characterising implementation indicates an interactive process between network actors. This suggests a bargaining process akin to aspects of the implementation 'games' identified by Bardach (1977) as undertaken by implementation actors to access resources initially beyond their control. Hanf (1982), for example, suggests that interaction among disparate participants makes some form of bargaining inevitable due to 'the pattern of mutual dependence/interdependence that ensues from the particular 'partitioning of resources' among the different actors as a result of the programme structure and other, more

general, institutional factors (p.166). Drawing on findings in relation to regulatory enforcement, he suggests that the patterns of bargaining interaction can be rigged in favour of certain participants (in this instance large firms) operating within what he terms the regulatory structure. This highlights two points regarding the concept of network participation which Hanf and O'Toole (1992) stress as important to note. The first recalls Hjern and Porter's (1981) observation regarding the cohesiveness of implementation structures in that, while implementation structures may be organised around common problems of concern, there is no guarantee that they will operate on a consistently harmonious basis. Such structures are cemented by participants perceptions of the advantages of collective action. Secondly, Hanf and O'Toole dispute Hjern and Porter's contention (1981, p.222) that all participants are positively orientated towards the programme in question Instead, they argue, there is a qualitative distinction to be made between actors who share common goal-orientated activity and those participating either supportively or defensively out of concern for their own self-interest (1992, p.175).

Another layer of analysis is introduced by Davis and Mason (1982) in their study of manpower policy implementation in the UK. They move the analytic focus beyond the implementing organisations to examine the lack of success of the policy responses of Government departments, trade unions and a variety of quangos including the (then) Manpower Services Commission in attempting to 'mop-up' the adverse 'social consequences' associated with the closure of a major company within a small town in a relatively remote region of the UK.

Davis and Mason outline a number of explanations as to why the plethora of policy responses from the various agencies failed to help the unemployed who constituted the 'target individuals' within the locality of the company's closure. At a fundamental level they suggest (pp.150-152) that implementation failure may be attributable to the 'garbage-can' (Cohen et al, 1972) characteristics of the policy area wherein random decisions taken by multiple agencies alternatively diverge and converge with little in the way of co-ordinating mechanisms. Other categories of explanation put forward to account for implementation failure include; symbolism, indicating that some of the policies were not meant to be implemented; crisis response, indicating policy failures due to the pressure of time and urgency; ambiguity, which is useful in masking helplessness but ultimately leads to non-implementation; and, conflict, wherein disagreement within and between agencies at both national and local level can lead to dysfunctional implementation.

Each of these types of explanation are acknowledged by Davis and Mason as valuable in seeking to explain implementation failure in their particular case-study. However, they suggest that explanations revolving around the mobilisation of bias (Lukes, 1974), whereby particular alternative courses of action were excluded from the implementation agenda, and non-responsibility for decision-making at Government level offer clearer insights concerning the fate of their policy case-study. The authors do not elaborate on either of these explanations in any great detail. This is unfortunate as the latter explanation is particularly interesting from a bottom-up perspective as it calls into question the assumption put forward by top-downers that authoritative policy-makers always want to closely control the implementation process. Also of interest is the question concerning which actors determine which courses of action are excluded from the implementation agenda.

As the preceding illustrates, the 'bottom-up' school of implementation is scarcely less diverse than its top-down counterpart in terms of the array of variables which are incorporated into models of the implementation process. There is general agreement within the school that conceptualising implementation as a process controlled by authoritative policy-makers is neither realistic nor desirable. However, there is insufficient theoretical congruence among 'bottom-up' models to construct a definitive bottom-up orientated model of implementation. Instead, as was the case with top-downers, bottom-up theorists have seemed largely content to develop their own models rather than seeking to explore and build upon the work of others. The 'idea entrepreneurship' which prevails within both analytic schools, and which has prevented generally applicable models to emerge even within a school, graphically illustrates the problems associated with constructing a theory of policy implementation which can unite these opposing intellectual factions. Faced with the melange of variables contained within the literature as a whole, a more pragmatic concern for the student of implementation relates to how best to decipher which variables explain most convincingly the implementation process as it is undertaken within any particular area of inquiry. This issue is considered in more detail in the next section of the chapter which briefly examines attempts at theoretical synthesis and draws together the strands of the preceding discussion.

2.5 Efforts at Theoretical Synthesis

Since its emergence in the 1970s, the burgeoning literature on policy implementation has made a number of notable contributions to the field of policy analysis. Among the most important of these is the insight, first highlighted by Pressman and Wildavsky (1973), drawing attention to the

complexities associated with engineering joint action to achieve policy objectives. Thus, successive studies, particularly in the early stages of the literature's evolution, have illustrated the difficulties attached to achieving compliance with even the most prosaic of policy-makers' objectives. The literature has also been instrumental in identifying the strategies utilised by a variety of implementation actors striving to gain control of the resources which they require within the implementation process (Bardach, 1977) and, more specifically, the strategies used by 'street-level bureaucrats' to cope with the demands placed upon them in their work (Weatherly and Lipsky, 1977). Such insights have in turn stimulated top-down theorists' attempts to prescribe models of implementation with which to bridge the 'implementation gap' which many of the early implementation studies perceived to exist. While these findings are in themselves important, perhaps the most significant contribution of the implementation literature has been in reinforcing our understanding of the dynamic nature of policy. Consequently, in establishing the previously 'missing link' between the stages of formulation and evaluation, implementation research has provided a more rounded picture of the process of policy as it unfolds over time. Yet, ironically, in the act of broadening analysts' perceptions of policy, the implementation literature has to some extent driven itself into a variety of theoretical cul-de-sacs which have stifled the development of a general theory of policy implementation. Accordingly, one comes away from a review of the literature with the impression that, in its totality, it is a body of work which poses rather more questions than it answers with regard to where 'implementation' resides within the policy process.

As this chapter demonstrates, the non-cumulative nature of the implementation research is in large measure attributable to the theoretical fragmentation which pervades much of the literature. The tendency for implementation theorists to work in often splendid isolation is a feature which contributions to the cottage industry of articles reviewing the evolution of the literature frequently highlight (See for example: Alexander, 1985; Goggin, 1986). Hasenfield and Brock (1991, p.453) illustrate the plethora of approaches by identifying four distinct units of analysis used in implementation studies. These include: *policy instruments*, encompassing technical design, legal enforcement and enforcement capabilities; *the interorganisationl network*, encompassing both vertical and horizontal relations; *the intraorganisational structure* and *processes* of the implementing organisation; and, *individual actors* themselves, including their beliefs and motivations. None of these varying units of analysis have been adopted exclusively by either the top-down or bottom-up schools. Yet their existence within the literature throws into sharp relief the difficulties attached to achieving theoretical coalescence within the field of implementation studies.

Linder and Peters (1987a) suggest that the analytic schism within the literature is largely attributable to aspects of policy implementation to which bottom-up and top-down theorists assign objective or relativist (subjective) status. Thus, they argue, proponents of both schools are united in ascribing objective status to conditions such as poverty or disease requiring intervention on the part of policy-makers to alleviate them. Similarly, there is said to be broad objective consensus regarding the groups who will be the targets of intervention (p.117). However, as Linder and Peters emphasise (p.119), top-down and bottom-up analytic paths diverge when it comes to assigning objective status to policy itself. For top-downers policy is self-evidently visible for all to see having been formulated by authoritative decision-makers and expressed in statute or other authoritative policy documents. From this perspective, the role of the implementation analyst focuses on examining the extent to which the means (in the form of policy programmes) actually achieve desired ends and on identifying ways in which programmes can be made more 'rational' (Linder and Peters, 1987a, p.119; Winter, 1990, p.24). In contrast, bottom-up theorists' attribution of relativistic status to policy muddies the analytic waters somewhat. As Linder and Peters state:

> The meaning assigned to policy then depends not only on where one looks but on when, as well as whom, one asks. All at once, policy as a phenomenon is opened to uncertainty, variability, and contingency. In effect, it becomes an artifact whose form can be interpreted only in contextual terms, relative to both its function and its stage of development (1987a, p.121).

In arguing that the implementation literature is characterised by selective relativism (p.122), Linder and Peters echo Berman's (1980) assertion that policy implementation is based on contingency. Consequently, they suggest, all implementation research is organised around the 'best fit' of factors to achieve effective policy implementation. Thus:

> The attention of the top-downers has been preoccupied with the fit between the attributes of the policy mandate, for example its clarity or simplicity, and the characteristics of the implementors, especially their dispositions or discretion. For the bottom-uppers, fit pairs the implementors with target conditions (Linder and Peters, 1987a, p.122).

As this literature review has indicated, the search for the best fit of factors which characterises much of the literature has led to the identification of a substantial number of variables as influential in determining the course of implementation. However, as Lester et al, (1987, p.210) note, a fundamental failing on the part of the literature has been its inability to identify the 'crucial' variables which determine whether implementation succeeds or fails. This stumbling block to

developing an integrated theory of implementation is compounded by the disagreement between top-downers and bottom-uppers as to the criteria by which implementation success is to be evaluated. Thus, top-downers' insistence that many Government programmes of the 1960s and 1970s resulted in implementation failure has invoked a conservative bias (Palumbo, 1987, p.95) leading to the dark conclusion that Governments cannot accomplish anything. The antidote to such failings prescribed by top-downers centres on an assumption that only the objectives of authoritative policy-makers command legitimacy in the policy process. Consequently, the rational-comprehensive approach favoured by theorists such as Van Meter and Van Horn (1975) and Mazmanian and Sabatier (1979, 1980) is designed to measure implementation success by the extent to which adherence by implementors to policy-makers objectives is secured. While top-downers' reliance on such a rational-comprehensive approach in calibrating implementation success has been dismissed as unrealistic prescription in some quarters (Dror, 1984), the alternative 'what you see is what you get' approach advocated by many bottom-uppers as a prescription for determining policy success has been criticised primarily on two grounds. Firstly, it undermines concepts of policy control in democratic political systems (Linder and Peters, 1987b; Hogwood and Gunn, 1984). Secondly, bottom-uppers' advocacy of description as prescription fails to provide standards by which to measure a programme's success or failure.

Despite the apparently contradictory analytical perspectives emanating from the literature, some efforts have been undertaken to reconcile theoretical differences. Perceptively acknowledging a fundamental truth which many implementation theorists of both the top-down and bottom-up schools often appear anxious to ignore, Berman, for example, states, 'There is no universally best way to implement policy' (1980, p.206). Instead, he contends, successful implementation is largely dependent upon matching implementation strategies to particular situations. In an effort to bridge the gap between top-down and bottom-up configurations of the process, Berman suggests that policy-makers need to determine whether 'programmed' or 'adaptive' strategies are required to implement policy.

Programmed implementation has its antecedents in earlier top-down models of implementation and in its ideal form is summarised as involving the production of:

> a well specified, perhaps completely specified plan that has clear and detailed objectives, clear lines of responsibility and limited participation in policy-making, anticipates various contingencies, and requires minimum discretion for all levels of implementors, particularly the deliverers'. Put in its most extreme terms, the ideal is to make an initial decision on policy that includes an automatically executed implementation program (p.210).

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While a programmed approach is designed to ensure that the relationship between policy decision and output is rendered 'implementation proof' (p.210), an adaptive approach to implementation emphasises goal ambiguity, active participation of relevant actors, and considerable discretion for deliverers. Thus, according to Berman:

> Adaptive implementation is concerned with establishing acceptable rules of the game that would allow multiple participants to bargain and compromise during the course of implementation (p.211).

In keeping with the broad perspectives of both the top-down and bottom-up schools, programmed and adaptive approaches to implementation also dictate quite differing roles for evaluation within each context. Thus, evaluation of programmed implementation focuses on ensuring that deliverers behave in accordance with their specified remits. Deliverers' accountability to higher level authorities therefore becomes a key concern. In contrast, evaluation of adaptive implementation concentrates on providing information designed to ensure that local-level adjustment and learning takes place (p.212). Within this context, policy is not perceived as concrete but as a more flexible and ambiguous phenomenon with evaluation providing the 'interior glue' which binds the 'seamless web' of policy decision-making and implementation (p.213).

While one can discern aspects of both the programmed and adaptive ideals in earlier and subsequent models, the value of Berman's model is to be found in his discussion of types of policy situations where variations of each approach are considered most applicable. These are illustrated in table 2.1.

Table 2.1 Types of Policy Situations

Situational Parameters	Situation Type Programmed	Adaptive
Scope of Change	incremental	major
Certainty of Technology or Theory	certain within risk	uncertain
Conflict over Policy's Goals and Means	low conflict	high conflict
Structure of Institutional Setting	tightly coupled	loosely coupled
Stability of Environment	stable	unstable

(Source: Berman, 1980, p.214).

Berman suggests that if all of the conditions within a policy's situational parameters are structured then a programmed approach is the most appropriate method of implementation. However, if any one of the situational parameters within the policy situation exhibits unstructured characteristics, for example loose coupling within the institutional setting, then elements of an adaptive implementation approach should be introduced to the process.

While not adopting Berman's overtly contingent approach, other implementation theorists have also sought to find a 'middle way' to analysing policy implementation by synthesising elements of both top-down and bottom-up models of the process. Sabatier (1986), in presenting what he terms an 'advocacy coalition' (p.38) model of policy implementation attempts to combine elements of his and Mazmanian's 1980 top-down framework with aspects of the 'implementation structures' approach developed by Hjern and his colleagues. Citing a variety of examples where the Sabatier/Mazmanian framework has been tested by other scholars (p.26) Sabatier suggests a number of strengths of the model. These include: confirmation of the significance of legal structuring to the implementation process; the utility of their 'conditions of effective implementation' (1979) in providing a checklist for policy-makers of critical factors affecting implementation; the way in which the formulation-implementation-reformulation characteristics of the 1980 model encouraged researchers to adopt a longer time-frame in examining implementation; and the way in which focusing on legally-mandated objectives, in combination with longer time-frames of study, facilitated a more optimistic evaluation of Government's ability to successfully implement policy than was the case with many 'first generation' implementation studies.

Notwithstanding the perceived strengths of the model, Sabatier concedes that two key criticisms directed at it by bottom-up theorists serve to highlight 'significant flaws' (p.29) in its construction. Firstly, he acknowledges that the model's emphasis on clear and consistent policy objectives was a mistake as numerous attempts to test the model have revealed that only a minority of programmes meet such a criterion. Secondly, the model's focus on programme proponents to the neglect of other actors whose involvement with the implementation process is born of necessity as opposed to support for programme objectives failed to provide a conceptual basis for examining policy change over periods of a decade or longer (p.30).

Turning to the strengths of Hjern et al's implementation structures model, Sabatier highlights a number of advantages to the approach. These include: the existence of an explicit methodology for identifying a policy network (by tracing the web of interaction in which each participating

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actor engages); the ability to assess the relative significance of Governmental programmes in relation to private organisations and market forces in solving actors perceived problems; the scope for analysing unintended consequences of Governmental and private programmes derived from not focusing on the attainment of formal policy objectives; the ability to deal with policy area's incorporating a variety of programmes, none of which dominate; and the capability to examine the impact on implementation of strategic interaction among both programme proponents and other actors.

However, the implementation structures approach is criticised by Sabatier (pp.34-35) on the grounds that: it fails to sufficiently consider the ability of central policy-makers to influence peripheral actors, especially in an indirect manner; it fails to examine the prior efforts of individuals to affect participation within the existing implementation structures; and it fails to construct an explicit theory of factors affecting the actors being examined because the approach ignores wider social, economic and legal factors which indirectly impinge upon participants' perceptions and activities, thereby indirectly influencing the implementation process.

In an effort to reconcile the divergence in theory which separates the two schools of implementation, Sabatier's 'advocacy coalition framework' attempts to synthesise what he considers to be the most important features of both the Sabatier/Mazmanian model and the implementation structures approach. Thus:

> the synthesis adopts the bottom-uppers unit of analysis - a whole variety of public and private actors involved with a policy problem - as well as their concerns with understanding the perspectives and strategies of all the major categories of actors (not simply program proponents). It then combines this starting point with top-downers' concerns with the manner in which socio-economic conditions and legal instruments constrain behaviour (Sabatier, 1986, p.39).

The framework, which has subsequently been developed within the context of regulatory policy (Sabatier and Pelkey, 1987), represents a useful preliminary attempt to bridge the gap between the opposing schools of implementation theory. However, its value at a practical level is limited, as Sabatier acknowledges:

> the synthesis adopts the intellectual style (or methodological perspective) of many top-downers in its willingness to utilize fairly abstract theoretical constructs and to operate from an admittedly simplified portrait of reality. It is primarily concerned with theory construction rather than with providing guidelines for practitioners or detailed portraits of particular situations (1986, p.39).

An attempt at theoretical integration has also emerged from a leading proponent of bottom up approaches to the study of implementation. Elmore (1985) seeks to provide a more practically orientated approach by suggesting that successful policy implementation is contingent upon policy-makers accounting for the influence of policy instruments and other resources (forward mapping) and factors which enable lower level implementors and target groups to influence the implementation process (the 'backward mapping' of his 1978 article).

Yet in spite of such embryonic efforts at synthesis, the implementation literature has remained, on the whole, indifferent to efforts geared towards theoretical unification. Hjern (1994) for example, despite the testimonial paid to his and his colleagues' work by Sabatier, appears comparatively uninterested in exploring potential common theoretical ground, preferring instead to consolidate the implementation structures approach on the basis of empirical findings. Consequently, as the preceding has demonstrated, there is no definitive checklist of variables available with which the researcher can arm himself when setting out to analyse the implementation process within his chosen case-study settings. Nevertheless, as Winter (1990, p.36) has noted, there are a number of general variables which to a greater or lesser degree can be said to influence the implementation process. These include: the prior policy-formation process; organisational and interorganisational implementation behaviour; coping behaviour of street-level bureaucrats; and the response of target groups and changes in society. Combinations of these broad variables and their more specific associated counterparts have come to prominence in models of the implementation process. However, recalling Linder and Peters' (1987a) observations regarding the focus of 'best fit', and as the literature review undertaken within this chapter has indicated, these variables have clearly not commanded equal standing within top-down or bottom-up models. With this in mind, the final section of the chapter sets some parameters for the analysis contained in the remainder of the thesis and identifies the variables which are applied to the empirical findings contained in the case-study chapters.

2.6 The Variables to be Applied to the Case-Study Settings

As stated in chapter 1, it is not the intention of this thesis to add to the debate within the implementation literature as to how best to undertake the policy implementation process. Rather, mindful of Berman's observation that there is no 'best' way to implement policy, the thesis instead explores the significance of a number of variables discussed within this literature review in order to explain the implementation process within the contexts of regulatory and distributive environmental policy in Scotland. In so doing, the study makes two basic assumptions which are

important in determining the choice of variables selected for analysis within the context of the case-study policy settings. Firstly, this study is in agreement with Pressman and Wildavsky's assertion that evaluating the success or failure of implementation requires a goal against which to judge the process (1973, p.xiv). In this respect, it is assumed that the achievement of the formally stated objective(s) of a Governmental policy[1] represents the fundamental standard by which to measure implementation success or failure. Secondly, while it is acknowledged that in some contexts responsibility for implementing specific public policies can be spread among different agencies (Hjern and Porter, 1981), it is equally valid to assume that responsibility for the implementation of a great many policies lies with single agencies administering specific policy instruments at particular target groups. As will be shown in chapter 4, this was evidently the case regarding water pollution control policy within the RPA system, as these regulatory organisations were *individually* responsible for the implementation of regulatory policy. This is also the case with the case-study distributive environmental policy as responsibility for implementing this policy through the instrument of the SGEP lies soley with The Scottish Office.

Having established these basic parameters for analysis, it is possible to identify a number of variables highlighted within the literature which have the capacity to structure the implementation process in particular ways and thereby influence policy outputs and outcomes.

The first of these variables relates to the *characteristics of the policy instrument* being used to implement policy objectives. Section 1.2 of chapter one highlighted the debate in the policy instrument literature regarding the appropriateness, or otherwise, of selecting specific instruments to achieve particular policy objectives. In this respect, the 'technical validity' of the policy instrument (the extent to which changes in target group behaviour can be attributed to the particular instrument's application) is an important factor in determining policy outputs and outcomes.

As was noted in the preceding, a fundamental assumption informing the analysis contained within this thesis that formal policy objectives, as pursued by the implementing agency, represent the benchmark for measuring implementation success. Therefore, a second variable which can significantly influence the implementation process is that of *policy actors understanding of, and*

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[1] Within this context, the term 'Governmental policy' is taken to refer to any formal policy implemented *directly* by Central Government (for example, The Scottish Office's distributive environmental policy) or *indirectly* by any agency which is responsible to Central Government for the implementation of that policy (for example, the RPB's regulatory environmental policy), which is designed to produce measurable policy outputs.

disposition to, the formal objective(s) of policy. The variable's importance lies in Pressman and Wildavsky's (1973) finding that policy implementation proceeds by negotiating a series of 'decision-points' whereby relevant policy actors either provide or deny the 'clearance' needed to enable the process to proceed to the next stage. As such, their understanding of, and disposition to, the objective(s) can be significant in determining whether clearance is provided for implementation to progress.

The second basic assumption informing this study is that individual organisations are often the focal point for implementing particular policies. As such, the study is in tacit agreement with Elmore's (1978) view that organisational structure and characteristics are likely to have an impact in structuring the process of policy implementation. In this respect, two variables of significance include the use of *administrative guidelines* and exercise of *formal authority* by particular policy actors. Each of these variables can exert an important influence in structuring the implementation process at both the intra and inter organisational levels. This is because these variables can be pivotal in establishing the parameters of discretion employed by particular policy actors in shaping the outputs of the policy process.

A final variable which can have a significant impact upon structuring the implementation process in particular policy settings relates to the exercise of *informal authority* by specific policy actors. In this respect, factors such as actors' proximity to target groups and/or technical expertise regarding the policy issue, can lead to informal authority relationships (at both the intra and inter-organisational levels of implementation) determining the policy outputs of the implementation process.

These five variables - *characteristics of the policy instrument; policy actors understanding of, and disposition to, formal policy objectives; administrative guidelines; formal authority relationships; and, informal authority relationships* - are applied to the empirical case-study findings contained in chapters 4, 5 and 6 in order address the issue of contingency in measuring implementation success outlined at the beginning of chapter 1. It is as a precursor to this analysis that the next chapter turns to an assessment of developments which have moulded the policy contexts for implementation within the confines of the case-study regulatory and distributive environmental policy settings.

The Evolving Case-Study Policy Contexts

3.1 Introduction

In October of 1988, Margaret Thatcher delivered her keynote speech to the Conservative Party Conference during which she asserted that 'no generation has a freehold on this earth. All we have is a life tenancy - with a full repairing lease' (Thatcher, 1988a). The then Prime Minister's apparent concern for environmental issues had first found its voice during the previous month in an address given at a Royal Society dinner (Thatcher, 1988b); an event which has subsequently been heralded in some quarters as the genesis of her efforts to stake out the environmental agenda as her party's own. A number of Mrs Thatcher's pronouncements on the subject at the time have in retrospect been attributed to a realisation on her part that the environment represented a potential vote-winning issue (The Economist, 11/3/89). Certainly, the former 'Iron Lady's' metamorphosis to 'Green Goddess' occurred during a period when public support for the UK Green Party was approaching its zenith, membership of environmental organisations was on the rise internationally, and consumers were increasingly being drawn towards 'environmentally friendly' products (Cairncross, 1991; The Economist, 20/10/90). However, from the high point of the late 1980s, the environment, as a salient political issue, moved down the political agenda during the early part of the 1990s. The variable political profile which the environment has enjoyed during the period of the four Conservative administrations since 1979 being in part a reflection of what Flynn and Lowe (1992, p.9) refer to as the 'periodic engagement with environmental issues' undertaken by all of the main parties.

This chapter moves beyond the realm of the political sound-bite to provide a broader policy context for the empirical analysis contained in chapters 4-6. It does this by charting developments which have been significant in shaping the landscape of policy implementation within the case-study settings. To this end, the chapter presents overviews of both the evolving system of environmental regulation in Scotland and of Government-voluntary sector relations. The latter overview deliberately adopts a wide perspective because (as will be demonstrated in chapter 5) the changing nature of the relationship between Government and the voluntary sector in its entirety directly influences Government policy with respect to the voluntary environmental sector in Scotland. The chapter also outlines the institutional arrangements for policy implementation within each case-study sector at the time when the research for this thesis was

being undertaken. It begins, however, by examining the 'greening' of Central Government during the 1980s and the Government's subsequent claim that its environmental policy incorporated the concept of sustainable development as its chief goal.

3.2 The 'Greening' of Government in the 1980s

The politicisation of the environment during the 1980s, personified by the content of a number of speeches delivered by Mrs Thatcher in the latter part of the decade and during her final year in office (1988a, 1988b, 1989a, 1989b, 1989c, 1990a, 1990b, 1990c), tends to obscure the fact that the United Kingdom has a long history of environmental policy. Britain was home to the world's first environment protection agency, the Alkali Inspectorate, created in 1863 (Rhodes, 1981), as well as establishing the first Central Government level Environment Department with the formation of the Department of the Environment (DoE) in 1970 (Painter, 1980). In between these developments, important legislative measures, including, most notably, the Clean Air Act of 1956 (Ashby and Anderson, 1981, p.119), have helped to determine the evolution of the fragmented environmental regulatory system in the UK. The birth of this system can itself be traced back to 1273 and the issuing of a decree prohibiting the burning of sea coal (McCormick, 1991, p.9). Moreover, as Robinson makes clear (1992, p.11), in spite of the rash of pronouncements made by all of the main parties on the issue in the late 1980s, the term 'environment' has scarcely been a recent addition to British politicians' vocabulary. Rather, it has permeated steadily into the language of policy in the wake of the creation of DoE.

Similarly, the upsurge in public awareness of environmental issues which helped propel the UK Green Party to a 15% share of the vote in the 1989 election for the European Parliament, and which was an instrumental factor in the politicisation of the environment, was not an altogether new phenomenon. As Brookes et al (1976, p.253) have demonstrated, such awareness, as measured by mass-media coverage of individual environmental issues, previously peaked during 1972, having remained consistent throughout the 1950s and 1960s. Indeed, underscored by an environmental movement dating back to the late nineteenth century (Lowe and Goyder, 1983), public concern for the environment has oscillated in Britain over the last thirty years.

The episodic re-emergence of environmental issues as a focus for public concern has been attributed to what Downs, (1972) has termed the 'issue attention cycle'. In this model, successive societal problems come to prominence, in terms of public awareness of them, before gradually being supplanted by fresh issues which exert more novel and powerful claims on the

publics' attention. Solesbury (1976) has expanded upon Downs' model to suggest that environmental issues are especially well suited to commanding public attention as they can often be readily exemplified by particular occurrences or events. There was no shortage of such events to stimulate public concern in the 1980s as a string of environmental disasters captured wide-scale media attention. This litany of catastrophe included: the 1984 Union Carbide chemical plant explosion in Bhopal, India (Wilkins, 1987); the 1986 Chernobyl nuclear power station accident (Haynes and Bojcan, 1988); and the 1988 'Exxon Valdiz' oil spillage off Alaska (Cahill, 1990).

Explained in terms of the 'issue attention cycle', the Government's embarkation on a high profile re-engagement with environmental issues, initially in 1988, resonates strongly with what Robinson (1992, p.85) describes as the 'pressure-response' model of party greening. Within this framework, a variety of evolutionary and coincidental pressures combine to compel parties to address environmental concerns. In this vein, two types of pressures may be said to have contributed to the greening of Government in the late 1980s. Firstly, *evolutionary pressures*, including the upsurge in public environmental awareness of the mid to late 1980s. Secondly, *coincidental pressures*, such as the environmental incidents outlined in the above, and scientific revelations, such as those relating to ozone depletion which came to light in the mid 1980s (Benedick, 1991).

These mainly external pressures are significant in explaining the Government's embracing of the environmental agenda in the late 1980s. However, they do not, by themselves, adequately explain a process of 'greening' which, according to Flynn and Lowe (1992), had began in 1984. In their account of the greening of the Conservative Party in the 1980s, these authors cite factors which are in keeping with what Robinson (1992, p.125) terms the 'intentional' model of party greening. This model emphasises an interaction, internal to the party, between ideology and policy which generates a process reflecting both strategic policy considerations and genuine environmental concerns within the party and which thus provides the impetus for greening. In stressing the earlier origins of the Government's 'greening', Flynn and Lowe's portrayal of the Conservative Party's relationship with environmental issues during the 1980s provides a useful counterbalance to the view that Mrs Thatcher's 1988 Royal Society speech represented a conversion of Damascus-like proportions. They depict a longer term process of politicisation characterised by comparative disinterest in the environment (both at grassroots party level and within Government) during the early 1980s (1992, p.16). This relative neglect was to be redressed to some extent in 1984 when the Government, anxious to enhance its environmental

profile, sought to appraise its environmental policy through a range of ministerial meetings and briefings held under the convenership of the Prime Minister (1992, p.18). Notable among other developments during the period 1984-86 were: the creation of a new conservation policy unit within the DoE; introduction of Environmentally Sensitive Areas to conserve landscapes; and duties placed on relevant Ministers by the 1986 Agriculture Act to achieve 'a balance among the conservation and enjoyment of the countryside, the support of a stable and efficient agricultural industry, and the economic and social interests of rural areas' (Flynn and Lowe, pp. 19-20).

Away from these policy initiatives of the mid 1980s, Flynn and Lowe point to an on-going debate within the Conservative Party regarding the relationship between ideology and the environment. From the left-wing of the party came 'Caring for the Environment: A Policy for Conservatives' (1981) by Stanley Johnson, a Conservative Member of the European Parliament (1992, p.17), to be followed in 1982 by a contribution from the right in the form of Barry Bracewell-Milnes' 'Land and Heritage: The Public Interest in Personal Ownership' (1992, p.18). As Flynn and Lowe note, these were followed in the mid 1980s by two further contributions from the left wing of the party (Paterson, 1984; Carlisle, 1984) which resulted in a rejoinder from the party's right wing with the publication of Andrew Sullivan's 1985 pamphlet, 'Greening the Tories' (Flynn and Lowe, 1992, pp.20-21).

In light of the on-going environmental debate within the Conservative Party, allied with continuing external pressures to react positively to what Burke (1990, p.11) has called the 'new environmental orthodoxy' of the late 1980s, Margaret Thatcher's decision in the autumn of 1988 to promote the environment from largely cameo appearances in policy statements to centre stage in her oratory was therefore perhaps not entirely surprising. While her Royal Society speech of September 1988 has been likened by some as more akin to a 'testing of the water' than a seizing of the initiative (Flynn and Lowe, 1992, p.25), it nevertheless served as a catalyst for the environmental policy initiatives which emerged as the 1980s gave way to the 1990s. The common thread linking these initiatives was to be an on-going reiteration of the Government's claim that it was pursuing 'sustainable development' as its central environmental policy goal.

3.2.1 Conceptualising Sustainable Development

Since its first appearance, in the 'World Conservation Strategy' (IUCN/UNEP/WWF, 1980), the phrase 'sustainable development' has become internationally established in the lexicon of politicians. Indeed, it was the concept to which Margaret Thatcher was obliquely referring in her 1988 Conservative Party Conference speech when she spoke of each generation having 'a full

repairing lease' on the earth. In the interim, sustainable development has become the focus of a substantial literature (Turner, 1988; Marien, 1992). However, as a concept it has proved difficult to categorically define.

The most widely publicised exposition of the concept and arguably the most influential in terms of framing the tone, if not the substance, of Governments' policy initiatives has been that of the World Commission on Environment and Development (WCED) in its Report entitled *'Our Common Future'* (1987). In this document, (more usually referred to as the 'Brundtland Report'), the Commission drew attention to the inter-linkage between environmental well-being and economic activity and defined sustainable development as 'development that meets the needs of the present without compromising the ability of future generations to meet their own needs' (p.43).

The Brundtland Report went on to cite a formidable list of broad policy objectives which public policy-makers would have to fulfil in order to operationalise the concept of sustainable development. These included: reviving economic growth; changing the quality of economic growth; meeting the essential needs for jobs, food, energy, water and sanitation; ensuring a sustainable level of population; conserving and enhancing the resource base; re-orientating technology and managing risk; and merging environmental and economic considerations in decision-making (p.49).

The prescription for sustainable development put forward by the Brundtland Report envisaged programmes of joint action on a global scale on the part of Governments. While presenting a radical agenda for policy-makers, the Report has been criticised as offering a vague definition of the concept of sustainable development which is open to a variety of interpretations (Daly, 1990). Nevertheless, the Brundtland Report has become the touchstone for the subsequent literature which has attempted to refine the concept of sustainable development.

3.2.2 Government Environmental Policy and Sustainable Development

The UK Government signalled its renewed interest in emphasising sustainable development as the focus of environmental policy when the DoE commissioned Professor David Pearce and colleagues in 1989 to produce a report which suggested how resource accounting and project appraisal could lead to 'green growth' (Flynn and Lowe, 1992, p.30). In *'Blueprint for a Green Economy'* (1989), a book based on the DoE Report, Pearce and his colleagues focused on a number of the themes discussed in the Brundtland Report. In particular, they distinguished

between the concepts of economic growth and economic development. The former, they suggested, had traditionally been defined as 'an increase over time in the level of real GNP per capita (or sometimes the real level of consumption per capita)' (Pearce et al, 1989, p.30). Alternatively, economic development was defined as encompassing the achievement of some set of desirable goals for society, such as rising real incomes, improved health and rising educational standards. Therefore, economic growth could be characterised as involving *quantitative* increase while economic development was designed to achieve *qualitative* improvement.

Pearce et al suggested that sustainable development involved the designing of a social and economic system which ensured that broad 'quality of life' goals were sustained while at the same time reducing the environmental impacts of society to a level which was compatible with indefinite use. With this in mind, they outlined three means by which to achieve sustainable development. Firstly, a substantially increased emphasis on the value of the natural, built, and cultural environments. This was in recognition of environmental quality's place as a component of the wider development objective of improved quality of life. Secondly, a concern with short to medium term horizons and with the longer term future to be inherited by forthcoming generations. Thirdly, equity in the form of emphasising the needs of the least advantaged in society *(intragenerational equity)* and on a fair treatment of future generations *(intergenerational equity)*.

As had been the case with the Brundtland Report, the Government found much of what Pearce et al recommended rather too radical to merit serious consideration. However, it was not dissuaded from claiming the pursuit of sustainable development as the centre-piece of its environmental policy when it unveiled its 1990 white paper on the environment entitled *'This Common Inheritance: Britain's Environmental Strategy'*. Although the significance of the concept had been acknowledged by the Government in previously published policy documents (DoE: 1986; 1988) *'This Common Inheritance'* signalled the Government's most explicit commitment to the principle to date.

The paternalistic tone of *'This Common Inheritance'* reflected the political philosophy of Christopher Patten, a prominent 'wet' within the Conservative Party, who was the driving force behind the white paper, having replaced Nicholas Ridley as Secretary of State for the Environment in July of 1989. In language which was infused with the 'One Nation' philosophy of Patten's political mentor, Edmund Burke (Flynn and Lowe, 1992, p.31), the white paper reinforced the ethical argument for 'prudent management of the environment' (Patten, 1989)

which the new Secretary of State had essayed in his Conservative Party Conference speech the previous October. It stated:

> The starting point for this Government is the ethical imperative of stewardship which must underlie all environmental policies...We have a moral duty to look after our planet and hand it on in good working order to future generations. That is what experts mean when they talk of "sustainable development": not sacrificing tomorrow's prospects for a largely illusionary gain today (DoE, 1990, p.10).

'*This Common Inheritance*' was also noteworthy as it represented Government's first attempt to draw together the various strands of environmental policy within a single document. The white paper's list of commitments for environmental improvement by no means constituted a coherent strategy at all levels of Government's traditionally fragmentary and piecemeal approach to environmental protection. Nevertheless, there was evidence within the document that the drawbacks of formulating and implementing environmental policy in an ad hoc manner were at least being acknowledged by Government, as the following statement illustrates:

> The Government needs to ensure that its policies fit together in every sector: that we are not undoing in one area what we are trying to do in another, and that policies are based on a harmonious set of principles rather than on a clutter of expedients (DoE, 1990, p.8).

'*This Common Inheritance*' placed great stock on the concept of stewardship in shaping environmental policy and also contained a number of supporting principles on which to base the Government's approach. The first of these was a reiteration of the need to base action to secure environmental protection on the best available scientific evidence; this principle having previously been expressed in the Government's response to the '*World Conservation Strategy*' (1986, p.7). Secondly, the white paper advocated taking precautionary action, where justified, in response to particular environmental problems. This marked an important change in Government thinking as any move towards such an approach would represent a shift from the 'ad hoc, improvisational and piecemeal responses' (McCormick, 1991, p.10) to which environmental policy had traditionally been prone.

The Government also cited maximising public access to environmental information as a third principle informing its approach to environmental policy. In what were early indicators of the notion of the 'green market' which Michael Heseltine was to promote during his tenure as Secretary of State for the Environment in the early 1990s (as discussed in chapter 1) the Government stated, 'If people are given the facts, they are best placed to make their own

consumer decisions and to exert pressure for change as consumers, investors lobbyists and electors' (DoE, 1990, p.12).

A fourth supporting principle articulated by Government in the white paper related to the need for international co-operation in order to resolve some of the planet's most pressing environmental problems. To this end, the Government restated its commitment to participation in the activities of the United Nations and its subsidiary bodies, the Organisation for Economic Co-operation (OECD) and the European Community (EC) (1990, p.12).

The final supporting principle cited in *'This Common Inheritance'* as underpinning Government's environmental policy related to the utilisation of the best instruments with which to secure environmental protection. While acknowledging the importance of the 'regulatory approach' in implementing environmental policy, the white paper criticised its excessive rigidity in some instances (p.13). Consequently, the document advocated increasing use of market-based instruments in order to safe-guard the environment, stating, 'In the Government's view, market mechanisms offer the prospect of a more efficient and flexible response to environmental issues, both old and new' (DoE, 1990, p.13).

Upon its publication, reactions to *'This Common Inheritance'* were mixed. In particular, Christopher Patten's failure to yield firm commitments from Ministerial colleagues to alter policy so as to more fully incorporate environmental considerations (Flynn and Lowe, p.33), led to the white paper receiving a lukewarm reception from many within the environmental lobby. As Carley et al (1991) have noted, there was considerable disappointment on the part of the majority of campaigning environmental groups as they had hoped for specific new legislative measures rather than the 'vague generalities' which they instead encountered. Notwithstanding its comparative lack of hard-edged proposals, the white paper was nevertheless a significant step forward in recognising the need for inter-departmental liaison at Central Government level. The document was also noteworthy for acknowledging (albeit in vague terms), the need for Government environmental policy to be based on the concept of sustainable development.

The momentum which had carried the environment to the top of the policy agenda by the late 1980s had, however, already began to lose its impetus even as Patten was delivering the Government's white paper in 1990. By the time of the General Election of April 1992, won by the Conservative Party with John Major as its leader, that momentum had been all but lost and the environment was once again in hiatus as a political issue. The seeds of its by now customary

mid-term re-emergence were sown in the aftermath of the UN Conference on Environment and Development held in Rio de Janeiro in June 1992. The 'Rio Summit', (United Nations, 1992) had called for extensive participation and consultation in preparing national sustainable development strategies. In Britain, the DoE had responded to this clarion call by issuing an open letter in November 1992, inviting views on the concept of sustainable development and on what dimensions the framework for such a strategy should take. Following a seminar on sustainable development[1] which brought together a variety of representatives from environmental groups, Government Departments, the business community, local authorities and academic and research institutions, the Government issued *'UK Strategy for Sustainable Development: Consultation Paper'* in July 1993. The publication which emerged from this consultative process, *'Sustainable Development: The UK Strategy'* (1994), sought to build upon the foundations which had been laid in *'This Common Inheritance'* by re-emphasising and elaborating on some of the basic principles required to achieve sustainable development. In this respect, basing action on the best available scientific information and the precautionary principle were again re-emphasised as key principles of UK environmental policy (DoE, 1994, p.33). The document also cited the importance of incorporating natural environmental capital, in the form of renewable and non-renewable resources, into national accounts (p.33). However, in the chapter on 'environmental accounting and indicators', the Government was somewhat pessimistic as to the practicality of such an undertaking (pp.218-219).

With its references to the 'polluter pays' principle and the requirement for better environmental information (DoE, 1994 p.33), *'Sustainable Development: The UK Strategy'* recycled many of the themes of the 1990 environment white paper. However, the document offered little in the way of fresh commitments with which to achieve the overall policy goal of sustainable development. Indeed, the apparent lack of explicit commitments contained within the document led David Pearce (one of the architects of the original DoE-commissioned Report on sustainable development in 1989) to comment, 'there is nothing in the policy papers to suggest (the Government) understand the meaning or implications of sustainable development' (The Guardian, 28th Jan, 1994). However, with the publication of the 1994 policy document, the Government had reaffirmed its intention to make the achievement of sustainable development the main goal of its environmental policy (DoE, 1994, p.5). Thus, a decade after it had first begun to give serious consideration to the direction of its environmental policy, the Conservative

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[1] Held at Green College, Oxford, in March 1993.

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Government had made its most explicit commitment yet to the pursuit of sustainable development as its chief environmental policy goal.

From the preceding, it can be seen that Government's macro level environmental policy had come to the fore as a high profile area of public policy during the late 1980s. During the same period, the implementation of its environmental policy through the mechanism of regulation (as detailed in chapter 1) had continued to operate in a stable policy and institutional environment in Scotland. However, this was to change in 1991 with the Government's announcement that it was to commence with plans to create a single Scottish Environment Protection Agency (SEPA) to replace the existing fragmented institutional arrangements. The next section of the chapter examines these proposals in more detail and presents an overview of the institutional regulatory arrangements that existed prior to the creation of SEPA. In particular, the section focuses on legislative and administrative developments which shaped the evolution of the River Purification Authority structure.

3.3 The Structure of Environmental Regulation in Scotland

3.3.1. Background

> Even if economic instruments become more widely used, there will remain an important role for administrative regulation as the basis for delivering policy goals and defining property rights, and for monitoring and enforcement activity....Administrative controls will for the foreseeable future remain at the heart of Britain's system of environmental control - just as they are in many other countries of the world (DoE, 1990, p.272).

The above passage from 'This Common Inheritance', with its unambiguous support for environmental regulation and its fundamental association with Government intervention, contrasted sharply with the prevailing ideology within the Conservative Government at the time. Under the leadership of Margaret Thatcher, successive Conservative administrations had striven to 'roll back the frontiers of the state' by reducing public expenditure and enhancing the role of the market in a variety of policy sectors. Indeed, the Government's commitment to deregulation had been documented in 1985 with the publication of a white paper on the issue entitled 'Lifting the Burden'. However, the field of environmental policy has proven to be particularly conducive to intervention on the part of successive British Governments regardless of their ideological persuasion, as is illustrated by 135 years of state regulation of pollution dating back to creation of the Alkali Inspectorate in 1863.

The state's readiness to intervene in the workings of the private economy to protect the environment stems from a recognition that economic activity and the functions of the natural environment (or biosphere) are closely linked. The biosphere performs three distinct functions which enable human economic activity to take place (Jacobs, 1991). These are: *provision of resources*, such as fossil fuels; *assimilation of the waste products of economic activity*, through dispersal into the three environmental media of air, land and water; and, *provision of environmental services*, in the form of 'amenities', including space for recreation and scenery for aesthetic enjoyment, and 'life support' services such as maintaining atmospheric composition and climatic regulation.

A desire to conserve the ability of the biosphere to carry out of all three of these functions has provided the rationale for state intervention to regulate environmental pollution. However, it is protection of the waste product assimilation capacity of the natural environment which has provided the prime motivation for Governments to regulate the adverse environmental impacts of the private economy (as discussed in sub-section 1.2.2 of chapter 1). However, if the rationale for Government regulation of polluting activity is comparatively straightforward, the same could scarcely be said of the institutional arrangements which were in place to implement regulatory environmental policy in Scotland prior to the creation of SEPA in April 1996. Rather, the administrative structure through which the Government undertook regulatory enforcement provided a prime example of the piecemeal fragmentation highlighted by Lowe and Flynn (1989) in relation to UK environmental policy in general.

This fragmented administrative structure was partly a reflection of the 'disjointed incrementalism' which, according to Lindblom (1959), pervades the policy-process thereby leading policy-makers to 'muddle through' by making small adjustments to policy on the basis of a narrow range of policy options. More specifically, it was the product of an approach to pollution control in Britain which traditionally dictated that regulation be administered with respect to the environmental media of air, water and land on an individual and mutually exclusive basis. As a consequence of this demarcation a plethora of environmental regulatory agencies evolved within Scotland, each of which remained largely unconcerned with the regulatory activities of agencies operating outwith its own particular environmental medium.

Prior to the creation of SEPA (and as discussed briefly in chapter 1), environmental regulation in Scotland was the responsibility of a number of different organisations. These included: the River

Purification Authorities; Her Majesty's Industrial Pollution Inspectorate for Scotland (HMIPI); District and Islands local authorities; and the Hazardous Waste Inspectorate (HWI).

HMIPI was based within the Scottish Office Environment Department (SOEnvD) and its staff of approximately 16 Inspectors were deployed within various geographical regions throughout Scotland. The organisation's key responsibilities included: pollution control services with regard to industrial emissions; air pollution control; radioactive waste management; and the control of radioactive substances (Scottish Development Department, 1990).

The other main component of the regulatory framework was comprised of Scotland's 53 District and 3 Islands Councils. Through the activities of their Environmental Health Departments, these organisations undertook the functions of preparing waste disposal plans, licensing of sites and plant for disposal of controlled waste and registration of carriers of controlled waste. These organisations were also responsible for the operation of controls over air pollution from prescribed processes, operation of controls over smoke, grit and dust emissions from furnaces in non-prescribed processes, and giving approval to the height of industrial chimneys (The Scottish Office, 1992a). The Islands Councils had a dual role in that, as River Purification Authorities, they undertook water pollution control functions which were equivalent to those undertaken by the mainland RPBs.

Finally, the Hazardous Waste Inspectorate (although more of an advisory than a regulatory body) undertook the following functions. It examined the management of hazardous waste, advised waste disposal authorities as regards the execution of their duties under Part One of the Control of Pollution Act 1974, and made 'recommendations with the object of ensuring that standards of operation, site licensing and enforcement (were) both adequate to protect health and the environment, and also equitable and consistent across the country' (The Scottish Office Environment Department, 1991, p.5).

Despite the fact that these different agencies were responsible for a number of diverse functions in terms of implementing regulatory environmental policy, they nevertheless shared a common trait in adopting what Vogel (1986) has characterised as a specifically 'British' style of regulation. In particular, the British approach to environmental regulatory enforcement has traditionally been portrayed as seeking to promote consensus between regulator and discharger. To this end, the agencies with the remit of regulating polluting emissions to each of the three environmental media in Scotland historically tended to eschew use of confrontational tactics and the formal

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legal process when enforcing standards, in favour of a compliance-orientated approach.[2] The main features of the British system of regulatory pollution control were articulated in the Royal Commission on Environmental Pollution's Tenth Report.

> The (regulatory) authority is given considerable discretion as to how it achieves its objectives, including, in many cases, the pace at which it moves. There is also a tradition, in both legislation and in administrative practice, of pragmatism, of gradual, negotiated (rather than mandated) raising of standards, and of caution in not going beyond what is seen by the parties concerned as being reasonably practicable. The 'technology-forcing' element, as practised in some countries, such as Japan and the United States, is largely absent (Royal Commission on Environmental Pollution, 1984, p.41).

The characteristics of informality and pragmatism which traditionally informed this regulatory approach are illustrated by principles which have underpinned the system as it evolved since the late nineteenth century. These include the principle of 'best practicable means' (BPM), first expressed in the 1874 Alkali Act. The principle of BPM was initially employed by the Alkali Inspectorate, the fore-runner of the modern-day HMIPI for Scotland, although it quickly became widely used throughout the British system of pollution control. As Vogel has noted in his comments concerning the Alkali Inspectorate's use of the principle, its inherent ambiguity was indicative of the traditionally flexible nature of British regulatory enforcement:

> The term "practicable" has never been clearly defined; indeed the Alkali Inspectorate is itself considered the sole judge as to whether the plants and processes under its jurisdiction are employing the best practicable means of controlling their emissions. In practice, however, it has come to encompass local conditions and circumstances, the state of technological knowledge, and the costs of pollution control (1986, p.79).

BPM was subsequently replaced by "best practicable environmental option" (BPEO) as the guiding principle of pollution control in the United Kingdom. The amended principle having been suggested by the Royal Commission on Environmental Pollution as a foundation upon which to develop an integrated approach to pollution control (1976). With the passing of the 1990 Environmental Protection Act and the subsequent creation of a system of Integrated Pollution Control (IPC)[3] this principle has itself been replaced by that of "Best Available Techniques Not Entailing Excessive Cost" (BATNEEC) (Tromans, 1991). While the wording of these principles may have changed as the regulatory system has developed, they have nevertheless remained faithful to the characteristics of flexibility and pragmatism which have traditionally been the pillars of that system. These characteristics were evident in relation to the largest institutional

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[2] The distinctions between these two approaches are discussed in more detail in chapter 4.
[3] See Tromans (1991) for a discussion of IPC.

element of the fragmented institutional structure in Scotland - The River Purification Authority system - and it is to an examination of the evolution of that system that this section now turns.

3.3.2. *Water Pollution Control in Scotland: Administrative Arrangements and Legislative Development*

In Scotland, prior to the creation of SEPA, responsibility for safeguarding the environmental quality of inland watercourses and controlled coastal waters lay with seven mainland River Purification Boards (Clyde; Forth; Highland; North East; Solway; Tay; and Tweed) which, notwithstanding some territorial overlap, broadly mirrored the administrative areas of Scotland's nine Regional Councils[4] as they existed prior to local government reorganisation in 1996. As explained in chapter 1, regulatory control of water pollution was also the responsibility of the three Islands Councils of Shetland, Orkney and the Western Isles, which together comprised River Purification Authorities.

The body of legislation which shaped the RPA structure can be traced back to the passing of the Rivers Pollution Prevention Act of 1876. This Act was introduced in response to the rapid industrialisation of the mid-nineteenth century which, along with the practice of using rivers as virtual open sewers to accommodate waste disposal in rapidly expanding urban areas, had led to a significant deterioration in the quality of many watercourses (Rhodes, 1981, Hammerton, 1991). However, while the 1876 Act was fundamental in laying the foundation for river pollution control for over 70 years (Rhodes, 1981, p.125), Hammerton has criticised the statute on the following counts:

> Firstly, it placed the enforcement of the law in the hands of the sanitary authorities who were the largest polluters and in a weak position to enforce control. Secondly, the Act contained severe restrictions on the circumstances in which control could be exercised, prosecution through the courts being particularly difficult and requiring permission from the Secretary of State. Thirdly, the Act provided a let-out where methods of effluent treatment were not known and if treatment would prove injurious (too costly) to the industry concerned (1991, p.1).

The Act was in effect a diluted version of the original Bill introduced in 1872 and containing proposals which powerful manufacturing interests found to be excessively stringent (Rhodes, 1981, p.125). Nevertheless, in spite of the compromise which the 1876 legislation represented, it remained on the statute book until being repealed by the Rivers (Prevention of Pollution)

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[4] See Monies and Coutts (1989) for a discussion of the structure of Local Government in Scotland regarding District and Regional Councils.

(Scotland) Act of 1951. In the interim, evidence of gross river pollution in Scotland began to steadily accumulate (Scottish Board of Health, 1927) to the extent that the Secretary of State for Scotland appointed an Advisory Committee on Rivers Pollution Prevention in 1927. As Hammerton (1986, p.912) has noted, the Advisory Committee strongly advocated reorganising the existing administrative arrangements in a report published in 1936. This was because the Committee felt the arrangements were having a detrimental impact on river quality, as it made clear in its report, stating:

> we cannot over-emphasise the serious situation that exists in many parts of the country on account of the gross pollution of rivers and have come to the conclusion that a satisfactory solution of the problem of rivers pollution is not possible under the present administrative arrangements (Scottish Advisory Committee on Rivers Pollution, 1936; quoted in Hammerton, 1986, p.912).

However, it was not until enactment of the 1951 Rivers (Prevention of Pollution) (Scotland) Act that such administrative reform was undertaken. The new legislation created independent River Purification Boards in Scotland which were modelled on the basis of river catchments. Provisions in the Act streamlined the enforcement procedure as well as enabling the fledgling RPBs (set up between 1954 and 1956) to enforce effluent standards via the granting of licences to enable applicants to discharge polluting effluent within prescribed limits.[5] These administrative arrangements remained intact until the passing of the 1973 Local Government (Scotland) Act. This Act led to the creation (in 1975) of the institutional framework for regulating pollution to coastal and inland waters on mainland Scotland which remained in place until the establishment of SEPA in 1996.

As Non-Departmental Public Bodies (NDPBs), or 'Quangos', RPAs came under the sponsorship of the (then) Scottish Office Environment Department (SOEnvD).[6] However, throughout their existence, these organisations were given a substantial degree of autonomy by SOEnvD as regards the implementation of water pollution control policy. The RPAs main statutory responsibilities consisted of the promotion of the cleanliness of rivers, other inland waters or tidal waters and the conservation of water resources. These functions were supplemented by specific statutory duties. These included: monitoring pollution in controlled waters; ensuring that specified water quality objectives were achieved; consenting discharges of trade and sewage

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[5] This licensing system is explained in more detail in chapter 4.
[6] This Department was the subject of internal reorganisation within The Scottish Office in the mid 1990s and now forms part of a Government Department called the Scottish Office Agriculture, Environment and Fisheries Department (SOAEFD).

effluent; and maintaining registers of consents[7] for public inspection (The Scottish Office, 1992a, p.22). To enable them to undertake their statutory responsibilities, RPAs were armed with a variety of powers derived mainly (but not exclusively) from the Control of Pollution Act 1974, as amended by Schedule 23 of the Water Act 1989. These included: power to take samples of water or effluent; power to undertake surveys, gauge and keep records of flow or volume of water bodies and rainfall; power to obtain information necessary to carry out their duties; power to control abstractions for irrigation purposes; and, power to operate flood warning schemes (The Scottish Office, 1992a, p.22).

The gradual layering of environmental statute upon statute illustrates the fragmented and mainly reactive development - both legislatively and institutionally - of regulatory environmental policy in Scotland in general, and water pollution control policy in particular, over the course of the 20th century. As such, features of the Scottish regulatory system - in terms of both its approach and structure - can be seen to have historically developed at a fairly sedate pace. However, the politicisation of the environment in the late 1980s which elevated the policy area to the realm of 'high politics' was to accelerate the pace of legislative, administrative, and policy change during the early 1990s. In particular, the passing of the Environmental Protection Act in 1990 signalled Central Government's intent to make good its commitment to take an increasingly integrated approach to regulatory pollution control by establishing a system of Integrated Pollution Control (IPC). This break with the traditionally fragmented approach to implementing regulatory environmental policy was compounded by the Government's announcement in July 1991 that the disjointed institutional arrangements in both Scotland and in England and Wales were to be replaced by single unified environmental protection agencies on both sides of the border between Scotland and England. The final part of this section considers these proposals for administrative reform in more detail within their Scottish context.

3.3.3. Administrative Reform and SEPA

If the significance of *'This Common Inheritance'*, the Government's 1990 white paper on the environment, had been largely symbolic, John Major's announcement in July 1991 of the Government's intention to transform the institutional arrangements for regulating pollution in Scotland represented the most compelling evidence to date of a rapidly changing regulatory policy context. Indeed, such was the pace of change that plans to create a single environment protection agency in Scotland, with broadly similar arrangements south of the boarder, seemed

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[7] The licences to discharge polluting effluent referred to earlier in the section.

to directly contradict the stance which the Government had adopted in relation to administrative unification with the publication of *'This Common Inheritance'* the previous summer. At the time, it had stated:

> The Government has concluded that the case for such an amalgamation is insufficient to outweigh the disadvantages of further administrative upheaval at just the time when the new organisations are getting into their stride. It does not therefore propose to alter the present functions of the existing regulatory bodies for the time being (DoE, 1990, p.232).

However, a number of factors had conspired to strengthen the case for single, unified agencies, both in Scotland, and in England and Wales. In the first instance, there was a gathering consensus among the political parties, industry and environmental non-governmental organisations (Confederation of British Industry Scotland, 1992; Royal Society for the Protection of Birds, 1992), that a more integrated approach to environmental protection was required. Secondly, the new system of Integrated Pollution Control (IPC), heralded as the most important feature of the Environment Protection Bill (DoE, 1990, p.139), had contributed to the drive for a more unified approach. IPC had been advocated by the Government as an innovative template for its European neighbours to copy. Having adopted an innovative system of pollution control, the next logical step was to instil the unified administrative arrangements required to implement it effectively. Thirdly, John Major, newly installed as Prime Minister and keen to project his Government as innovative and forward-looking, was searching for a 'big idea'. Against a background of wide-scale agreement of the need for greater institutional integration in environmental policy, Environmental Protection Agencies offered an attractive and comparatively uncontentious way of building on the Government's efforts to make the environmental agenda its own.

Publication in January 1992 of a consultation paper entitled *Improving Scotland's Environment: The Way Forward* (The Scottish Office, 1992a) added substance to the Government's initial proposals within the Scottish context. The paper outlined the structure for a single Scottish Environment Protection Agency (SEPA) encompassing the functions and responsibilities of the River Purification Authorities, HMIPI for Scotland, the Hazardous Waste Inspectorate, and the District and Islands Councils with regard to their waste regulation and specific air pollution controls. The consultation document envisaged SEPA as providing an antidote for problems inherent to a fragmented administrative structure by providing a single point of contact for industry thereby avoiding confusion on the latter's part. The agency was also envisaged as

eliminating difficulties caused by overlap or potential conflict between different regulatory agencies. Significantly, SEPA was also designed to mark a new phase in the evolution of the principles guiding the process of regulatory control in Scotland as Ian Lang, the Secretary of State for Scotland, made clear in his statement that the Government's proposals would:

> (bring) together the present regulatory bodies, giving them an integrated management structure and enabling the agency to take a *strategic* and *proactive* approach to preventing and curbing pollution of the environment from whatever source (The Scottish Office, 1992d, emphasis added).

As a result of a period of inter-departmental dispute within Whitehall caused by disagreement between the Department of the Environment and the Ministry of Agriculture, Fisheries and Food as to the division of the English and Welsh Agency's functions (The Economist, 14/9/91), the proposals for reform on both sides of the boarder were shelved by the Government for eighteen months. However, following the passing of the Environment Act in 1995 the proposals for reform were revived and SEPA was finally established in April 1996.

As was the case with regulatory environmental policy, Government's distributive environmental policy as pursued through the core mechanism of encouraging 'voluntary action' (as discussed in chapter 1), was also the subject of limited administrative reorganisation. This came about as a result of the creation of Scottish Natural Heritage (SNH) in April 1992 to replace the Nature Conservancy Council (NCC) and the Countryside Commission for Scotland (CCS). However, the evolving relationship between Central Government and the voluntary sector in general is of more significance in relation to the research agenda outlined in chapter 1 of this thesis. Therefore, it is to this issue - along with consideration of Government policy objectives and policy instruments in relation to its funding of the Scottish voluntary environmental sector - that this chapter now turns.

3.4 An Overview of Government - Voluntary Sector Relations

3.4.1. Organisational Characteristics and Evolution of the Voluntary Sector: An Overview

In 1974 the Wolfendon Committee was appointed by the Joseph Rowntree Memorial Trust and the Carnagie United Kingdom Trust to review the role and functions of UK voluntary organisations. In its report (published in 1978) the Committee highlighted the tremendous diversity of voluntary organisations, in terms of their scale and remit, and implied that 'the

voluntary sector' is not a term which easily lends itself to concise definition. For the purposes of its remit, the Committee defined voluntary organisations as those:

> dealing with the personal social services and what is generally known as the 'environment'...By 'personal social services' we mean....services containing a social work element and designed by our society to meet the needs of individuals who are at a particular disadvantage in that society by reason of, for instance, old age or physical handicap (1978, p.12).

In a more rigorous examination of the voluntary sector's parameters, Kendall and Knapp (1995), have suggested that 'there is no single 'correct' definition which can or should be uniquely applied to all circumstances' (p.66), while simultaneously adding to the Wolfendon Report's definition of 'voluntary organisations'. They suggest that voluntary organisations can be distinguished both in terms of their *societal functions* and their *structural types* (in relation to control arrangements and resource methods) (pp.67-70).

The societal functions of voluntary organisations are defined by Kendall and Knapp as follows: *service provision* (for example, residential and day-care services or citizens advice bureaux); *mutual aid*, in the form of self-help and exchange, focusing on areas of common need (for example, Alcoholics Anonymous); *pressure group* function, designed to compel decision-makers in the public arena to change policy, (often to the benefit of identifiable groups); *individual advocacy*, involving the representation of individuals in order for them to receive goods or services (for example, professional resources from MIND, a national charity dealing with mental health issues); and, *resource and co-ordinating* functions, involving the co-ordination of service provision to other voluntary organisations (for example, Scottish Wildlife and Countryside LINK, which acts as a co-ordinator of information within the Scottish voluntary environmental sector).

Kendall and Knapp's alternative method of distinguishing between types of voluntary bodies - via criteria of *resourcing* and *control* - also serves to illustrate the variety of organisations which inhabit the voluntary sector. Distinctions here include that made between *democratic* (elected trustees) and *oligarchic* (appointed trustees) voluntary organisations. Voluntary organisations can also be distinguished along the following lines: *professional non-profit* organisations, providers of professional services which employ paid staff at national and local level and where 'the national organisations directly run the local offices and raise funds for local work' (p.69); *voluntary service organisations*, with professionally organised national headquarters along with local groups which exercise autonomy in fund-raising and volunteer use; and, *independent local*

community groups, organisations without a national base which rely predominantly upon unpaid volunteering and which primarily focus their activities towards 'participative community development, rather than direct service provision' (p.69).

The untidy boundaries of the voluntary sector and its attendant diversity mask a lengthy history of voluntary provision within the UK. Rubin (1988) reports that as long ago as the twelfth and thirteenth centuries voluntary hospitals were being established in England. Similarly, charitable trusts, (one of the mainstays of the voluntary sector), can trace their lineage to the sixteenth century (Davis Smith, 1995). However, while a thread of philanthropy, epitomised by the paternalistic bond between the aristocracy and the working class in the late eighteenth century (Wolfendon, 1978, p.16), links the phases in the sector's evolution, the nineteenth century has been characterised as a 'golden age' of voluntary organisations (Davis Smith, 1995, p.14). It was at this time that the sector was at its most buoyant, with both charities' incomes and their numbers on the increase. According to Davis Smith (1995, p.14), the expansion in the numbers of voluntary bodies during this period is partly attributable to increased social need instigated by the factors of rising population along with rapid industrialisation and urbanisation. These were also factors which had been instrumental in compelling Government to intervene in the workings of the private economy to protect the environment during the mid nineteenth century.

The increasing responsibility shouldered by the state for welfare provision, which had been set in train by the pioneering Liberal Governments after 1905 and which culminated in the creation of the welfare state by the Labour Government during its term in office between 1945 and 1951 (Childs, 1992), led to a redefining of the voluntary sector's role in the post-war period. The marginalising of the sector with regard to addressing poverty issues in terms of financial need, countering unemployment, and contributing to the hospital service (Deakin, 1995, p.43), precipitated a realignment of its activity in the 1950s and 1960s. In her audit of voluntary sector activity in the field of social policy, Rooff (1955) reported that the emphasis placed on voluntary organisations' various functions was increasingly being influenced by an agenda determined by public authorities (cited in Deakin, 1995, p.47). Confronted by the prospect of being junior partners to the state in the provision of welfare, the voluntary sector therefore began to reconstruct itself during the 1960s. New campaigning organisations such as Shelter (a charity aimed at reducing homelessness), were born. At the same time, older, more established voluntary bodies (such as Barnardo's) adapted to the new climate by ceasing to be universal providers and instead opting to carve out more specialised niches for themselves (Deakin, 1995, p.50).

The publication of the Aves Committee's 1969 Report on the place of the volunteer in the social services provided a benchmark for Central Government's efforts to reformulate the nature of the relationship between the state and voluntary sector in the 1970s. Volunteers, the Report asserted, should be used to 'improve a service by adding something to what is already being done, or by opening up new possibilities' (Aves, 1969, para 283: quoted in Deakin, 1995, p.51). The Report recommended that the route to achieving this objective was through increased Central Government funding provision of the sector and the creation of an agency with the specific remit of encouraging volunteer activity. In response, the Conservative Government of Edward Heath created the Volunteer Centre and established the Voluntary Services Unit in 1972. The latter organisation was based within the Home Office and assumed responsibility for co-ordinating Government policy towards the voluntary sector in its entirety. However, by the second half of the 1970s the prospect of James Callaghan's Labour Government directing ever increasing funds into the voluntary sector had effectively been obliterated by the International Monetary Fund's insistence upon the imposition of record cuts in the UK Government's public expenditure programme in 1976 (Callaghan, 1987). Thus, it was against this background of economic austerity that the incoming Conservative Government of 1979 set about refashioning the relationship between the voluntary sector and the state during the 1980s.

3.4.2. Government Policy and the Voluntary Sector: 1979-1994

Upon its publication in 1978, the Wolfendon Report had characterised the voluntary sector as one of four systems of meeting societal needs (1978, pp.22-28): the others being; the *informal system of social helping,* (undertaken by family, friends and neighbours); *the commercial system,* (based on market principles); and, the *statutory system,* (wherein the state provides social services). The relationship between the state and voluntary systems of provision was of particular interest to the Report. It contended that the voluntary system could contribute to the state system by adding to the provision of state services in a number of ways. These included: through innovation and offering alternatives to these services; by improving the quality of state provision by either offering choice or by ensuring high standards of state service; or, through the voluntary system being the sole or principal provider of services which the state had traditionally by-passed or provided few resources for.

Upon its election in May 1979, Margaret Thatcher's Conservative Government initially did little to explore how the Wolfendon Report's comments as to the potential for the voluntary system to contribute to the statutory system could be developed. Preoccupied with its quest to reduce public expenditure and implement increasingly stringent fiscal policies, (the side-effects of which

had included spiralling unemployment), (Midwinter and Monaghan, 1993) the Government's attention was largely diverted from the voluntary sector during its first term in office. Consequently, the main framework for interaction between the Government and the voluntary sector during the period 1979-83 was the Community Programme, a set of schemes designed to counter unemployment which the Government successfully sought to implement with the aid of the voluntary sector. The other discernible channel for Government to shape its relationship with the voluntary sector in this period was via fiscal measures - in the form of tax concessions for charities - contained in budgets from 1980 onwards (Deakin, 1995, p.58).

Other avenues of Government influence, particularly during the Conservative's first two terms in office (spanning 1979 to 1987), were more oblique. As Deakin notes:

> The main impact of government action on the voluntary sector in their first two terms, however, was indirect and resulted from the other half of the Conservative project: diminishing the state's role and in particular that of local government (1995, p.58).

The vigour with which the Government set about this task led to an erosion in local authority powers as a number of measures - including resource reduction, rate capping, and more rigorous mechanisms for local authority inspection and review conducted by the Audit Office - came into effect (Midwinter and Monaghan, 1993). In an effort to counter the Government's attempts to constrain their activities, local authorities sought to mobilise support from their traditional allies in the voluntary sector. This was not a strategy without its pitfalls for the latter, as Deakin observes:

> This created a difficult situation, especially for co-ordinating bodies, both nationally and locally. Cross-memberships as well as financial ties made taking an independent line extremely difficult; several organisations collapsed into internal turmoil (1995, p.59).

With local authority powers having been reined in to its satisfaction by the late 1980s, the Government was in a position to more directly contemplate the position of the voluntary sector in relation to state service provision. Deakin (1995, pp.59-61) identifies three elements upon which the state's relationship with the voluntary sector came to be based in the post 1987 period. These included: *the revival of philanthropy*, (personified by a variety of business-led initiatives aimed at, among other things, countering inner-city dereliction); *improving management standards in the voluntary sector*, the diverting of Government funds for service provision from local authorities to the voluntary sector (New Statesman & Society, 9th June 1989, p.23) having motivated Government to ensure that voluntary organisations possessed the necessary

managerial skills to deliver services which, in the language of the 'new managerialism' of the late 1980s (Farnham and Horton, 1993, Hood, 1991) achieved 'value for money'; and, finally, *the remotivation of individuals*, wherein the state recognised its responsibilities to citizens in relation to welfare provision and the individual repaid this debt by investing in 'sustaining the social fabric' (Deakin, 1995, p.61) through, for example, voluntary work.

The Government's renewed interest in the role of the voluntary sector in service delivery and, more importantly, its desire to ensure efficient and effective use of resources was reflected in the publication of a Home Office Report entitled *'Efficiency Scrutiny of Government Funding of the Voluntary Sector: Profiting from Partnership'* in 1990. In a wide-ranging exercise the Report examined a variety of issues including: the full array of programmes for Government funding of the sector; the purpose for which financial provision was made under these programmes; types of funding utilised; arrangements for identification and selection of suitable voluntary organisations for specific tasks, for objective setting and for monitoring and reviewing performance and results; and, mechanisms for programme administration (Home Office, 1990, p.37). While restating the important role which the voluntary sector had to play in partnership with Government, the Report emphasised that more could be done to realise the full potential of that partnership. In particular, it claimed that while Government Departments had a general sense of the type of activity and voluntary organisations they wished to fund:

> they do not have clear enough strategies for support. Money goes on a hotch potch of grants. Departments tend to respond to ideas from voluntary bodies in an ad hoc way, rather than seeing the extent to which these fit in with their key policy objectives (Home Office, 1990, p.iii).

Additionally, the Report highlighted Departments' tendencies to persist in funding the core administrative costs of the same voluntary organisations for lengthy periods. In this respect, the Report was critical of the limited consideration given by funding Departments as to whether such organisations were the best in their particular field, or whether their activity still represented a Departmental priority. The Report also urged voluntary organisations to make greater efforts to establish whether they were meeting their customers needs. This was in order to avoid a situation whereby neither the organisations or the funding Department knew whether the activity which the Department had funded produced the intended results or whether the results had been of use.

The Home Office Report also contained a number of proposals for modifying the nature of the Government-voluntary sector relationship. The following represent the most important of these: Government should formulate and articulate a clear policy for its support of voluntary organisations; Departments should develop strategies for supporting voluntary bodies in accordance with their priorities; organisations which receive funding for administrative costs (core funding), should be accountable to the funding Department in relation to how efficiently and effectively that funding is utilised; and, Departments and voluntary organisations should liaise more closely to establish 'concrete' objectives for all grants and to monitor and evaluate organisational performance in relation to grant-aided activity (Home Office, 1990, p.iv).

Government responses to the 1990 Home Office Report included the publication in April 1991 of a note of guidance for civil servants detailing the types of questions which officials should bear in mind when assessing voluntary organisation contributions to the achievement of departmental priorities (The Home Office, 1991). This was followed by the publication of a white paper entitled *The Individual and the Community: The Role of the Voluntary Sector'* (1992) and internal Government Departmental reviews of particular funding programmes, designed to address issues which the 1990 Home Office Report had highlighted.[8]

The 1992 white paper also stressed the significance which the Government placed on the voluntary sector in achieving its policy goals, stating:

> The voluntary sector occupies the ground between those areas which are properly the responsibility of individuals and those which are properly the responsibility of Government. It is an important and powerful third force in society which the Government cannot and would not wish to ignore (1992, p.5).

From the preceding, it can be seen that the relationship between Government and the voluntary sector has undergone a considerable change as it has developed over the course of the century. In particular, Government's efforts to utilise this sector in policy delivery during the 1980s provided the sector with an enhanced role in this respect. The final part of this section shifts the focus of analysis to provide a brief overview of the Scottish voluntary environmental sector's role in relation to Government's implementation of its environmental policy. The section does so by mapping the policy framework - in terms of objectives and instruments - which informed the Conservative Government's support for the sector.

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[8] One such review (McCulloch, et al, 1993a) was to have an important impact on the implementation of the case-study distributive environmental policy featured in chapters 5 and 6 of this thesis.

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3.4.3. Government and the Scottish Voluntary Environmental Sector:
The Policy Framework

The long history of the state's use of legislative measures to protect the environment within a regulatory context contrasts with the comparatively recent emergence of the policy instruments which provide the main means for implementing Government's distributive environmental policy with the Scottish voluntary environmental sector.[9] The objectives which underpinned the Conservative Government's use of these instruments were largely shaped by the developments, both within the field of environmental policy and in relation to the voluntary sector in general, which preceding sections of this chapter have detailed. Thus, at a fundamental level, state support for the Scottish voluntary environmental sector was designed to contribute to the Government's long term policy goal of sustainable development, as expressed in *'This Common Inheritance'* and, latterly, *'Sustainable Development: The UK Strategy'*. This was to be done by facilitating environmental improvement as a result of directing financial resources towards particular voluntary environmental organisations.

As McCulloch and Moxen (1994, p.11) have observed, there are a number of other discernible objectives which the Conservative Government sought to achieve in funding the sector. Of these, some related directly to the overall policy goal of sustainable development. Others, however, owed their existence in large part to Central Government's reformulation of the relationship between the state and the voluntary sector in general during the late 1980s. As the previous sub-section discussed, the Government's recasting of this relationship outlined a new agenda for the voluntary sector founded on the revival of philanthropy, improved managerial skills within the sector, and the remotivation of the individual.

Within the context of the Scottish voluntary sector, there is evidence, - both in policy documents (DoE, 1990; Home Office, 1990, 1992, Scottish Office, 1992c), and in the terms of Scottish Office-contracted research (McCulloch, et al, 1993a) - that Government policy towards the sector was informed by a coalescence of the objective of securing environmental improvement and objectives designed to meet the Government's broader agenda in relation to the sector's role in service provision. Thus, by engaging in partnership with a variety of different organisations (such as private sector companies, local authorities and the Local Enterprise Company network), the voluntary sector was envisaged by the Conservative Government as contributing to the achievement of its overarching policy goal of sustainable development (DoE, 1990, pp.16 &

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[9] These instruments are described in sub-section 1.2.2 of chapter one.

270; Home Office, 1992, p.47; Scottish Office, 1992c, pp.13 & 35). Secondly, Government support of the sector was also designed to ensure that funding went to voluntary organisations which had sufficient managerial skills to efficiently and effectively utilise their funding and ensure that 'value for money' was achieved.[10] A third objective of Government support for the voluntary environmental sector was to encourage 'responsible citizenship' (DoE, 1990, p.269) through volunteering (Home Office, 1992, p.45). Finally, Government support for the sector was intended to meet the objective of ensuring that voluntary organisations had an on-going input into the environmental policy process (DoE, 1990, p.34).

The relatively recent development of the policy instruments for Government funding of the Scottish voluntary environmental sector provides a good illustration of the essentially marginal position which the environment occupied on the political agenda in the first half of the 1980s. Prior to the creation of UK20000 Scotland in 1986, as part of a UK-wide initiative to expand and co-ordinate voluntary environmental improvement work, there was no programme for channelling Scottish Office funds into the voluntary environmental sector in Scotland other than that operated by the Countryside Commission for Scotland. The UK 2000 Scotland initiative consists of 'a partnership between Government, commercial and voluntary organisations which aims to improve the environment through high quality projects using volunteers and Employment Training Programme participants' (Scottish Office, 1992e, p.72). Operating since April 1989 as a limited company with charitable status, UK2000 Scotland is structured as follows. A Board consisting of Scottish Office officials and representatives of UK2000 Scotland's four 'agent partners'[11] (the voluntary organisations which undertake the bulk of the initiative's project work) determines policy and has ultimate authority regarding resource allocation within the initiative's network. The programme itself is administered independently from The Scottish Office by a Central Unit, which is supported by secondments' from within the business community, and which liaises with the agent partners 'on the ground' in terms of project implementation (McCulloch, et al, 1993a).

The second set of policy instruments which the Government uses to indirectly fund the Scottish voluntary environmental sector are those of SNH's environmental grant programmes (as detailed in chapter 1). Collectively, these grants are aimed at assisting organisations and individuals to undertake a wide range of projects which improve the conservation of species, habitats and

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[10] This issue is discussed in more detail in chapter 6.
[11] These Agent Partners consisted of Scottish Wildlife Trust, Scottish Conservation Projects Trust, Community Service Volunteers and Keep Scotland Beautiful when the data for this thesis was being collected in 1994.

landscapes; promote public enjoyment of the natural heritage; and, increase awareness and understanding of the natural heritage (Scottish Natural Heritage, 1994).

As explained in chapter 1, the Special Grants Environmental Programme (SGEP) is the only policy instrument which is directly administered by The Scottish Office in order to implement its distributive environmental policy within the Scottish voluntary environmental sector. The SGEP first began allocating Government funds to the voluntary environmental sector in 1987, following the lead of the (then) Department of the Environment (DoE) which had introduced a parallel multi-purpose programme in England. The SGEP 'aims to assist the central administrative costs of voluntary environmental bodies to enable them to increase their effectiveness in practical environmental work. The scheme also contains a modest fund for projects aiming to further Government environmental policy' (Scottish Office, 1992e). The amount of funding available to the programme over the years since its inception has broadly been in line with that allocated to UK 2000 Scotland, having increased from approximately £150,000 in 1987 to approximately £305,000 in 1992. The implementation of Government's distributive environmental policy through the policy instrument of the SGEP is examined in greater detail in chapters 5 and 6.

3.5 Conclusion

This chapter has traced the broad policy context for the implementation of the case-study regulatory and distributive environmental policies at the time during which the data for this thesis was being collected in 1994. In this respect, a key focus of the analysis contained within the chapter has been the increasingly high profile attained by the environment as a Government policy issue in the late 1980s. However, it would be misleading (not to say somewhat naive) to suggest that the environment first became an issue of concern to Government during the 1980s. As the overview of environmental regulation in Scotland contained within this chapter demonstrates, environmental policy has been a staple concern of Government for well over a century. Indeed, regulatory pollution control has dominated the incremental development of UK environmental policy with its evolution being punctuated by the passing of important pieces of legislation, ranging from the Rivers Pollution Prevention Act of 1876, through to the Clean Air Act of 1956, and on to the Environmental Protection Act of 1990.

However, it would be equally misleading not to acknowledge that the 1980s, and more particularly the latter part of the decade, represented an era when the environment took on an increasing salience as an issue of public policy. At the macro policy level this process of

politicisation was instrumental in imprinting the concept of sustainable development onto the rhetoric of Government environmental policy. In particular, high profile policy statements - in the form of *'This Common Inheritance'* and *'Sustainable Development: The UK Strategy'* - were important in reiterating the Conservative Government's commitment to this overarching objective as the fundamental goal of its environmental policy.

While the Government's interpretation of the concept of sustainable development was couched in somewhat ambiguous terms within its key environmental policy documents, the new found zest with which the Government sought to display its 'green' credentials during the late 1980s, had a tangible impact within the case-study policy settings. In relation to Government's distributive environmental policy this was most evidently demonstrated by the progressive establishment of the policy instruments, outlined in the previous section, during the late 1980s and early 1990s. However, as this chapter has demonstrated, there was also a wider policy agenda at work with regard to the relationship between Government and the voluntary sector in general. In particular, this agenda focused on two issues: firstly, the ways in which the voluntary sector could add to state provision in relation to public policy implementation; and, secondly, the ways in which Government could ensure that, in so doing, the voluntary sector provided a satisfactory return in terms of achieving 'value for money' in exchange for receiving Government funds. As will be shown in chapters 5 and 6, this broader policy agenda was to have an important impact upon the development of Government's distributive environmental policy in relation to the Scottish voluntary environmental sector.

With regard to regulatory environmental policy, the 'greening' of Government most obviously manifested itself in the proposals put forward by The Scottish Office in 1992 to replace the existing fragmented administrative arrangements with a single unified Scottish Environment Protection Agency. As such, these represented the most profound proposals for change yet put forward in relation to a regulatory administrative structure which had been evolving in incremental and disjointed fashion for over a century. As will be demonstrated in the next chapter, the immanent arrival of SEPA had an important impact in shaping the process of implementing pollution control policy within the RPA element of the regulatory system. However, as chapter 4 also shows, there were other more subtle factors which further shaped the implementation of pollution control policy by the case-study RPB. These factors are explored in more detail in the next part of the study as the thesis moves on to analyse the implementation of that policy.

PART III

IMPLEMENTATION AS ENFORCEMENT

The River Purification Board's Implementation of Regulatory Environmental Policy

4.1 Introduction

This chapter analyses the case-study River Purification Board's (RPB) implementation of its pollution control policy. As noted in the review of the environmental policy literature undertaken in chapter 1, a number of studies of pollution control policy in the United Kingdom have previously been undertaken. These range from detailed case-study accounts of micro-level enforcement, as chronicled in the texts of, for example, Hawkins (1984) and Huttor (1988), to more expansive macro-level accounts of the policy area, as featured in the texts of such as Vogel (1986), O'Riordan et al (1989) and Weale et al (1991). It is with the first of these strands of the literature that the regulatory aspect of this study most readily identifies, given both its methodological approach and the objectives which it seeks to address.

Successive studies, such as those cited in the above, have portrayed an approach to environmental enforcement in the United Kingdom which has been dominated by the characteristics of informality, pragmatism and flexibility.[1] However, two important caveats must be inserted into consideration of these representations of enforcement. Firstly, such representations are dated. Secondly, virtually all of the accounts from which such representations are drawn relate to findings regarding environmental regulators outwith Scotland.[2]

Highlighting the dated nature of representations of environmental regulation in the United Kingdom which portray the process as one characterised almost exclusively by informality, flexibility and pragmatism is important. This is because such representations risk being transformed into theoretical caricature. To make such a statement is not to dismiss the validity of such representations. Much of the English and Welsh approach to water pollution control in particular *has* been characterised by the above features, as indeed has the Scottish approach. Moreover, as the findings contained in this chapter indicate, these

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[1] See Vogel (1986) for a comprehensive overview of these characteristics.
[2] There are at least two exceptions to the above. Watchman et al's 1988 article and Rown-Robinson et al's 1990 text both focus on the Scottish dimension of regulation. However, they too are somewhat dated.

features continued to exert a powerful influence on the case-study River Purification Board's implementation of its pollution control policy during the time that the research for this thesis was being conducted. However, the data contained in the chapter also makes clear that vestiges of the traditional approach to enforcement employed by the case-study RPB were beginning to be transformed and placed on a more formal footing in 1994. As will be illustrated, this was as a result both of external policy initiatives undertaken by all of the RPAs and internal policy developments specific to the case-study agency.

The fact that the vast majority of accounts of environmental regulation relate to the English and Welsh experience is also important. This is because the Scottish experience of water pollution control has evolved in a quite separate manner to that in the rest of the United Kingdom. As much was indicated in chapter three and this chapter will further emphasise the point. In particular, the distinctive elements of this evolution are clearly in evidence during the period 1989 to 1993. In 1989, at a time when the regulatory machinery governing water pollution in England and Wales was being transformed through the creation of the National Rivers Authority,[3] Scotland's River Purification Authorities were maintaining their organisational status but their activities were being subjected to increasing scrutiny by The Scottish Office. In 1992, at a time when uncertainty reigned on both sides of the border as to when (or even if) unified environmental agencies would be created for both Scotland and for England and Wales, Scotland's RPAs were remoulding an enforcement policy which would provide a blueprint for the Scottish Environment Protection Agency (SEPA) when it eventually emerged in April 1996.

4.1.1 Chapter Structure

The chapter adopts the following structure in order to address the research agenda outlined in chapter 1. Section 4.2 outlines the rationale for adopting intra-organisational structure and processes as the main unit of analysis (Hasenfield and Brock, 1991) within the context of the RPB case-study.[4] Section 4.3 introduces the main case-study RPB policy actors who interacted at the intra-organisational level in the course of implementing the agency's pollution control policy. Section 4.4. considers the formal objectives of that policy and section 4.5 examines the mechanisms of control used by the RPB to implement these objectives. Section 4.6 focuses on factors which shaped the RPB's approach to enforcement, while section 4.7 details policy developments between 1989 and 1993 which

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[3] Established on September 1st 1989 as a result of the Water Act 1989.
[4] See section 2.5 of chapter 2 for an overview of units of analysis used in implementation research.

influenced the agency's implementation of its pollution control policy. Against this background, section 4.8 analysis the intra-organisational dynamics of the RPB's implementation of its pollution control policy. Finally, section 4.9 considers how the agency interpreted the concept of sustainable development in relation to the implementation of its pollution control policy.

4.2 The Units of Analysis

As chapter two highlighted, a fundamental source of theoretical disagreement within the implementation literature relates to how the process of policy implementation can best be represented. In particular, exponents of 'top-down' theory argue that formal organisational structure and hierarchical control, in addition to clearly defined objectives, are critical variables to consider in analysing the implementation of public policy. 'Bottom-up' theorists, on the other hand, are largely dismissive of the significance of these factors in determining the course of the implementation process. Instead, pointing to the existence of multi-organisational programmes, they argue that implementation analysis must focus on the discretionary activities of 'front-line' implementors and inter-organisational bargaining to achieve policy outputs and outcomes.

Figure 4.1: RPB Regulatory Environmental Policy Implementation: Significant Actors[5] and their Patterns of Interaction

Key: Continuing interaction ⬌
Occasional interaction ⬍----➤
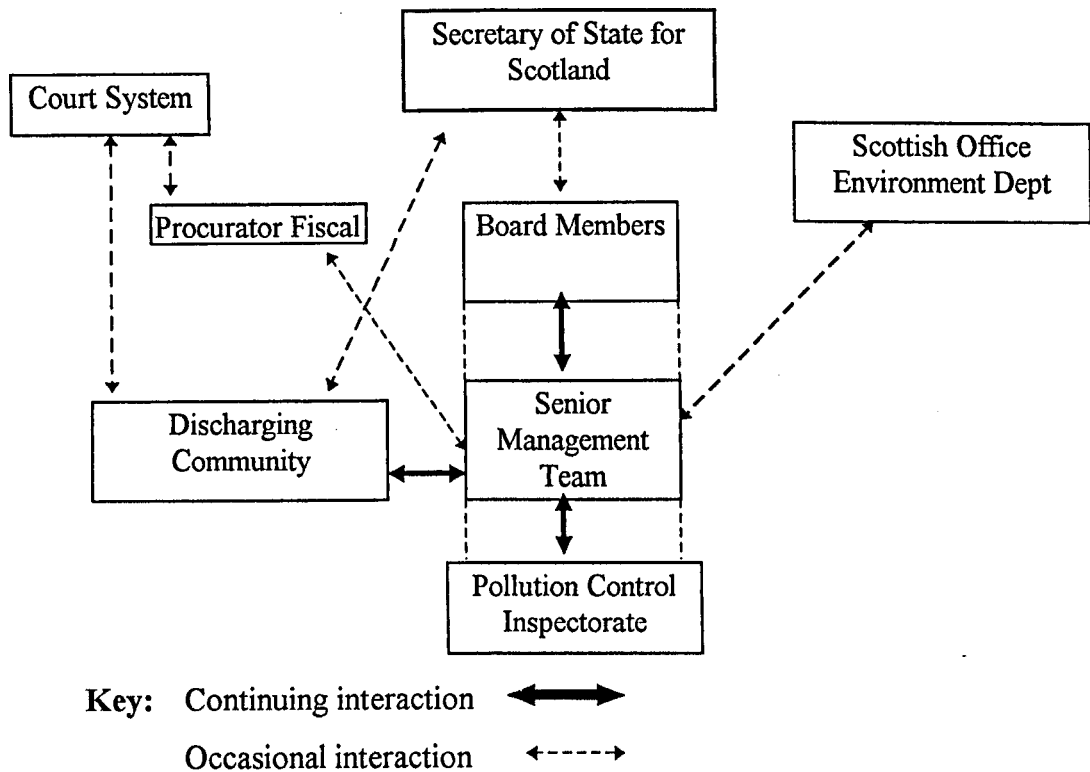
Figure 4.1 shows the significant actors involved in the case-study RPB's pollution control system and illustrates that the implementation of this policy took place within a multi-organisational setting. Within this context, a variety of actors, located within different organisations, played a part in the implementation process. Moreover, as succeeding sections of this chapter illustrate, negotiation at the inter-organisational level was a characteristic of that process. However, the roles of a number of these actors in the implementation of pollution control policy were essentially peripheral ones.

Actors such as Procurator Fiscals,[6] along with other representatives of the legal system including Sheriffs[7] and lawyers,[8] operated at the margin of pollution control policy. Given

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[5] This study focuses on 'policy actors' as individuals acting on behalf of (and within the constraints set by) the organisations which they represent. This is in contrast to studies which adopt organisations themselves as the 'policy actors to be examined. See, for example, Bomberg in Marsh (ed.) (1998).

[6] Responsible for the conducting the case for the prosecution when a pollution case was brought to court.

[7] Responsible for passing judgements on pollution cases which came to court.

[8] Hired to present the case for the defence.

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the case-study RPB's reluctance to call upon the powers of the formal legal process to achieve its policy objectives (discussed in section 4.6 of this chapter) these actors were therefore called upon to make only occasional interventions into the pollution control process.

The Secretary of State for Scotland, despite possessing ultimate responsibility for Central Government's policy in relation to water pollution control in Scotland, was also an infrequent actor in relation to the implementation process. His main contribution to the policy process was to determine whether to uphold appeals made by dischargers against either the conditions of a consent[9] to discharge or sanctions imposed by the court system as a result of a case being brought to trial. However, the RPB's reluctance to involve the appeals procedure in the control of pollution[10] meant that this actor was also rarely involved in the implementation process.

The (then) Scottish Office Environment Department (SOEnvD), as the RPB's sponsoring body, did exert an influence on the agency's pollution control policy in a number of ways.[11] However, as chapter three indicated, traditionally RPAs throughout Scotland operated with a considerable degree of policy independence from the SOEnvD in relation to their pollution control functions. Consequently, this Government Department also made only occasional interventions into the implementation process.

At the heart of the pollution control process lay the perpetual interaction between the RPB and the organisations and individuals which collectively comprised the agency's discharging community. This was particularly so given the sporadic participation of the actors discussed in the above in that process. Consequently, it was predominately within the context of these RPB-discharging community interactions that the regulatory process was played out. The RPB measured the success of its pollution control policy by the extent to which it maintained and, where appropriate, improved the environmental quality of waters which it

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[9] The consent system is explained in more detail in section 4.5.

[10] The RPB was reluctant to involve the appeals procedure in the enforcement process as it took control of the enforcement process out of the agency's hands and risked an outcome to the disputed issue which undermined the authority of the RPB in the eyes of the discharging community (See section 4.9 for an account of what the agency viewed to be a negative outcome an appeal situation).

[11] For example, via the drafting of the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 1991 which enabled the RPAs to serve remedial notices on any farmers in control of a structure percieved to present a signficant risk of pollution (Case-Study RPB, Annual Report. 1991/92, p.8).

controlled. In so doing, the agency enforced the appropriate environmental legislation[12] which underpinned its pollution control system and which gave the RPB authority to penalise deviant behaviour on the part of dischargers regarding their environmental performance. The extent to which dischargers acted in accordance with the environmental standards[13] set by the RPB, and underpinned by the legislation, therefore had a critical bearing upon measuring the success or otherwise of the agency's pollution control policy in terms of outputs[14] and outcomes.[15]

However, the dynamics of the RPB-discharger relationship (and by extension the dynamics of the implementation process) were primarily moulded from *within* the regulatory agency itself. It was the RPB which determined the conditions of consent licences enabling dischargers to discharge effluent into controlled waters.[16] In its role as the competent authority for the enforcement of the appropriate environmental legislation, the RPB was also responsible for deciding courses of action to pursue in relation to dischargers' contraventions of that legislation.[17] Consequently, 'implementation' of pollution control policy revolved around the decision-making process undertaken at the *intra-organisational level* within the case-study RPB. It was this process that ultimately determined the outputs and outcomes of the agency's pollution control policy. Therefore, it is for this reason that the focus of the analysis is on policy implementation at the intra-organisational level within the case-study agency.

The next section briefly introduces the key actors within the case-study RPB in relation to implementation of the agency's pollution control policy as a prelude to the analysis of intra-organisational decision-making that follows.

4.3 RPB Regulatory Policy Actors

4.3.1 Board Members

In common with each of Scotland's six other mainland River Purification Boards, the case-study RPB had a Board comprising Members who were individually responsible for representing the interests of various sections of the community which the RPB was

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[12] The appropriate legislation is discussed in section 4.4.
[13] These standards are discussed in more detail in section 4.4.
[14] 'Outputs' in the form of consent compliance.
[15] 'Outcomes' in the form of maintaining or improving the quality of the aquatic environment for which the case-study RPB was responsible.
[16] See sub-section 4.8.1of this chapter.
[17] Contraventions in the form of either unconsented discharges or persistent breaches of consent conditions.

constituted to serve. Half of the RPB's Board Members were drawn from local government in the form of District and Regional Councillors. The remainder of the Board comprised Members appointed by the Secretary of State for Scotland to represent specific interests within the community. Within the case-study RPB the Board's Members included the following: 4 District Councillors; 4 Regional Councillors; 2 Conservation representatives; 1 Commerce representative; 1 Industry representative; 1 Land Management representative; 1 Angling representative; and 2 Farming representatives.

The Board occupied a unique position within the RPB's organisational structure in that the involvement of its Members in the implementation of pollution control policy occurred on a part-time basis. This contrasted with the position of other internal RPB pollution control policy actors who were employed by the organisation on a full-time basis. Significantly, in view of the forthcoming analysis, the RPB's professional staff were accountable to the Board in the execution of their duties.[18]

4.3.2 Senior Management Team

The Senior Management Team (SMT) - composed of the General Manager, Chief Pollution Control Inspector, Chief Chemist, Chief Biologist and Chief Hydrologist - provided an administrative link between the Board and the agency's full-time professional staff in relation to both its general activities and its pollution control function.

As the Chief Officer of the case-study RPB, the General Manager had overall responsibility within the organisation for operational matters and possessed formal authority to instruct staff in relation to the undertaking of their duties. He, himself, was accountable to the Board and ultimately to the Secretary of State for Scotland.

The Chief Pollution Control Inspector, as head of the agency's Pollution Control Section, was responsible for co-ordinating the pollution control activities of each of the RPB's geographical Divisions[19] in order to apply a common approach to enforcement throughout the agency's geographical area of responsibility. To this end, the Chief Pollution Control Inspector liaised with the Senior Pollution Control Inspectors located within each Division and also held periodic meetings with Inspectors at both Divisional and Sectional levels.

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[18] The relationship between the Board and the RPB's professional staff was similar to that of local government officers and elected representatives in that the professional staff were under the formal authority of the RPB's Board Members.
[19] The territory covered by the case-study RPB was divided into geographical Divisons, each of which contained a Divisional headquarters where members of the agency's staff were based.

Such meetings were designed to address policy issues[20] and disseminate information to Inspectors.

The Chemistry, Biology, and Hydrology Sections of the case-study RPB all had important functions to fulfil in terms of the organisation's undertaking of its statutory pollution control duties. With regard to the RPB's pollution control function, both the Chemistry and Biology Sections, in particular, played an important role in underpinning the implementation process by providing appropriate scientific analysis of water samples. The results of such analysis could then be used by the Pollution Control Section as a basis for decision-making in the course of implementing aspects of the RPB's pollution control policy. For example, chemical and biological data was used to assess whether dischargers were in compliance with their consent conditions or whether unconsented discharges were in breach of particular Environmental Quality Standards. Consequently, the Chief Officers of these Sections, by virtue of their areas of professional expertise, together contributed to shaping the overall strategy of the organisation in relation to its mission.[21]

4.3.3 Senior/Pollution Control Inspectors

The day to day implementation of pollution control policy was undertaken by the Pollution Control Section's Senior Pollution Control Inspectors and Pollution Control Inspectors. Each of the RPB's Divisions contained a team of Pollution Control Inspectors led by a Senior Pollution Control Inspector.

Senior Inspectors were responsible for ensuring that their Division fulfilled the various aspects of the agency's pollution control function in accordance with the specifications of the RPB's policy.[22] As such, and working with the Chief Pollution Control Inspector, they had a significant role to play in terms of policy co-ordination within the RPB.[23] Senior Inspectors were also involved in determining the conditions of more complicated consents to discharge effluent.[24] These policy actors also edited their Division's contribution to the

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[20] Regarding, for example, how to interpret European Community legislation such as the Bathing Water Directive (76/160/EEC), the Urban Waste Water Treatment (UWWT) Directive (91/271/EEC) and the Nitrate Directive (91/676/EEC).

[21] This was done via periodic Senior Management Team meetings during which a variety of organisational matters were discussed.

[22] This primarily involved ensuring that Inspectors met their set performance indicator targets as specified in the Scottish Levels of Service system (see sub-section 4.7.3 for a more detailed discussion of this).

[23] In the sense that they were the Line Managers for the Pollution Control Inspectors within their Division. Consequently, Senior Inspectors were responsible for ensuring that these staff implemented policy in a professional manner in line with the RPB's stated objectives.

[24] See sub-section 4.8.1 for a discussion of this issue.

RPB's bi-monthly Pollution Control Reports[25] which were submitted to Board Members prior to their bi-monthly Board meetings.

The RPB's Pollution Control Inspectors constituted the 'street level bureaucrats' (Lipskey, 1971) within the context of the implementation of the RPB's pollution control policy. It was predominantly they who represented the agency's first point of contact with the discharging community by virtue of their field-level duties. These duties involved pollution control responsibilities regarding the issuing of consents, monitoring dischargers' consent compliance, the enforcement of consent compliance on the part of dischargers when necessary,[26] and responding to incidents of unconsented discharges of pollution.

Having provided a brief overview of the main intra-organisational actors who participated in the implementation of the RPB's pollution control policy, the next section goes on to discuss the objectives of that policy.

4.4 Objectives of the Case-Study RPB's Regulatory Environmental Policy

4.4.1 Overview

Regulatory agencies charged with enforcing legislation can, in theory, adopt one of two broad approaches in order to achieve the objectives of that legislation. On the one hand, they can pursue a *confrontational* approach to enforcement. In these circumstances, regulators implement enforcement strategies whereby sanctions are applied to those who contravene the legislation in order to exert punishment for the violation of rules. In its most extreme manifestation, a confrontational approach to enforcement involves the invoking of sanctions against *any* technical infringement of regulations. Such an approach pre-supposes intent on the part of offenders to contravene regulations and attaches moral blame to offenders for such contraventions. Alternatively, regulatory agencies may adopt an approach to enforcement based upon achieving *consensus* between themselves and target groups, aspects of whose behaviour they are responsible for regulating.[27] Within this context, enforcement involves securing the co-operation of target groups in order to uphold legislation and:

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[25] See sub-section 4.8.4 for a discussion of these reports.
[26] These issues are discussed in more detail in sub-sections 4.8.1 and 4.8.3
[27] The confrontational and consensus approaches to enforcement represent opposing poles on a continuum of enforcement strategies. In practice, as this chapter indicates, enforcement agencies are likely to combine elements of each approach in securing legislative compliance.

seeks to prevent a harm rather than punish an evil. Its conception of enforcement centres upon the attainment of the broad aims of legislation rather than on sanctioning its breach (Hawkins, 1984, p.4).

Within the confines of the Scottish River Purification Authority system, regulatory enforcement traditionally involved forsaking, insofar as possible, a confrontational approach to enforcing environmental legislation in favour of a consensus-orientated strategy in order to secure discharger compliance. This preference for engineering discharger compliance via consensus rather than confrontation highlights the somewhat ambiguous role that legislation played in all of Scotland's RPAs' implementation of water pollution[28] control policy.

The Control of Pollution Act 1974 (COPA 1974),[29] as amended by Schedule 23 of the Water Act 1989, from which RPAs derived their main statutory powers regarding pollution control, details the principal offences in relation to water pollution in Scotland. Under Section 31(1) of COPA 1974, it is an offence for any person to cause or knowingly permit any poisonous, noxious or polluting matter to enter any controlled waters. Under Section 32(1) of the Act, it is an offence if any person causes or knowingly permits any trade or sewage effluent or any other matter to be discharged to any controlled waters unless the discharge is made with the consent of, and in accordance with any conditions imposed by, RPAs. Dischargers could face punitive sanctions in the form of a fine of up to £20,000[30] upon conviction of either of these offences in the Sheriff Court.[31]

However, in spite of its significance in furnishing RPAs with specific powers to undertake their pollution control function, statute's influence in relation to these agencies enforcement of their pollution control policies was exerted indirectly for the most part. The absence of uniform national emission standards, enshrined in legislation, dictated that responsibility for devising emission[32] standards was delegated by Central Government to RPAs themselves. This was done via the setting of Environmental Quality Standards (EQS) which specified

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[28] 'Pollution' is defined in EC Directive 76/464/EEC as 'the discharge by man, direcly or indirectly, of substances or energy into the aquatic environment, the results of which are such as to cause hazards to human health, harm to living resources and to aquatic ecosystems, damage to amenities or interference with other legitimate uses of water' (cited in Case-Study RPB Annual Report, 1992/93, p.80).
[29] COPA (1974) (as amended by the Water Act 1989) remains the legislative basis for setting and enforcing consent conditions within the Scottish Environment Protection Agency.
[30] If an offence was serious enough to be considered in a higher court then an unlimited fine and/or a custodial sentence could be imposed.
[31] The vast majority of pollution trials are conducted at the level of the Sheriff Court in Scotland.
[32] The term 'emission' has the same meaning as 'discharge' in this context.

what the RPAs judged to be the maximum acceptable standards in relation to particular criteria[33] in controlled waters in order to protect these waters for designated uses.[34]

4.4.2 The Genesis of Policy

As the preceding indicates, enforcement of environmental legislation and the implementation of pollution control policy were brought together, if not altogether clearly, within the boundaries of the Scottish River Purification Authority system. The legislation cited in the above played a pivotal role in providing the formal authority which enabled the case-study RPB to fulfil its pollution control remit. Simultaneously, the legislation left a policy vacuum to be filled by the agency, largely at its own discretion, through the setting of Environmental Quality Standards which specified the 'maximum acceptable concentrations of substances in controlled waters[35] in order to protect these waters for designated uses' (Case-Study RPB, Annual Report 1992/93, p.80). Consequently, because the role of statute in determining policy content in relation to pollution control was negligible, the classic 'top-down' distinction between *'policy'*, (as clearly specified in statute), and *'implementation'*, (the process of achieving statutoraly defined policy objectives), was rendered obsolete. Instead, the genesis of 'policy' in relation to the RPB's pollution control function was located at the micro-level *within* the implementing agency itself.

The case-study RPB expressed its overall pollution control policy objective as 'to maintain, or restore the wholesomeness of all relevant waters for which it has statutory responsibility' (Case Study RPB: Policy Document: Pollution Control, 1988). In order to assist it in achieving this overall objective, the organisation (in common with all of Scotland's other River Purification Authorities) adopted a formal Enforcement Policy[36] document[37] outlining key aspects of its approach to the process of pollution control. In the introduction to its Enforcement Policy Document, the case-study agency echoed the broad objective outlined in its Pollution Control Policy Document stating, '(t)he basic statutory role of the Board is

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[33] These criteria included the following: biochemical oxygen demand; suspended solids; total organic carbon; ammonium nitrogen; free ammonia; total oxidised nitrogen; nitrate nitrogen; orthophosphate; orthosillicate; chloride; alkalinity; conductivity, pH; and, temperature. Where appropriate, trace metal and trace organic targets were also included. In determining its EQS, the RPB had to account for relevant national and international obligations relating to, for example, European Community legislation such as that cited in footnote 20 of this chapter (RPB Annual Report, 1991/92, p.18).

[34] These included public supply and abstraction for industry.

[35] 'Controlled waters' are defined in Section 30A of COPA 1974 (as amended by Schedule 23 of the Water Act 1989) as all inland waters (rivers, watercourses, lochs and ponds), groundwaters, coastal waters and relevant territorial waters (waters extending 3 miles seawards) (Case-Study RPB, Annual Report, 1992/93, p.80).

[36] Referred to hereafter as the Common Enforcement Policy or CEP.

[37] The background to the Common Enforcement Policy is discussed in more detail in sub-section 4.7.3

to promote the cleanliness of the rivers and other inland and tidal waters and to conserve as far as is practicable the water resources of its area' (Enforcement Policy Document, p.1). The stated aims of the Enforcement Policy were as follows:

a) To improve water quality.

b) To *attain optimum* consent compliance in as *short a timescale as practicable*.

c) To promote an approach consistent with other River Purification Authorities in Scotland.

d) To achieve an even-handed treatment of offenders.

e) To improve public awareness of RPA enforcement procedures.

(Enforcement Policy, 1993, p.1, emphasis in original).

The statements included in the RPB's Enforcement Policy Document and its Pollution Control Policy Document were useful in articulating the broad focus of the RPB's pollution control function. However, they conveyed little of the dynamic process which, according to Hogwood and Gunn (1984), offers the best conceptualisation of 'policy'. As was noted in chapter two, Ham and Hill (1993, p.103) maintain that the salient aspects of 'policy' for implementation analysis relate to the complex phenomena emerging at the end of the legislative process in the form of policy programmes, outputs and outcomes. Such a focus is particularly apposite within the context of the case-study RPB's implementation of its pollution control policy in view of the withdrawn role of statute in determining how that process unfolded.

As the literature review undertaken in chapter two indicated, the implementation of public policy is seldom a 'once and for all' activity.[38] The policy area of water pollution control provides an excellent example of this important aspect of implementation which was often overlooked by 'first generation' implementation studies of the early 1970s. There exists no decisive end-point in this area of public policy whereby, objectives having been achieved, policy is terminated and the institutional machinery of regulation dismantled. Rather, the business of preserving and, where appropriate, enhancing the environmental quality of watercourses under the RPB's jurisdiction involved a reiterative process of regulatory

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[38] A variety of academics have illustrated the longitudinal dimension of policy implementation (Van Meter and Van Horn, 1975; Mazmanian and Sabatier, 1979, 1980; Elmore, 1979; Hjern and Porter, 1981; Elmore, 1985; Sabatier, 1986) in constructing implementation models offering quite different theoretical perspectives on the process.

oversight. The next section outlines the mechanisms with which the RPB undertook this task.

4.5 Mechanisms of Pollution Control

The case-study RPB, in keeping with its fellow River Purification Authorities, employed two distinct but associated mechanisms in order to achieve its pollution control policy objectives; *the consent system* and *incident management* The main mechanism by which the RPB pursued the objectives outlined in the preceding section was that of the consent system. The system operated in the following way. Any individual wishing to discharge effluent to the aquatic environment required consent from the RPB under the provisions of Section 34 of the Control of Pollution Act 1974. In order to receive consent, the prospective discharger had to submit a written application form to the agency giving details including the location, volume, nature and composition of the proposed discharge. The RPB would then consider the application and, following negotiation with the applicant, would decide whether to refuse the application or consent to the discharge occurring, subject to conditions to which the discharger must agree to abide (Case-Study RPB General Manager, Water Pollution Control: The Case for Local Control and Accountability, Undated).

Failure to comply with consent conditions would lead to enforcement action being taken. In this respect, the consent system was underpinned by the formal powers of sanction available to the agency through the appropriate legislation. Moreover, the Common Enforcement Policy contained guidelines for enforcement regarding Section 32(1) offences relating to unconsented 'trade or sewage effluent or any other matter' being discharged to controlled waters. In this respect, the guidelines outlined agency procedure with regard to 'unconsented discharges'; 'marginal consent exceedence', where:

> exceedence of any maximum limit set in the consent, and the impact of the discharge on the appropriate environmental quality standards in the receiving water are not significant (Enforcement Policy, 1993, p.3).

and, 'serious consent exceedence', wherein:

> a breach of the appropriate environmental quality standard in the receiving water' occurs, or 'exceedence of any maximum limit set in the consent is greater than 100% irrespective of the impact of the discharge on the appropriate environmental quality standards in the receiving water (Enforcement Policy, 1993, p.3).

Safeguarding the RPB's Environmental Quality Standards also involved accounting for discharges which occurred outwith the auspices of the consent system. Therefore, the second main mechanism used by the case-study RPB in the implementation process was that of *incident management*. This related to the RPB's enforcement procedures with regard to unconsented[39] discharges in controlled waters under the terms of Section 31(1) of the Control of Pollution Act 1974. These discharges tended to be 'one-off' isolated incidents as opposed to discharges which continued over a period of time. The RPB's Enforcement Policy document specified the organisation's enforcement procedure in relation to what were classified as 'minor' and 'serious' discharges in relation to Section 31 (1) offences. 'Minor' incidents were classified as:

> those which do not cause any breach of the appropriate environmental quality standards in the receiving water (Enforcement Policy, 1993, p.2).

Alternatively, 'serious' incidents constituted those which involved:

> a breach of *any* appropriate environmental quality standard in the receiving water (Enforcement Policy 1993, p.2. emphasis in original).

As the preceding indicates, both the mechanisms of the consent system and incident management were underpinned by environmental legislation which contained significant powers to impose sanctions upon convicted offenders. However, as with other environmental regulators in the United Kingdom, (Vogel, 1986) the case-study RPB had generally forsaken recourse to these sanctions in its efforts to control pollution within its locality. Indeed, the agency had traditionally adopted an enforcement philosophy which had avoided using the formal tools of enforcement[40] whenever possible. At first sight, this 'enforcement gap' in terms of applying the formal tools of enforcement might appear to be something of an anomaly given that RPAs operated within a legislative framework based on the principle of strict liability (Ball and Bell, 1994, p.103), which freed them of the obligation to provide proof of dischargers negligence in relation to pollution offences. Such an approach might also have appeared at odds with the provisions of a body of environmental legislation which provided an extremely wide definition of what constituted a pollution offence. However, there were a number of factors which led the case-study RPB

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[39] 'Unconsented' in the sense that such discharges should not enter controlled waters *at all*, as opposed to entering beyond stipulated limits.

[40] These formal tools included enforcement sampling, formal sampling and preparation of reports to be submitted to the Procurator Fiscals office with a view to initiating a prosecution of alleged offenders.

to adopt an approach to pollution control which relied upon co-operation, as opposed to confrontation, with dischargers. The next section explains these factors in more detail.

4.6 The Merits of Consensus

At the heart of the case-study RPB's reluctance to utilise the powers of sanction, underpinning both the consent and incident management elements of the regulatory system, was a distinctive perception among its staff as to the role of the agency in relation to the discharging community. In particular, it was clear from interview responses that the RPB's professional pollution control staff viewed the organisation's function, in its broadest sense, as that of educating dischargers as to how to prevent pollution occurring in the first place, as opposed to retrospectively imposing sanctions on dischargers who committed pollution offences. The RPB's General Manager illustrated this philosophy in outlining the agency's approach to pollution control:

> First of all, our job is pollution prevention and, as I see it anyway, enforcement is a tool. When I say enforcement, I mean prosecution.....When people talk about enforcement, they generally think about taking people to court. We've always seen that as a last resort, and in some cases, almost as an admission of failure, because it means that pollution has occurred.....I don't think that many RPAs see themselves particularly as arms of the law in the sense that, if they catch any infringement of the law, they're out there to make sure that the person reaches court. I think its fair to say that there are many, many technical infringements of the law each year that we choose not to report to the Procurator Fiscal (Harris, Interview, 28/7/94).

The view that the case-study RPB's pollution control function revolved around the education of dischargers so as to prevent pollution was also evident among its Pollution Control Inspectors. One Inspector commented:

> The key is to get on with people. For a grumpy farmer to understand why you're there on December the 24th and for him to say "Fair enough, this lad's got a good case, I'll do what he says". Because if you prosecute somebody and they don't understand why they've been prosecuted, they'll offend again. *So the art is to convert people to the ways of pollution control.* (Dobson, Interview, 7/10/94, emphasis added).

The ambivalence with which the RPB's pollution control staff viewed the formal mechanisms of pollution control was also partially explained by the ways in which they viewed contraventions of the legislation when they occurred. Due to the wide scope which the provisions of the legislation gave to the RPAs in determining what constituted a pollution offence, the 'boundaries of regulatory deviance' to which Hawkins (1984) has

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referred, were open to flexible interpretation by the case-study agency. Such flexibility rested primarily on whether the RPB attributed blame to dischargers in relation to consent violations or 'one-off' pollution incidents resulting from unconsented discharges as a consequence of perceived negligence. A Board Member gave an illustration of the type of distinctions made in this respect:

> If you're dealing with 'farmer's son' type outfit or the 'next door neighbour' type company, then you can forgive them a bit more. Its different when you get oil spills and then you discover the tank the oil was in hasn't been properly bunded.[41] *There's no excuse for an oil company to be operating in that way.....*I guess you do make subconscious decisions as to whether you can excuse them any negligence (Law, Interview, 28/10/94, emphasis added).

Along with perceptions within the RPB regarding discharger negligence in precipitating a pollution, another contributory factor in determining whether the agency apportioned blame on the offender related to the latter's actions in the aftermath of a pollution offence. This could also have a significant influence on the enforcement strategy adopted by the agency, as the General Manager explained:

> If dischargers inform us immediately and we get experts out there dealing with incidents, then, very often, its possible to minimise the effects on the river and that's our prime concern. We can advise them about who to contact, how to sort the problem out, and it diminishes the environmental impact. Therefore, we take that very much into account when we're looking at a case afterwards. If someone tries to hide it and cover it up, and thereby the damage to the receiving water is greater, then we're not at all sympathetic (Harris, Interview, 28/7/94).

Notwithstanding issues associated with perceptions of negligence and dischargers efforts to minimise the environmental damage of an unlawful pollution, other more pragmatic concerns also coloured the RPB's approach to enforcement. In particular, there was a widespread conviction among the professional staff and Board Members that confrontation with dischargers did not yield improved results, either in terms of consent compliance or in deterring unconsented pollution incidents. One Inspector articulated the view of many of her colleagues, stating:

> If you can get a company to co-operate with you and do all the clean-up that's required, you're perhaps defeating the purpose of pollution control if you're prosecuting them, because another company could say, 'They spent £20,000, they cleaned up their oil, and the River Purification Board still took them to court. Why

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[41] Bunding involves placing a second containing structure around, for example, an oil starage tank to ensure leakage of liquid does not go beyond a certain point.

should we bother cleaning it up if we're going to get taken to court?' (Sinclair, Interview, 22/9/94).

The case-study RPB was also dissuaded from putting forward cases for prosecution by what its professional staff, in particular, perceived to be an inability on the part of both Procurator Fiscals and Sheriffs to appreciate the adverse environmental implications of such cases.[42] There was also a suspicion within the agency that pollution offences did not rank highly on Procurator Fiscals' lists of priorities when determining which cases to bring to court. One of the RPB's Senior Inspector's commented:

> When a report gets to the Fiscal anything can happen. It depends what he's got on that week. You've got to remember that the Fiscal is dealing with the whole range of crimes.....murder, rape, muggings, you name it. And along comes a little bit of oil in a stream..... Its way down his list of priorities'(Armstrong, Interview 8/11/94).

This view was shared by another Pollution Control Inspector who stated:

> The Procurator Fiscal is dealing with murders, assaults and God knows what. Pollution incidents must be on the bottom of the pile. There are criminal offences and criminal offences, and the ones we're dealing with are the lesser (Simpson, Interview, 8/11/94).

As a consequence of these factors, the RPB only submitted cases to the Procurator Fiscals' office which the agency was confident would result in successful prosecutions. This approach was designed to reinforce the perception among the discharging community that a prosecution would result in sanctions of considerable magnitude being imposed, thus magnifying the utility of prosecution as an enforcement tool.[43] An Inspector explained the 'presentational' value of a successful prosecution, stating:

> If we only took 5 cases to court but we got them all, that's much better than taking 250 but only winning 2. You have to look at your success rate rather than the number of prosecutions you've brought (Sinclair, Interview, 22/9/94).

From the preceding, it can be seen that the case-study RPB exhibited a consensual approach to the enforcement of its pollution control policy on the basis two particular factors. Firstly,

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[42] In the course of an interview, an experienced Pollution Control Inspector bemoaned this perceived lack of expertise on the part of both Procurator Fiscals and Sheriffs, stating: "The Judges and Fiscals are dealing with so few environmental pollutions that they can't quantify how serious they are....With a pollution, if you can say 'They killed 20,000 fish over a five mile stretch of river', they can visualise that. But if you say, 'The BOD was 2000 in the river, my Lord', he just sits back and says 'Really?'. He doesn't know what that means. Its a specialist field and they're not accustomed to dealing with it" (Mackillop, Interview, 11/10/94).
[43] Sub-section 4.8.3 illustrates that in practice these sanctions were perceived within the Pollution Control Inspectorate to be of limited effect.

the agency shared an organisational culture (Handy, 1976) wherein its policy actors viewed their prime role as being to educate the discharging community (through persuasion and giving advice) in methods of environmental best practice. Secondly, there was little faith among policy actors within the RPB as to the ability of a more confrontational approach to deliver practical benefits in the form of reduced levels of pollution among the discharging community.

Set against the background of an apparently consensual enforcement strategy, section 4.8 of the chapter examines the intra-organisational dynamics of the case study RPB's implementation of its pollution control policy in more detail. Prior to that, the next section discusses policy developments (both internal and external to the case-study RPB) which exerted an influence on these intra-organisational implementation dynamics.

4.7 Pollution Control Policy Developments: 1989-1993

4.7.1 Overview

As the introduction to this chapter indicated, much of the literature on environmental regulation in the United Kingdom highlights the traditionally flexible and pragmatic nature of the process of setting and enforcing the consents upon which the systems of water pollution control, both in Scotland and in England and Wales, have been founded. However, despite sharing common consent systems,[44] the implementation of pollution control policy within these systems has shown marked differences on either side of the border. Such differences were particularly evident in the mid to late 1970s when the English and Welsh Regional Water Authorities stretched the principle of pragmatism in enforcement to new limits. This was due to these water authorities undertaking the dual functions of regulating effluent from sewage treatment works which they, themselves, were responsible for operating.[45] Consequently, a combination of undemanding consent conditions and poor consent compliance resulted in a diminishing of the environmental quality of watercourses in England and Wales at this time, as the Water Authorities struggled to reconcile the dilemma of being both environmental regulators and polluting dischargers. By contrast, as independent organisations,[46] Scotland's River Purification Authorities were able to avoid the type of conflict of interest experienced by their English and Welsh counterparts. Instead, armed with distinct organisational remits, these agencies

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[44] Derived from shared legislation e.g. COPA (1974).
[45] See Hawkins (1984) for a fuller account of this issue.
[46] Independent from the discharging community.

were able to improve the environmental quality of Scottish waters throughout the 1980s by setting and enforcing locally determined environmental standards, as table 4.2 illustrates.

Table 4.2 Quality of Scottish Waters: 1980 -1990

Year	Class 1[47]	Class 2	Class 3	Class 4
1980	45352 Km[48]	2035 Km	260 Km	163 Km
1985	45695 Km	1723 Km	272 Km	132 Km
1990	46310 Km	1199 Km	238 Km	71 Km

Source: Case-Study RPB - Internal Documentation[49]

4.7.2 Internal Policy Developments

The case-study RPB, in keeping with its fellow RPAs, had gradually improved the quality of the aquatic environment in its locality throughout the 1980s. However, there was concern among the RPB's Board Members that improvement was proceeding at too slow a pace. In particular, the Regional Council[50] and whisky distillers, two of the main groups of dischargers within the RPB's locality, were consistently failing to comply with the conditions of their consents. One experienced Inspector recalled the somewhat restrained enforcement approach taken by the RPB during the late 1980s, stating:

> it was a very soft line, particularly with the distilleries. They were discharging poor effluent outwith consents and not much was being done about it (Gray, Interview, 19/10/94).

From the Board's point of view, an even more disturbing state of affairs was the poor consent performance of the Regional Council, as a long serving Board Member made clear:

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[47] Classifications were as follows:
Class 1 - Unpolluted or recovered from pollution
Class 2 - Fairly good
Class 3 - Poor
Class 4 - Grossly polluted
[48] Km = Kilometres.
[49] Some caution should be exercised in analysing the signficance of this table given that the data does not add up in terms of providing a uniform total length of Scottish waters for each year during which these waters were surveyed. Nevertheless, it is broadly indicative of the environmental improvement in water quality which the RPAs achieved throughout the 1980s.
[50] The Regional Council was a major player within the discharging community as it was responsible for the operation of Sewage Treatment Works and Surface Water Sewers in industrial estates in the RPB's locality.

> About 5 years ago I would have said to you that if Greenpeace had wanted to make a real fuss they could have looked at our figures and said, 'Look, sewage works virtually never come up to their consent conditions. And what are you people doing about it? Nothing! You're in dereliction of your duty and the Regional Council are in dereliction of their duty, and its a scandal because the two of you are hand in hand'......Industry, in the form of the Secretary of State representatives on the Board, and also in the public forum, pointed out that it was entirely improper to have one set of enforcement standards for industry and another one for the Regional Council. And this is what most of us immediately agreed with. There was no dispute about this at all. But the question was, what to do about it? (Roberts, Interview, 20/10/94).

That particular question was to be resolved in due course. Prior to that however, the Board, unhappy at what appeared to be a drifting enforcement policy, engaged in a reorganisation of the RPB's management structure. It replaced the agency's Director with a new Chief Officer who took up the newly created post of General Manager and Clerk to the Board. In tandem with this, the Board created the Senior Management Team structure outlined in section 4.3. All of this was done to provide the Board with greater accountability regarding the pollution control activities of the agency's professional staff.

Upon his arrival in post, a pressing task for the newly appointed General Manager was to impose some direction upon the agency's apparently drifting enforcement strategy. Recalling the policy malaise which greeted him upon taking up his new position, the General Manager stated:

> I came on the scene and things were a bit confused. We couldn't see what the agency's policy was or where it was going, so I drafted a policy document for the Board and I outlined those sections of industry and local government which were not doing as well as they should be doing, highlighted these to the Board and we prepared a priority list. We call it a priority list, but its a black list of all the bad boys and when we were going to make them comply by (Harris, Interview, 28/7/94).

The impact of the Priority List on the enforcement process is examined in more detail in sub-section 4.8.5 of this chapter. First, it is worth considering the efforts of the restructured Senior Management Team, with the new General Manager at the helm, to recast the RPB's relationship with sections of the discharging community, a relationship which was threatening to spin out of the RPB's control. One of the first groups to be targeted by the RPB as needing to produce improved consent compliance was that of the whisky distilleries within the agency's locality. The General Manager explained the RPB's rationale in focusing on this group:

We particularly targeted distilleries because there's a lot of them and because they stood out as a group that were ignoring the Board's[51] strictures, advice, whatever you want to call it[52] (Harris, Interview, 28/7/94).

The agency's efforts[53] at improving the consent compliance of distilleries appeared to have a positive effect as table 4.3 illustrates:

Table 4.3 Consent Compliance Greater than 75% by Trade Discharges in Catchment A[54] of Geographical Divison 1 - 1987 to 1993

Year	Number of Trade Discharges	% of Trade Discharges with over 75% Consent Compliance
1987	49	59.2
1988	55	60
1989	58	56.9
1990	57	61.4
1991	57	61.4
1992	59	69.5
1993	57	82.5

Source: Case-Study RPB - Internal Statistics

The RPB's other major target in terms of improving consent compliance, the Regional Council, also encountered a marked change in the agency's attitude to the Council's poor record of ensuring consent compliance in relation to the surface water sewers for which it was responsible.[55] As a Pollution Control Inspector recalled in interview:

In the past we've allowed the Region to discharge so much rubbish down the sewers....But they were doing nothing about it, so the RPB decided it was time to take a more formal approach to surface water sewers and we did actually take a number of formal samples from a number of the sewers and sent them to the Region

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[51] This term denotes the entire case-study organisation in this context.

[52] There does appear to have been a somewhat lax attitude towards consent compliance taken by certain distilleries in the past. A Board Member with a background in the distilling industry stated in interview that he could think of at least one distillery which had committed a pollution which had saved them tens of thousands of pounds because they knew they would only get a "derisory" fine (Fields, Interview, 9/11/94).

[53] This toughening up of the agency's enforcement of distillery consents took a number of forms. These ranged from meetings between the General Manager and his senior officers and senior distillery industry representatives in order to present the RPB's view, to informing the press (with all the attendant bad publicity for dischargers) when distillery related pollutions occurred.

[54] This geographical Division contained the vast majority of the distilleries in the area under the agency's control. This is illustrated by the fact that 56 of the 61 discharge sites in catchment A, as detailed in table 4.3, were operated by whisky distilling companies.

[55] A duel enforcement system was in operation here. The RPB could initiate proceedings designed to achieve a prosecution of the Regional Council as the organisation responsible for the surface water sewers. The Regional Council could initiate proceedings designed to achieve a prosecution of any discharger who caused a pollution which entered the surface water sewer system.

and said, 'We're going to prosecute'. Of course, that got them really excited (Mackillop, Interview, 11/10/94).

An extract from a letter[56] written by the General Manager to the Regional Council's Director of Water Services, dated 21st May 1993, confirms the harder stance which the RPB had begun to take in relation to non-compliance involving the surface water sewers for which the Regional Council was responsible:

> As you know, the Board[57] has identified the areas where the discharge of surface water from industrial areas required the most urgent action in that there are problems of chronic pollution, albeit from sporadic discharges by many separate companies on any one industrial estate. It is acknowledged that you have increased the numbers of your trade effluent control staff[58] recently and that significant headway has already been made by your department in some areas. With this in mind, enclosed is a list of the surface water sewers on the Board's Priority List with provisional dates set against them when the current problems of chronic pollution should be eliminated and the frequency of severe pollution incidents much reduced.[59] It is agreed that those improvements are only likely to be achieved through the process of visits to all premises on the industrial estates identified, making inspections, recommending remedial measures and educating management on the effects of current practice. *Whilst a process of education will take time to effect improvements, I firmly believe that the Council's resolve to prosecute offenders should be underlined and hopefully will ensure the changes in working practices on redrainage works necessary are given sufficient priority by the discharger* (emphasis added).
>
> In addition to your own efforts I believe there to be further scope for greater co-operation between our two authorities in undertaking prosecutions where illegal discharges have been made to a surface water sewer and resulting in pollution of controlled waters. *I am disappointed to learn that the record of successful prosecutions has been poor. I have gained the impression that this may in part be due to delays arising in your own Legal Services Department. In addition, I aware of difficulties in effecting remedial measures where the Council's Property Services Department are involved. Problems in (locations named) are examples where it appears that difficulties could have been avoided or resolved more quickly* (Letter from General Manager of RPB to Regional Council's Director of Water Services, 21/5/93, emphasis added).

In his letter[60] of reply, dated 14th June 1993, the Director of Water Services signalled the Council's intention to meet the wishes of the RPB with respect to achieving target dates (with one exception)[61] and in initiating cases for prosecution where merited. He wrote:

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[56] See Appendix 2 for full text of letter.
[57] This term denotes the entire case-study organisation in this context.
[58] Trade Effluent Inpsectors were responsible for controlling polluting discharges in relation to industrial estates which came under the Regional Council's jurisdication.
[59] See Appendix 3 for full list.
[60] See Appendix 4 for full text of letter.
[61] See Appendix 5 for full list and Director's comments.

It is extremely difficult to estimate time-scales for the work involved, but I would intend that the deadlines will be achieved with the exception of West Finsbay industrial estate, which will be finished by the end of this year.

I would confirm my understanding of your requirements, which is, that for each of the areas specified, any chronic pollutions have been eliminated and all companies visited by the dates indicated. I also confirm my intention to initiate prosecution of any company or individual who appears to cause pollution of a watercourse (Letter from Regional Council's Director of Water Services to General Manager of RPB, 14/6/93).

Such was the impact of the agency's efforts to reclaim the initiative in securing consent compliance on the part of what it perceived to be problematic sections of the discharging community, that it felt justified in claiming in its 1992/93 Annual Report that:

The (agency's) determined and in certain cases confrontational policy towards dischargers who have failed to meet their obligations in respect of consent compliance or the avoidance of pollution incidents, is now paying major dividends in reducing the stress on the aquatic environment.....(M)ajor progress has been achieved in meeting or progressing towards the clear targets set by the (agency). The Regional Council, the whisky distilling industry, the paper mills, and a major processor of fruit and vegetables have all set in motion action programmes which are evidenced by improved waste treatment facilities either completed or in course of construction (RPB Annual Report, 1992/93, p.10).

4.7.3 External Policy Developments

Beyond the internal policy developments being undertaken by the case-study agency, the contours of the RPAs' historically individualised consent enforcement system had begun to converge as implementation procedures became increasingly standardised. This process of standardisation had begun in 1989 with the introduction by the then Scottish Office Environment Department (SOEnvD) of the Scottish Levels of Service (SLS) system consisting of performance indicators relating to a variety of RPAs' activities. These included the following: water quality; monitoring and enforcement; dealing with consents, consultations and complaints; chemical and biological analysis; and, hydrology and flood warning.[62]

The introduction of the SLS system was in keeping with the Conservative Government's on-going agenda of ensuring efficiency, effectiveness and 'value for money' in the public sector. At the same time, the introduction of the system marked a shift in the parameters of the relationship between The Scottish Office and RPAs. Although still able to set their own agenda in terms of formulating localised Environmental Quality Standards, RPAs were now

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[62] See Appendix 6 for a full background to the system and a full list of SLS indicators.

more explicitly accountable to The Scottish Office with regard to the execution of a number of key related functions. The issue of accountability was also one which Pollution Control Inspectors, in particular, now had to address anew following the introduction of the SLS system. Much to the chagrin of more experienced Inspectors in particular,[63] the new scheme required that they account for their pollution control activities in greater detail than they had previously been accustomed to doing.[64]

The introduction of the SLS system altered the way in which pollution control activities were reported both within the RPAs and from the RPAs to The Scottish Office. However, in terms of shaping the process of regulating consented discharges, a more profound development was the introduction of the Common Enforcement Policy (CEP) in 1993 (as discussed in section 4.4.). Traditionally, each agency had decided at its own discretion upon the actions which it would take in relation to discharges which were outwith any consent conditions.[65] The RPAs envisaged that the introduction of the CEP would lead to an element of uniformity being incorporated into the enforcement process. This was to be achieved by specifying in a single authoritative document the circumstances in which the formal tools of enforcement should be used by *all* of Scotland's River Purification Authorities.[66]

The formulation of the Common Enforcement Policy was prompted by a number of factors. Not least among these were criticisms levelled by some dischargers as to the perceived inequity of setting and enforcing consent conditions which reflected purely local circumstances. The case-study RPB's General Manager explained:

> There were a lot of complaints from multi-branch companies who found that they were being treated differently in one part of the country compared to another. There were also complaints from water and sewerage authorities. They would always look across the fence and if they saw someone being treated more lightly than them, they would be complaining (Harris, Interview, 28/7/94)

In tandem with pressures emanating from dischargers for a more uniform approach to the enforcement process, there was also a general acceptance within the RPAs that different

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[63] Mackillop described the job of pollution control as increasingly becoming "a paperchase" (Interview, 11/10/94).

[64] See Appendix 7 for copy of the Inspectorate SLS Return form.

[65] This involved the RPAs individually determining if, and when, they would utilise the formal tools of enforcement. These included the taking of enforcement samples, formal samples and referring cases to the Procurator Fiscal to initiate a prosecution case against an alleged offender.

[66] See Appendix 8 for a copy of the Enforcement Policy document.

agencies adopting individualised approaches to consent enforcement represented a serious anomaly within the regulatory system. Indeed, as section 4.7.2 of this chapter illustrates, the case-study RPB had experienced at first hand something of the negative effect of variable enforcement strategies in terms of achieving satisfactory consent performance. This was as a result of its previously soft line with the Regional Council and the distilling industry. The announcement in July 1991 of the imminent creation of a single Scottish Environment Protection Agency also helped to crystallise thinking regarding enforcement procedures within the RPA structure. A prime justification which the Conservative Government had put forward for the establishing of SEPA was to eliminate variations in enforcement so as to provide a level playing-field for industry in particular (The Scottish Office 1992a). Consequently, as a key feature of the future regulatory structure was to be uniformity in enforcement, it was strategically prudent for the RPAs to embrace such an approach prior to SEPA's inception in order to strengthen their staff's position within the new agency when it was formed.[67]

The policy environment in which the case-study RPB found itself operating in the early 1990s was a dynamic one. For the decade and a half following their creation in 1975, The Scottish Office had left the RPAs largely to their own devices. However, The Scottish Office's imposition of increasingly specific measures of accountability through the introduction of the SLS system in 1989 signalled that the relationship between the RPAs and Government was changing. The following year, the RPAs were to emerge from a Scottish Office Policy Review (Scottish Development Department, 1990) with a full endorsement from Central Government regarding the execution of their duties. Yet, just a year later The Scottish Office was to signal the RPAs' imminent demise with the announcement that a single Scottish Environment Protection Agency was to be created. Finally, the RPAs had taken steps to transform their own approach to the enforcement of their individual pollution control policies with the creation of a Common Enforcement Policy in 1993. Allied to these external developments, the case-study RPB spent the early part of the 1990s reconfiguring both its management structure and its enforcement priorities. It is against the backcloth of this turbulent environment that the following sections of the chapter examine the intra-organisational dynamics of the case-study RPB's implementation of its pollution control policy.[68]

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[67] See Szanton (1981) for an explanation of the dynamics of agency reorganisation.

[68] While the main focus of the analysis contained in section 4.8 is on the RPB's implementation of its consent system, the analysis also incorporates consideration of pollution control policy implementation in relation to incident management, as detailed in section 4.5.

4.8 The Intra-Organisational Dynamics of Implementation

4.8.1 Determining Consent Conditions

As was described in section 4.5, the process of allocating consents to discharge effluent within prescribed limits into controlled waters constituted the main component of the pollution control system which the RPB operated. Consequently, the granting of consents was instrumental in determining the outputs and by extension the outcomes of the pollution control process. The types of discharges for which the case-study RPB granted consents generally ranged from the fairly minor[69] involving, for example, domestic septic tank discharges and surface water discharges from roofs of domestic dwellings, to potentially more environmental damaging discharges from surface water sewers, sewage treatment works[70] and trade effluent from industrial premises.[71] Table 4.4 provides a profile of the agency's sampling workload for the period April 1992 to March 1993 in relation to sewage, trade and other discharges.

Table 4.4: Profile of Case-Study RPB's Sampling Programme April 1992-March 1993

	No. of consented discharges sampled	No. complying with consent conditions	No. not complying with consent conditons	No. of discharges sampled not requiring consent or unconsented
Sewage Effluent	1279	911	295	73
Trade Effluent	1260	842	192	226
Other Discharges	244	126	78	40

Source: Case-Study RPB Annual Report 1992/93

Similar conditions were required for virtually all consents for household septic tank applications and those for drainage of surface water from roofs. Consequently, the

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[69] 'Minor' in the sense that, left unregulated, they would not individually compromise the environmental quality of receiving waters but would do so if aggregated together.
[70] The Regional Council was also responsible for ensuring that sewage treatment works complied with their consent conditions.
[71] Such premises included, for example, paper mills, fish farms and whisky distilleries.

processing of these consents was largely pre-programmed in that a number of standard conditions had been devised by the RPB which were uniformly applied to such applications. As a result of these consents having been pre-determined,[72] the Pollution Control Inspectors who dealt with such applications had no discretion in stipulating the conditions to be attached. For other applications relating to, for example, sewage treatment works or trade effluent, standard sets of conditions were also applied. However, the numerical targets[73] set within the consent for particular chemical data could vary for each application depending on the capacity of the receiving watercourse to assimilate the effluent.[74] In these cases, Inspectors were able to exercise some discretion in consent setting through use of their professional judgement (based on their scientific expertise) in determining these numerical targets. Nevertheless, the scope for determining these targets was also limited, as an Inspector explained:

> There's no point in me setting a really tight consent for a discharger if he can't meet it and he's going to fail straight away as soon as its set....Its got to be something that's achievable and, at the same time, its got to be something that's acceptable to me in terms of its impact on the water (Nelson, Interview, 18/10/94)

Consent-setting in relation to this type of discharges allowed Inspectors to exercise some discretion in determining conditions. Nevertheless, there was a chain of oversight built into the agency's hierarchy which limited this discretion on the rare occasions that the RPB received applications for consent to discharge which deviated from standard existing processes[75] or which were for completely new processes. In these circumstances, a more protracted approach to consent setting was adopted in comparison to that employed for more routine applications. The following is an account of that approach.[76]

Initial responsibility for determining consent conditions for non-standard applications lay with the Inspector responsible for the watercourse to which the potential discharge

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[72] The role of Pollution Control Inspectors regarding pre-programmed consents had caused some controversy within the agency during the writing of job descriptions, as an Inspector explained: 'We didn't like the expression, 'We process consents'. We thought that was what a computer operator did' (Collins, Interview, 7/10/94).

[73] These numerical targets related to criteria cited in footnote 33 of this chapter.

[74] Factors which could lead to an alteration in the numerical targets applied to effluents included the capacity of the watercourse to assimilate a particular level of effluent. This could depend on factors such as the flow rate of the watercourse, the dilution available in the watercourse, and the level of effluent which was already being discharged into it.

[75] An example of this was a Gas Terminal within the RPB's locality with specific production processes which required the allocation of a more individialised consent.

[76] This account is based on material generated through interviews with the RPB's professional staff.

applied.[77] The Inspector began proceedings by initiating discussions with the applicant to gather more detailed information in relation to the proposed discharging process. Such discussions were valuable from the RPB's perspective as they enabled the agency to explain the chemical targets that the applicant would be required to achieve in relation to discharge consent conditions.[78] In so doing, agency staff set out to secure, through negotiation,[79] the applicant's agreement as to the terms of the consent which would subsequently be drafted.[80] Following on from these discussions, a set of proposed consent conditions were then drawn up by the Inspector working independently or in conjunction with the Division's Senior Inspector. With the proposed consent conditions having been established at Divisional level, the consent would then be passed up the agency's hierarchy to the Chief Pollution Control Inspector at headquarters. He then examined the attached conditions and amended any with which he did not agree.[81] Having gone through successive levels of the agency's hierarchy, and prior to submission to the Board for approval, the consent conditions would then be sent in draft form to the applicant.[82] This phase in the process represented an opportunity for the applicant to take one of two courses of action. On the one hand, the applicant could agree to the terms of the consent, in which case the consent would become operational subject to the approval of the Board. Alternatively, the applicant could raise an objection to one or more aspects of the consent conditions. This, in turn, would result in a further cycle of discussions between senior RPB staff[83] and the applicant in order to resolve

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[77] This was highlighted by an Inspector in the course of interview. In responding to a question concerning who would be involved in determining the conditions for extraordinary consents, the Inspector replied, 'I would normally set the consent conditions by myself and then I would send it through to the Senior Inspector for approval. In the first instance it would be me' (Gray, Interview, 19/10/94).

[78] In the most complex cases, the RPB would hold discussions with the prospective discharger *prior* to an application being submitted to fulfil the same objectives. These discussions were usually undertaken by the Chief Inspector and the Senior Inspector of the Division where the applicant was located and reflected the complexity or high profile of such instances.

[79] The following example, recounted by the Chief Pollution Control Inspector, conveys a flavour of the pragmatism which informed such negotiation. He stated, 'We have a situation where there's one small village served by septic tanks. They produce an effluent of about 200 BOD. A developer wants to come in and build an equal number of houses in the village, doubling the size of the village....Now, the Water Services Department have no intention of spending any money to improve these existing septic tanks. They're producing a BOD of 200. The developer would plough money into the drainage system which would mean that Water Services could build a plant to treat effluent much better. If we gave them a 20 BOD standard it would cost X thousands of pounds. The developer may not be willing to go to that, but if the target was to go to 40 BOD, the developer would be willing to pay that. Now, our view is, better to have a 40 BOD than a 200 BOD, so we were prepared to do a deal (Barclay, Interview, 18/9/94).

[80] This was so as to avoid the possibility of the discharger appealing against the conditions of the consent.

[81] In some circumstances, depending on the scale and complexity of the proposed discharge, the Chief Pollution Control Inspector would be involved in drawing up the proposed consent conditions.

[82] The issuing of draft consents was designed to secure the agreement of the discharger in advance or at least to identify any areas of contention where agreement could be negotiated between both parties.

[83] Either a Senior Inspector, Chief Pollution Control Inspector, or General Manager, or any combination therein, depending on the scale of the proposed discharge.

the contentious aspect(s) of the proposed consent conditions.[84]   However, the likelihood of an applicant harbouring any substantive objections at this stage would tend to be remote. This was due to the previous discussions between the prospective discharger and RPB staff following the agency's receipt of the original application.

Once the conditions of the draft consent had been accepted by the applicant, the consent would then be presented to the agency's Board for ratification[85] at its next bi-monthly meeting.   Virtually all consents presented to the Board were approved as a matter of routine. This reflected the Board's faith in the technical expertise of its staff in drawing up consent conditions, as expressed in one Board Member's comment that 'they are the professionals in that respect' (Carter, Interview, 5/10/94).   Another Board Member also acknowledged this point, stating: 'The consent levels themselves are clearly a matter of chemistry, biology and so on. Practical things which we've got to leave to the experts to some extent' (Baxter, Interview, 11/11/94).

In a model of perfect environmental regulation, the role of the RPB would largely be confined to the process of consent setting outlined in the above.   In the absence of unconsented discharges, the enforcement process would be confined to the granting or refusing of new consents, along with the routine monitoring of existing consents to ensure that dischargers continued to meet the pollution control responsibilities detailed in their consent conditions.   Such a representation of pollution control was far removed from the RPB's experience.   As sub-section 4.7.2 of this chapter indicated, the case-study RPB periodically encountered discharges which breached the consent limits set by the agency. The next sub-sections examine the decision-making process through which the case-study RPB resolved issues of consent breach and unconsented discharges.

4.8.2 Resolving Breaches of Consent Conditions
Existing studies of regulatory pollution control in the United Kingdom have emphasised the considerable discretion employed by 'front-line' administrators in the course of policy implementation and the impact of such discretion on the implementation process.   For

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[84] An insight into the process of agreeing consent conditions with dischargers was provided by Senior Inspector Green in relation to the Regional Council's surface water sewers. He stated, 'Where the Regional Council's Water Services Department have put forward a good case for saying a consent standard is going to be impossible to comply with on a regular basis - due to oil coming off roadways, for example, - and its not going to have an impact on the watercourse, then the procedure for granting consents is amended, because we don't want to get into an appeal situation with every single consent' (Interview, 22/9/94).
[85] All consents had to be ratified by the agency's Board before they could become operational.

example, Hawkins' 1984 study of environmental regulation within two English and Welsh Regional Water Authorities in the 1970s portrays a system of enforcement wherein the boundaries of regulatory deviance were drawn largely by the Inspectors responsible for the day to day job of pollution control. It was these 'street-level' officials who constituted what Hawkins termed the 'gatekeeper(s) to the apparatus of control' (1984, p.57) due to the fact that they usually represented the first point of agency contact with the discharging communities. Consequently, Hawkins was able to illustrate that Inspectors' close proximity, both to dischargers and their attendant pollution problems (in the form of consent non-compliance or unconsented discharges) enabled these actors to shape the implementation process by screening information which flowed upwards through successive levels of the regulating agencies' hierarchies.

The policy initiatives (both internal and external to the case-study RPB) discussed in sub-sections 4.7.2 and 4.7.3 of this chapter dictated that the degree of discretion employed by its Pollution Control Inspectors were narrower than those of the Inspectors featured in Hawkins study. Within the RPB, the reconfiguring of the boundaries of discretion was especially evident in relation to the organisation's operation of the consent system. As this sub-section goes on to show, the introduction of the national Common Enforcement Policy, in combination with the Board's desire to reconstruct an internal pollution control strategy which it perceived to be lacking in direction, were important developments in formalising the RPB's approach to dealing with breaches of consent conditions and incidents of unconsented discharges. Figure 4.5 illustrates the various stages of the RPB's decision-making process for resolving consent breaches.

Figure 4.5: Case-Study RPB's Decision-Making Process for Resolving Consent Breaches
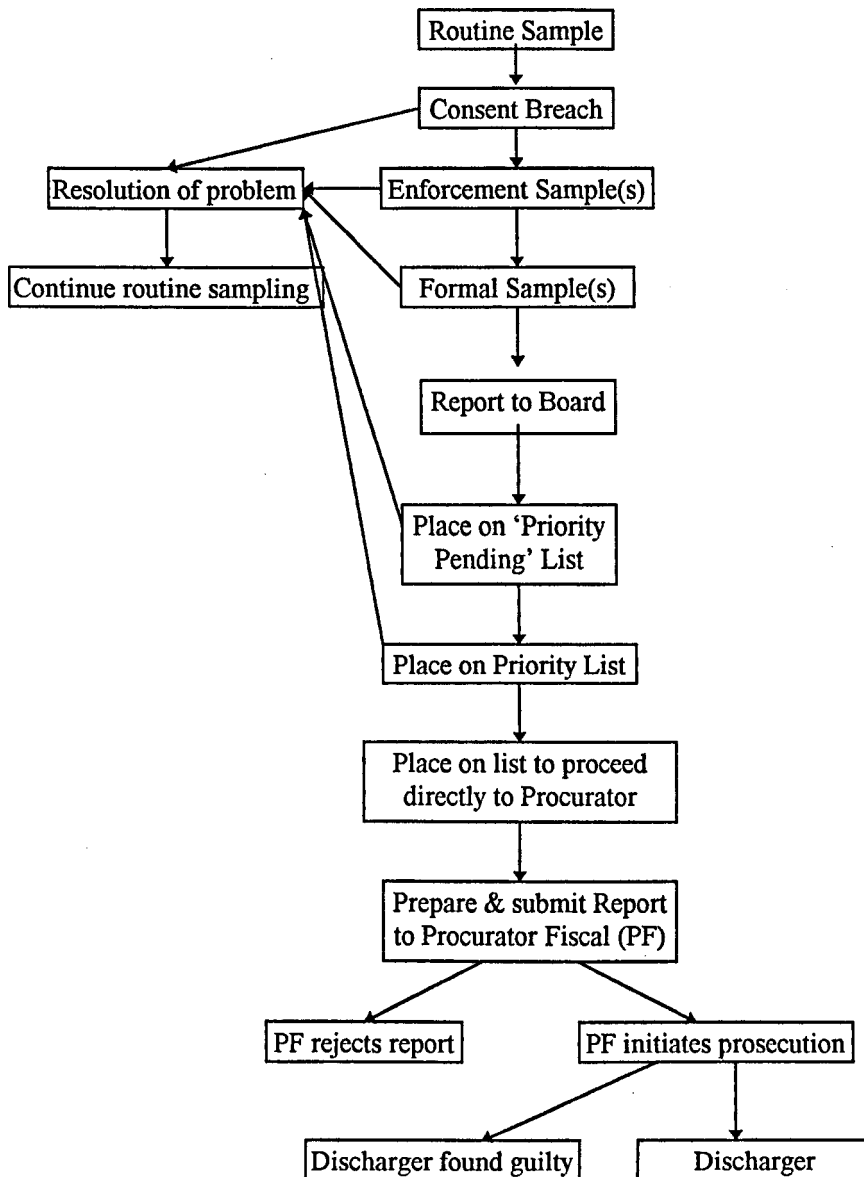
As sub-section 4.4.2 highlighted, the broad parameters of RPA pollution control policy were set by statute in such a way as to leave considerable discretion for these agencies to dictate the vigour with which they pursued enforcement of this aspect of their pollution control policy. In essence, the activities of a number of intra-organisational actors put flesh on the bones of the implementation process which figure 4.5 represents. The next sub-sections of the chapter go on to consider two key questions of implementation theory in relation to intra-organisational decision-making within the case study agency to resolve

consent breaches. These are: *which* actors were able to shape the implementation process?; and, *how* were these actors able to shape the implementation process? In so doing, the analysis examines the impact upon the implementation process of both the Common Enforcement Policy and the RPB's strategic decision to take a more proactive approach to the enforcement of consent conditions.

4.8.3 Field Level Implementation

Following the introduction of a charging scheme[86] on April 1st 1992, the case-study RPB's routine monitoring inspections of dischargers' consent compliance had become increasingly formalised. This was as a result of such inspections being divided into programmed 'runs' for which the discharger responsible for a particular consented discharge was billed by the RPB upon the agency inspecting that discharge. This charge was levied so as to enable the agency to recover administrative costs which it incurred in the inspection process. As such, this development (in combination with the introduction of the SLS system in 1989) marked a departure from the more flexible approach to field-work[87] which the RPB had previously adopted. In interview, a number of the case-study agency's Pollution Control Inspectors highlighted the ways in which these two developments had formalised the agency's approach to managing the consent element of the pollution control process. One commented:

> We don't go out and say, "Well, I'm off for a run round the catchment to see how the rivers are today".....We're far more formalised with written reports now.....In the past, when there wasn't the same level of paper-work, if you were out in the field and you were out at X sewage works and you knew that Charlie Smith along the road had a silage pit that sometimes caused problems, you'd just go along and have a look at it on the way past. You can't do that now unless you write up an SLS. I would doubt that there's any RPB that has Inspectors just driving about in the country hoping they'll come across a pollution. We don't have Inspectors on the beat (Mackillop, Interview, 11/10/94).

The perception that there had been a reduction in the level of discretion which the agency's Pollution Control Inspectors employed in relation to enforcement of the consent system was echoed by another Inspector, who stated:

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[86] This charging scheme related to periodic charges for monitoring consent compliance and the environmental impact of consented discharges. See appendix 10 for an account of the background to this charging scheme and a second charging scheme relating to applications for consent.

[87] In this context, 'field-work' denotes activities undertaken by Pollution Control Inspectors such as on-site contacts with the discharging community and inspections of discharge points undertaken under the auspices of the charging schemes.

The Managers feel that they want tighter control on what's going on in the field. They are doing this by the enforcement policy and they're now getting procedures for various aspects of the job. *In years gone by, you decided the discretion exercised in this job. You were out in the field. You were doing the job. You decided what the score was* (Simpson, Interview, 8/11/94, emphasis added).

A third Inspector also supported the view that the role of the agency's Pollution Control Inspectors had become less flexible in relation to the consent element of the system:

The job has become more programmed. The Charging Scheme Inspections and the SLSs' have to be done, whereas previously, if you missed a few inspections.... But now all these people have been charged so you have to inspect (Gray, Interview, 19/10/94).

These initiatives were significant factors in reducing the discretion employed by Pollution Control Inspectors regarding implementation of the consent system. However, the trend towards a more formal approach to the resolution of consent breaches was most evident in relation to the implementation of the Common Enforcement Policy. As discussed in section 4.7.3, the introduction of the CEP was motivated, at least partially, by a desire on the part of the RPAs to provide a level playing-field for dischargers regarding the circumstances in which the regulatory authorities would deploy the mechanisms of both enforcement[88] and formal[89] samples in order to secure compliance. In practice, its introduction necessitated a subtle reordering of the case-study RPB's approach in dealing with instances of consent non-compliance. In particular, the CEP signalled a move away from dealing with consent breaches on a localised and procedurally unstructured basis. In so doing, the introduction of the policy inclined the agency towards the more frequent use of enforcement samples as a mechanism with which to secure consent compliance. As an Inspector recalled:

Previously there wasn't an enforcement policy. It went on the individual circumstances whether you took enforcement or legal action against the company. *Very rarely was an enforcement sample taken.... Now we do.* And now if you dip below 75% compliance and have one hundred percent failure there are rules for what you do (Dobson, Interview, 7/10/94, emphasis added).

The introduction of clear guidelines as to the circumstances under which enforcement samples should be taken also had two additional and related impacts on the implementation process. Firstly, the guidelines placed a greater emphasis on the use of enforcement

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[88] An enforcement sample was one which was undertaken in order to establish whether a discharge was outwith its consent conditions. The costs of taking and analysing an enforcement sample were billed to the discharger.

[89] A formal sample was one which was undertaken in order to collect evidence of a breach of the appropriate legislation by a particular discharger. As such, formal samples were the foundation upon which a case for the prosecution of an offender was built.

samples as a tool with which to secure discharger compliance. This approach contrasts with accounts of environmental regulation in the UK which have highlighted regulators preference for informal persuasion, as opposed to enforcement and formal sampling, in securing their pollution control objectives.[90]   Secondly, the CEP reduced the capacity of the RPB's Pollution Control Inspectors to exercise discretion in the policy implementation process regarding consent breaches. An experienced Inspector contrasted the informal flexibility associated with regulating consent breaches prior to the formulation of the CEP with the regulatory regime employed following its introduction:

> This enforcement policy is driving you down a way where you've virtually no way to move in it....In the past, if a discharge was continually outwith consent when we took our routine samples, we'd just ignore it. If it was only a minor infringement. But if there was a continual deterioration in effluent, and it was always failing, we'd write to them and say 'What's the problem here? Why is it always failing?' We'd probably be speaking to them anyway to find out the reasons why its failing. Now this enforcement policy is in black and white and there's no room for manouvre really. If its a 100% failure, its an immediate resample. All the involved costs of that are not cheap. Its over £100 for the cheapest of samples. So if they fail, they're looking at a really hefty fine[91] and there's no way out of it. That's what the policy says. It ties your hands. There's no room for manovere. That's it. Its failed (Mackillop, Interview, 11/10/94).

Although the CEP provided clear guidelines as to the procedures to be followed in the event of dischargers' failure to meet consent conditions, it also contained sufficient flexibility for the exercise of some discretion on the part of the RPB.   One of the agency's Senior Pollution Control Inspectors explained the type of extenuating circumstances which would lead to an offending discharger being given a more sympathetic hearing from the RPB:

> If some sample was to fail and the discharger demonstrated a very good reason for the failure - for example, because something was broken in their effluent treatment process and it depended on getting a replacement part from somewhere in Europe and it would take a week to deliver and they had to drain down a tape - we would probably give them some leeway and allow them some time to get the part and get it fitted into the treatment process....The enforcement policy does have that little bit of in-built discretion written into it. It doesn't mean that every time someone fails by a specific margin one of the Inspectors is going to nip along and take an enforcement sample (Walker, Interview, 19/9/94).

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[90] See for example Hawkins (1984) and the Royal Commission on Environmental Pollution (1984)
[91] The interviewee was referring to the RPB's use of enforcement samples as a mechanism to administer what were in effect 'on the spot' fines as a result of charging dischargers for the costs of taking and analysing such samples.

The CEP was nevertheless designed to provide a level playing field for the discharging community in relation to their dealings with the RPB through the introduction of an increasingly proceduralised approach to enforcement. This satisfied demands which had emerged from some quarters for a more uniform approach to the regulatory process. In so doing, the CEP - in tandem with the case-study agency's determination to more overtly dictate the pace of environmental improvement amongst the discharging community - resulted in an altering of the RPB-discharger relationship. Reflecting on these developments, one of the case-study agency's Senior Pollution Control Inspectors outlined the changing dynamics of the relationship:

> I think it formalised it. The main thing that happened, when it came to getting improved consent compliance before, was that there was often too close a relationship with the discharger in that bits of advice had been given here or there. Or if it was the Regional Council, we would say that we knew that they were doing their best but they didn't have any money. The money was tied up elsewhere. But with the new posts created and a view to try and get consistency throughout the Board's area, there was a change of emphasis where we stood back and we said 'Look, we're not going to say what we think the problem here is. You get it sorted out and we'll give you a time limit' (Green, Interview, 22/9/94).

The agency's adoption of a more stringent approach through the setting of time limits for dischargers to achieve consent compliance contrasted with the informality and flexibility cited as staple characteristics of the traditional 'British' style of environmental regulation. This increasing formality was evident with the emphasis which the CEP placed upon enforcement sampling. However, the shift towards formality in the implementation process manifested itself most clearly through the RPB's increasing emphasis on the use of formal samples as an enforcement tool with which to secure discharger compliance. The RPB's General Manager explained how he expected Pollution Control Inspectors to use formal sampling in this respect:

> The procedure that I hope our officers adopt is that if they come upon a situation where there is a clear breach of the legislation, then they should gather all the evidence that is available to prepare a case for that. Their discretion at that point is fairly low. It would have to be pretty trivial before I would expect them to write it off and not go through the procedure of collecting the necessary evidence. So, the golden rule is, 'when in doubt, take formal samples' (Harris, Interview, 28/7/94).

The RPB's increased emphasis on taking formal samples as an enforcement mechanism was indicative of the changing nature of the relationship with the discharging community. This was so due to the significance which the taking of formal samples has traditionally held for

British regulatory agencies in relation to the pollution control process. In particular, the taking of such samples has been portrayed as the point where the implementation process crosses the rubicon from internal agency management of a pollution problem, through the use of negotiation and what Jordan and Richardson (1982) have termed 'buearacratic accommodation', to the initiation of formal legal proceedings designed to achieve a successful prosecution of the discharger.[92] As such, formal samples were not a tool to be deployed lightly.

The emphasis being placed by the RPB's Senior Management upon the use of formal samples did not necessarily signal the introduction of a less consensual approach to consent enforcement. Nevertheless, in encouraging Pollution Control Inspectors to take formal samples in the event of 'a clear breach of the legislation' (in the words of the General Manager) the RPB's Senior Management were ensuring that such samples fulfilled two important functions, one largely symbolic, the other eminently practical. On the symbolic level, the taking of formal samples enabled the agency to serve notice on dischargers as to the seriousness with which it viewed particular pollution problems. On another, more practical level, carrying out formal samples over a sustained period in relation to particular dischargers' contraventions of their consent conditions was designed to minimise these dischargers' opportunities to claim mitigating circumstances in the event of a case going to court. As a Senior Pollution Control Inspector explained:

> We've said, 'Right, you're now in a situation where we're going to take formal samples', and we'll take one set and then we'll take another set. And if they've both failed then we have that information. Its not just a one-off sample. One of the problems is that, in the past, people have pled guilty and have come out with these mitigating circumstances, 'Oh it was just a one-off situation. Things have improved vastly since then'. We can't counteract that if we've only got one sample which is admissible evidence. Whereas if you take a series of samples you start building a case. That evidence is there and the Procurator Fiscal can then go up and say 'Well, its not just a one-off. A series of samples have been taken over a period of 4 months' or whatever (Green, Interview, 22/9/94).

Although the increased emphasis which Senior Management placed on taking formal samples enabled the agency to 'cover' itself in the event of requiring to present a case to the Procurator Fiscal by building up a body of admissible evidence, it nevertheless had implications further down the RPB's hierarchy. In particular, it was at the level of interaction between Pollution Control Inspectors and dischargers that the most acute

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[92] See section 4.6 for reasons as to why the case-study RPB in particular, and RPAs in general, did not favour using prosecution as an enforcement tool.

ramifications of an increased emphasis on formal samples were to be found. During one interview, an Inspector explained how being encouraged to take more formal samples was affecting the nature of his relationship with dischargers:

> The RPBs' are driving towards this standardisation more and more in routine work. They're all keen now, even if its not too serious a pollution, to take formal samples.

Just in case?[93]

> Just in case, because you can always use them at a later date. *Up until a year ago, I would never have taken a formal sample unless I intended using it. I would never have thought of taking a formal sample unless the discharger was being prosecuted. Unless I had decided in my mind 'Oh yeah, this guy's been negligent.*[94] *Right we're doing formal samples. See you in court'* (emphasis added). But now we're taking them anyway and explaining to him, 'Well, we are taking a formal sample, *but we may not use it* (emphasis in original).

Do you explain that to them?

> Well, its not that easy to explain to them because people think a formal sample is like being arrested and being prosecuted. Then you're into that confrontational situation where you've taken the formal samples and they think its a court case (Mackillop, Interview, 11/10/94).

Another Inspector also highlighted the significance which taking a formal sample held for the regulator-discharger relationship at field level and indicated the potentially negative implications of taking such a step in terms of his management of a pollution situation. He said:

> You've got to weigh up the situation and ask yourself, 'Right. Do I want to put the extra pressure on by taking a formal sample or is it going to put the discharger's back up against the wall and make him less co-operative?'.....*If I took a formal sample I would intend to use it because its such a serious step* (Gray, Interview, 19/10/94, emphasis added).

The delicate nature of Inspectors' relationships with the discharging community should not be under-estimated. As sub-section 4.3.3 of this chapter indicated, these policy actors provided the RPB's main interface with dischargers and were also responsible, in the first instance, for ensuring that pollutions occurring outwith consent conditions were stopped.

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[93] The author's questions are in bold typeface throughout the chapter when they are included as parts of interview extracts.

[94] This comment highlights the way in which apportioning of blame has traditonally been a factor taken into account by Pollution Control Inspectors in determining whether to use formal sampling as an enforcement tool (See Watchman et al (1988) for a more detailed explanation of how this worked in the RPA system) The emphasis on taking formal samples as a matter of course within the case-study RPB suggests an important change from the traditional approach to enforcement.

This, in itself, was not necessarily a straightforward task as Inspectors needed to maintain a cordial dialogue with dischargers in order to achieve their objective. The Inspectors' emphasis on maintaining a co-operative relationship was partly born of the agency-wide perspective of the RPB being an environmental educator (as discussed in section 4.6). More pressingly however, good relations with dischargers were viewed by Inspectors as the key to achieving policy objectives. One of the agency's Inspectors spelt out the implications of not maintaining good relations with a discharger:

> Once you're having to sit there and a discharger's saying, 'I don't want you on these premises before you have an appointment', or a farming situation where they say, 'Get off my land' and you're having to get the police to go in, you've lost it (Collins, Interview, 7/10/94).

'Losing' dischargers through an erosion of their co-operative relationship with an Inspector consequently made achieving the RPB's objective of terminating an unconsented pollution potentially more difficult than might otherwise have been the case. This potential difficulty was exacerbated from the Inspectors' point of view due to the limited scope which the formal paraphernalia of enforcement offered for rectification of a pollution problem (as detailed in section 4.6). As a consequence of these limitations, Inspectors would occasionally resort to the potentially risky[95] strategy of bluffing as to the courses of action which they were considering following, should dischargers decided not to resolve pollution problems of their own volition. One Inspector described how bluffing was woven into his dialogue with recalcitrant dischargers:

> You threaten to use the full majesty of the law. You won't go into great detail about exactly what the procedure is. You would mention in a letter that there is the possibility that they could be fined £20,000 for a breach of the Control of Pollution Act and just leave it there. You just have to make them aware of the possibilities that exist if they don't happen to comply with your request. Of course, what you don't go on to say is that the likelihood of this happening is next to nothing (Simpson, Interview, 8/11/94).

As interviewee comments in the preceding discussion indicate, the taking of formal samples was viewed by many dischargers as a prelude to inevitable prosecution. Interviewee responses as to the use of formal samples add credence to that view, given Inspectors' comments that they would previously only have taken such samples if they had intended to use them as the basis of a case to be put forward for prosecution. This still left Inspectors

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[95] 'Risky' because Inspectors had very little to fall back on (in terms of enforcement powers) should dischargers decide to call their bluff.

with the capacity to imply, as part of the bluffing process, that they were considering taking formal samples even if this was not actually the case. Consequently, Senior Management's insistence on taking such samples, without necessarily putting forward a case for prosecution based upon the evidence they provided, represented a strategy with potentially negative implications for the RPB. On the one hand, it risked alienating the discharging community, thus leading to a more confrontational enforcement relationship. On the other, it risked diluting something of the symbolism associated with the taking of formal samples which made the process such a powerful weapon in the RPB's somewhat limited enforcement armoury. Thus, increased formal sampling represented a trade-off between enabling the agency to build up a case against offenders and diminishing Inspectors' capacity to use such sampling as a tool of last resort during negotiation in the enforcement process.

Although the emphasis placed on formal sampling reduced Inspectors discretion at field level, these actors nevertheless had an important contribution to make in determining whether or not to proceed with formal action designed to secure a successful prosecution once all the evidence had been gathered. As the Chief Pollution Control Inspector explained:

> If, for instance, an Inspector was to say, 'I think we should prosecute here', then they would still have a large amount of influence because they're the man or woman on the ground. And if they said, 'Well, I feel we should do so because of x, y and z', then the Senior Inspector and myself and the General Manager will all take a lot of that on board, because its very difficult to judge a pollution incident from a distance (Barclay, Interview, 16/8/94).

The RPB's General Manager outlined the dynamics of the process as regards his own involvement in determining whether to submit a report to the Board regarding a pollution outwith the bounds of consent:

> I would normally expect every technically sound case to be brought to my attention. And then, in discussion with the Chief Pollution Control Officer, we would decide whether to present that case to the Board Members or not. And if it goes that far, then a pretty well documented case has been put together. Statements will have been taken, formal samples will have been taken and it would go to the Board on the basis that, if they decide to pass it forward, it will be capable of being taken into court by the Procurator Fiscal (Harris, Interview, 28/7/94).

Cases which the General Manager and the Chief Pollution Control Inspector considered for presentation to the Board with a view to forwarding to the Procurator Fiscal's Office

hinged mainly upon the criteria discussed in section 4.6. These criteria included the environmental impact of the pollution, evidence of negligence, efforts to contain the pollution and the offenders' attitude towards the offence. A report containing the details of a case was submitted to the Board only when the Chief Pollution Control Inspector and, in particular, the General Manager were satisfied that these criteria combined so as to justify the initiation of prosecution proceedings. The way in which the Board responded to such reports and its overall role in the implementation of the RPB's pollution control policy is the focus of the analysis contained in the next sub-section.

4.8.4. The Role of the Board

Board Members occupied a dichotomous position with regard to the enforcement process. They were the ultimate arbitrators of pollution control policy within the agency[96] and it was they who had power to determine whether to pursue legislative remedies to eliminate pollution problems and punish alleged offenders. However, Board Members were largely dependent upon the agency's professional staff[97] for the information upon which they based decisions regarding the enforcement process. The forum wherein much of this information was divulged, and consequently the lens through which the Board viewed the world of pollution control inhabited by the RPB's professional staff, was that of the agency's bi-monthly Board meeting.[98] It was here that Board Members could comment on and discuss papers which documented the RPB's pollution control activities.[99]

One of the most important ways by which the Board monitored agency activity was through scrutiny of the Pollution Control Reports produced by RPB staff for every bi-monthly meeting.[100] Each of these reports recorded various aspects of the professional staff's work in relation to the RPB's pollution control function. These included detailing the number of effluent compliance monitoring and environmental monitoring inspections,[101] written comments made on planning applications, and the number of consent applications processed in each of the RPB's geographical Divisions. In addition, the bi-monthly reports also

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[96] The ultimate arbitrator of policy was the Secretary of State for Scotland.
[97] The term 'professional staff' is used to denote any of the policy actors described in section 4.3 *other* than the RPB's Board Members.
[98] This was not the only point of access for Board Members. All of the Members had some experience of environmental issues in relation to the interests that they represented. Moreover, some Board Members (especially Regional or District Councillors) would occassionaly be directly contacted by the public regarding some aspect of the RPB's pollution control activities.
[99] Such papers were circulated to Board Members by the RPB's administrative staff prior to each Board meeting.
[100] See appendix 9 for an example of the content of the Bi-Monthly report.
[101] See appendix 10 for details of environmental monitoring inspections.

detailed pollution incidents relating to consented discharges. The following extract is illustrative of the type of information included in this respect:

> **Site A** - Routine inspection of effluent disposal system serving premises found that 2 soakaways failed, resulting in direct discharge to burn. Subsequently, a meeting was held with the company and a consultant at which they presented a number of proposals designed to remedy the situation.
>
> Essentially, these proposals are for all of the uncontaminated surface water which hydraulically overloads the treatment systems and soakaways to be separated from the foul waste-water and discharged directly to the burn by early in the new year. Thereafter, it is expected that the treatment plant will produce a much higher quality of effluent *(Bi-Monthly Pollution Control Report: 22nd October 1993 to 8th December 1993)*.

One of the Board Members explained the value of the bi-monthly Pollution Control Report in relation to monitoring the pollution control activities of the professional staff:

> (It) lays out almost every incident that has taken place and all the changing circumstances that are going on and we go through that, page by page, and its open to any Board Member to ask about those particular things to the point of saying, 'Look, so and so sewage works failed again. What are we doing about that?', and the Inspector will have to answer. And if the Board says, 'Well, that's not good enough', there will be some follow-up action (Roberts, Interview, 20/10/94).

The bi-monthly Pollution Control Report illustrates a fundamental way in which Board Members were updated as regards the agency's pollution control activities. However, examined in isolation, it does not adequately explain the extent to which the implementation process was driven from the top down by the Board or from the bottom up by the agency's professional staff. Consideration of interview responses from senior members of the RPB's professional staff and Board Members allows for a clearer understanding of this issue. For example, in sketching out his own role in the enforcement process, the agency's General Manager suggested that he had 'two sets of masters' (Interview, 28/7/94). One being the (then) Scottish Office Environment Department. The other being the RPB's Board, whose task he described as being:

> to assess the environmental situation from their local point of view, and from their multi-interest point of view, and develop a policy on that. That policy involves working within the duties laid upon us by the Control of Pollution Act 1974 and deciding how vigorously or lightly we pursue these duties. *So, by discussion, and by responding to requests for guidance from us, the Board Members really set the*

degree of fierceness with which we pursue our duties[102] (Harris, Interview, 28/7/94, emphasis added).

The Board did indeed possess the formal authority to stipulate the 'degree of fierceness' which the agency brought to the enforcement process. This authority was exercised most obviously in relation to the movement of dischargers from the 'Priority Pending' list to the 'Priority List' and on to the 'Proceed to Prosecution' list,[103] which could only be undertaken with the permission of the Board. In exercising this authority, the agency's Board was in effect fulfilling the function of gatekeeper to the formal legislative tools of enforcement.[104] However, in practice, the 'fierceness' of the enforcement process was largely dictated by the professional staff. This was due to a number of factors. In the first instance, the professional staff possessed technical expertise[105] regarding the impacts of pollution which the majority of Board Members lacked. This, in turn, led to the views of professional staff, when they offered them, carrying significant weight among Board Members in the course of their deliberations. As one of the Board's District Council appointees made clear:

> I said before that this is an exact science. And if any elected member goes in to a Board Meeting and thinks they know how it all works then they're kidding themselves. The way I see the policy working is like this. *The people who are qualified and know this science inside out,*[106] *come up with the policies, they present them to us and we relate them to the general public.* And if there are some things with which I am totally unhappy, I will say, 'Ah but I want that explained'......Our experts will come to us at the Board and they'll describe what's happening and give us the relevant papers. They will then say, 'This could be'.....and 'we will research this' (Lane, Interview, 17/9/94, emphasis added).

The view that much of the enforcement process was driven by the input of the RPB's professional staff, with the Board performing an overseeing role, was echoed by the Board's Vice-Chairman when interviewed. Referring to the legislation associated with pollution control, he said in an interview that, 'The General Manager has to interpret it and

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[102] The General Manager was alluding to the move from consensus to confrontation in the RPB's approach to enforcement depending on the circumstances surrounding a pollution incident.

[103] These lists are discussed later in this section.

[104] This contrasts with Hawkins' (1984) concept of field-level Inspectors acting a gate-keepers regarding the implementation process by screening information which travelled upwards through the enforcement agency's hierarchy. In the case-study RPB, Board Members were gate-keepers in that they had the formal authority to determine when the formal enforcement tool of prosecution would be pursued by the agency. (However, as chapter 7 indicates, Board Members' decisions regarding granting access to pursue this tool was determined by a number of factors relating to the variables discussed in section 2.6 of chapter 2).

[105] This expertise was alluded to by Board Members quoted in sub-section 4.8.1 regarding the process of consent setting. Such expertise related to the professional staff's ability to analyse scientific data in relation to the environmental impact of polluting discharges of effluent.

[106] The Board Member was referring to the RPB's professional staff here.

implement it and, to some extent, we monitor the management' (Lambert, Interview, 27/10/94). Another Board Member took the view that the Board acted as a 'filter' in that it was only when pollution incidents became more serious that they came to its attention.[107] One of the Board's Regional Council representatives explained the Board's role in the enforcement process in the following terms:

> We are just trying to use our judgement as people who've got a bit of breadth of experience in a number of fields, not just water-related, but obviously environmental matters that are water related do come into it.....Obviously we take into account and have a very high opinion of the views of the officers here. At the end of the day, they put the papers in front of us with their views on various things....and we just try and use our good judgement[108] (Baxter, Interview, 11/11/94).

The implications which the Board's exercise of 'good judgement' held for the RPB's interpretation of sustainable development are discussed in section 4.9 of this chapter. Thus, on one level, this judgement was exercised in relation to the balancing of environmental and economic considerations. On another level, the 'good judgement' of the Board resonated with an enforcement ethos based on securing environmental improvement through co-operation with dischargers which the literature on environmental regulation in the United Kingdom has highlighted.

The vast majority of pollution problems encountered by the agency were resolved by the sustained efforts of the RPB's professional staff without Board level involvement. Periodically, however, the efforts of the professional staff to achieve satisfactory consent compliance on the basis of a co-operative approach would run aground. In such circumstances, the RPB's efforts at enforcement would take on an altogether more confrontational hue and, as indicated at the end of section 4.8.3, the Board would be invited to assume a more proactive role in the implementation process.

The catalyst for this invitation would be the submission to the Board of a report, drafted by the RPB's General Manager, detailing what was often a series of pollution incidents caused

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[107] (Fields, Interview, 9/11/94).
[108] While this interviewee suggested that he took a broad view in his deliberations, one of the Board Members representing conservation viewed her role as more specific, stating "If I do comment, it would usually be picking up conservation aspects of a particular issue, whereas obviously I enter into the discussion regarding something more industrial and problems where they're trying to prosecute. But I feel my role there is particularly that conservation should be considered" (Law, Interview, 28/10/94). Conversely, the other conservation representative on the Board took a different view, stating, "I don't think that I ever mention the word conservation in the Board meetings. It doesn't come out like that. I just feel that we're all in there dealing with improving the quality of waters. So I think I've forgotten what it was I was originally appointed for" (Roberts, Interview, 20/10/94).

by a particular discharger.[109] One such report, submitted by the General Manager to the Board on February 17th 1993, illustrates the type of information which would be supplied to the Board in this respect. The report detailed the ongoing problems of polluting effluent run-off which RPB Pollution Control Inspectors had encountered at a fish processing plant within the agency's locality. It went on to describe the history of the particular incidence of pollution and explained that the discharger responsible had made little effort to contain the problem.

The type of information included in reports such as that cited in the above was important in determining the position adopted by the Board in deciding what action to take in relation to particular dischargers. In this respect, consideration of variables including: the seriousness of the pollution incident;[110] the discharger's willingness, or otherwise, to admit culpability for the incident; the extent of their efforts to minimise environmental damage as a result of the incident;[111] the frequency of the pollution; evidence of negligence on the discharger's part; or evidence of extenuating circumstances beyond the discharger's control, all influenced the Board's deliberations. However, despite the fact that information received by the Board regarding such variables emanated from the RPB's professional staff, the latter's scope for 'feeding' the Board selective information to distort their perception of a pollution incident, was limited. As section 4.8.3 of this chapter illustrates, the RPB's professional staff - ranging from Pollution Control Inspectors to the Chief Pollution Control Inspector - played well defined parts in relation to the enforcement process prior to the involvement of the Board in that process. Indeed, Pollution Incident Reports submitted to the Board (such as that cited earlier) represented composites of the professional staff's interactions with particular dischargers. However, the involvement of a number of staff at different levels of the RPB's pollution control hierarchy in trying to resolve intractable cases minimised the

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[109] This full report would often supplement briefer accounts of the pollution contained in the 'pollution incidents relating to consented discharges' section of preceding bi-monthly reports. Pollution incidents contained in full reports would not necessarily have been catalogued in the bi-monthly report if they had occurred between meetings and were deemed sufficiently serious to merit being the subject of a full report by the General Manager.

[110] In situations where the environmental damage was so serious as to require the RPB to initiate formal proceedings in the public interest then these variables would be over-ridden. As much was made clear in the Common Enforcement Policy, which stated, '(w)here exceedence of any consent limit results in a serious breach of the approproiate environmental quality standard in the recieving water then formal samples will be collected by the (RPB) as soon as practicable and, unless any exemption provided by statute applies, the matter referred to the Procurator Fiscal' (Common Enforcement Policy 1993, p.3).

[111] The cited report's statement that this particular discharger had failed to make what the agency's professional staff considered to be adequate efforts to rectify the damaging effects of the pollution incident implies negligence on the part of the discharger. This provided a justification for the General Manager's recommendation that the Board sanction the initiation of formal proceedings via the submission of a report to the Procurator Fiscal.

possibility of a pollution incident being misrepresented.[112]   Nevertheless, the professional staff *did* possess the capacity to direct Board Members towards their preferred courses of action when they presented the facts of a case to the Board.   That this was so is evident in the conclusion of the previously cited Pollution Incident Report, which stated:

> It is recommended that the matter is referred to the Procurator Fiscal for consideration and that action should be taken against Mr Jones under the provisions of COPA 1974. *Based on previous experience when dealing with Mr Jones, it is unlikely that the situation will be remedied unless the Board proceeds with formal action* (Report of Pollution Incident: 17/2/93, emphasis added).

In this instance, the General Manager's recommendation that the matter be referred to the Procurator Fiscal was unambiguous.   However, the last sentence of the report is enlightening in explaining the nature of the relationship between the professional staff and the Board which was central to determining how the agency dealt with dischargers it could not make comply through a co-operative approach.   In offering an opinion as to the likelihood of the discharger meeting consent conditions without recourse to formal action, the General Manager strengthened the professional staff's case for referral for prosecution.   Moreover, in wording the conclusion as he did, the General Manager was sending a message to the Board that the persistent nature of the problem, coupled with the discharger's intransigence, compelled the agency to seek resolution via formal legal avenues.

The following lengthy quotation from a second Pollution Incident Report from 1993 submitted to the Board, this time relating to an unconsented discharge caused by a farmer, also illustrates how the RPB's professional staff could use such reports to press for particular courses of action to be followed:

> On Saturday 28th August 1993 a call was received by the Board's Duty Pollution Control Inspector to the effect that that River A was contaminated by oil in the vicinity of the above farm.   Investigations were immediately carried out and the source was identified as a ditch/tributary in close proximity to the farm buildings which is fed by a culverted section of drain which in turn receives a flow from an open watercourse upstream of the farm.   This watercourse passes under the B2629

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[112] This was made clear by the General Manager in the course of an interview. He stated, 'One of the advantages that we have is that its never down to one person. There's got to be corroborated evidence. We also examine pleas in mitigation in letters and sometimes solicit them. We would nearly always ask somebody to explain the circumstances from their point of view. This would happen in a letter which I would inevitably see. And if there was some big gap between that letter and what I've been told by the Inspectors then we would want to know why and we would start to ask questions' (Harris, Interview, 28/7/98).

in a North Easterly direction (see map). The pollution had been witnessed by the river bailiff, Mr Harrison and was reported to extend several kilometres downstream from the confluence of the ditch and the main river. In view of the possibility of contamination of the water-supply intake at Site B, the Regional Council were informed and it was deemed necessary to shut down the intake as a precautionary measure and also to deploy oil absorbent booms in the ditch to prevent further contamination of the land.

On Monday 30th August, the farm was revisited and further investigations made to establish the exact source of the oil. At this time samples of oil from three oil storage tanks were taken and also of the oil contaminated ditch. Analysis later showed the oil from one tank and that from the ditch to be mutually similar. Mr Anderson had been unavailable for interview during these visits.

On Friday 3rd September 1993 the farm was again visited and owing to the extent of the continuing contamination formal bottled samples of the ditch and one oil tank were taken. Mr Anderson was still unavailable for the serving of these samples and it was therefore arranged to meet him at the farm the next day.

Board Staff returned on Saturday and, after some delay, met Mr Anderson and divided and served formal samples on him. A further formal sample of the upstream ditch had meantime been taken and a portion of this was served also. It should be noted that in the process of dividing and serving three formal samples Mr Anderson became extremely abusive to the Board's two Inspectors who were conducting the investigation. Threats of physical violence were made and the Inspectors were generally intimidated and harassed.

At no time has Mr Anderson admitted responsibility for making a discharge of oil although he did carry out certain remedial works by way of clearing the ditch of some of the contamination by use of a mechanical digger shortly after he was notified of the incident by the Board. On the 30th September a letter[113] was sent to Mr Anderson (copy attached) outlining the courses of action open to the Board and requesting certain assurances regarding the safety of staff when visiting the farm. A response deadline of 11th October 1993 was given and to date Mr Anderson has not replied.

In view of the fact that:-

a) There was oil contamination of the River A for several kilometres downstream of Site B.

b) It was necessary for the Water Services Department to close the downstream water supply intake as a precautionary measure and expense was incurred in deploying oil absorbing materials which undoubtedly mitigated against further pollution of River A.

c) Samples of oil taken from a tank at the farm and the ditch were mutually similar and no oil was found in the ditch upstream of the farm.

d) Board staff were intimidated and threatened in the course of their legitimate duties.

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[113] See appendix 11 for an extract of the text of the letter to Mr Anderson.

e) No reply has been received to our letter dated 30th September 1993

It is recommended that the Board give approval to a case being prepared and submitted to the Procurator Fiscal against Mr Anderson for the committing of and/or obstruction offences under the Control of Pollution Act 1974. The Board's instructions are requested.

The above report provided a detailed rationale upon which the General Manager based the recommendation for a case being prepared for submission to the Procurator Fiscal. It included a number of the classic variables - evidence of negligence, potential seriousness of the offence, failure to admit responsibility for the pollution, an unco-operative attitude towards agency staff - which were central to the General Manager and Chief Pollution Control Inspectors' deliberations as to whether to present a case to the Board. However, as discussed previously, only the Board had formal authority to sanction reports being presented to the Procurator Fiscal. The following selection of interview responses from Board Members convey some of the factors which shaped their deliberations in deciding whether or not to sanction such a course of action:

> A case is put to the Board and quite often it doesn't go through. The Chairman may suggest that they prosecute and if he doesn't get the support of the Board its just a majority decision. Its in the lap of the Board. *If there's things that happen that just should not have happened, you just have to prosecute* (Cooper, Interview, 17/9/94, emphasis added).

> Dischargers are usually only given one chance if there has been a pollution incident, provided there has not been gross negligence. *Dischargers have got to be seen to be taking preventative action.* But if, at the end of the day, carelessness leads to yet another incident, then one would think in terms of a prosecution. Even the first opportunity for redress of a problem will be couched in terms of 'You've got to take our advice now' (Baxter, Interview, 11/11/94, emphasis added).

> *Its back to blatant disregard.* Its very unlikely that we will prosecute on a first-off basis, highly unlikely.......I can't say that we don't prosecute first off because we've just done one. *But it was perceived by the Board that they definitely should have known better*[114] (Lambert, Interview, 27/10/94, emphasis added).

> The Board looks at these cases and it says, *'Right. If someone has been co-operative and they have quickly done the very best they can to ameliorate the circumstances, they've put in place something that is going to prevent a repetition in the future. Now, even if it is undoubtedly true that they have caused pollution and maybe killed a few fish, if they've been co-operative and they're going to do all*

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[114] The discharger in question had been lifting a slurry tank with a crane and had dropped the tank, knocking the top off it and pouring the slurry out and into a water-course. The interviewed Board Member stated that the offender should have known to drain the slurry before proceeding and had not been contrite regarding the pollution in the aftermath of the incident.

these other things, then there is not much to be gained by going to the Procurator Fiscal. Now, if something happens again in the future and it comes back as a repeat case, that's a different matter (Roberts, Interview, 20/10/94, emphasis added).

A theme which unifies all of the above comments is the degree to which negligence could be attributed by the Board to the actions of a discharger in causing a pollution incident. Clearly, the Board's notions regarding 'carelessness' and 'blatant disregard' on the part of dischargers were important factors in determining whether to initiate formal proceedings. So too were their perceptions regarding offenders' efforts to initiate clean-up action regarding a pollution. Similarly, failure on the part of a discharger to prevent repeat offences sent a strong signal to the Board that it should consider formal action. However, the general lack of enthusiasm which both the agency's professional staff and its Board shared for initiating formal court proceedings tempered the speed with which the organisation pursued such a route in order to resolve pollution problems. Instead, what one Board Member described as 'whittling away'[115] at dischargers to gain environmental improvement involved a more protracted process of persuasion.

One way in which the Board contributed to the process of persuading dischargers to improve their environmental performance was by inviting the least compliant to appear before the Board at one of its bi-monthly meetings.[116] One of the Board Members recounted an example of such an occurrence:

> One of the distilleries was hauled over the coals. Now, rather than go straight for a prosecution (they'd had one or two warnings) we thought a good idea would be to actually offer a very strong invitation to attend a Board Meeting This invitation was couched in the terms that if they didn't come along, then we would initiate a case for prosecution. We were giving them a last chance to come and explain their case and indicate what improvement measures they were going to take. And the Managing Director came along and had to go through the almost humiliating process of getting a real grilling from Board Members. He chose to come because he presumably realised that if he didn't attend the case would have gone straight to the Procurator Fiscal (Baxter, Interview, 11/11/94).

Invitations extended to dischargers to come before the Board constituted an opportunity for Board Members to informally 'try' dischargers in a last effort to avoid recourse to the Procurator Fiscal and the court system. To a large extent, the summoning of dischargers to meetings so that they could explain their actions and outline remedial measures to alleviate the pollution performed the symbolic function of conveying the seriousness with which the

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[115] Carter, Interview, 5/10/94.
[116] This occured during the Board Meeting which the author attended.

Board viewed particular pollution problems. Such meetings also had merit from a practical perspective in that they preserved scope for a negotiated resolution of a pollution problem, as the Board's Vice-Chairman explained:

> Its very effective because its an alternative to going to prosecution, which most of the Board consider to be a futile operation anyway. All prosecution does is annoy everybody and achieve very little. It doesn't have a direct effect on rectifying the pollution problem. We like to try and negotiate with people and be sensible to right their wrongs so that we can all part on reasonably friendly terms (Lambert, Interview, 27/10/94).

While providing a potential alternative to pursuing a prosecution, such meetings also served to make clear that failure to comply with the Board's wishes *would* lead to the involvement of the Procurator Fiscal. In this way, the Board performed the useful function of what one Board Member described as 'adding clout'[117] to the professional staff's pollution control strategy.

4.8.5 Listing Priorities

As discussed in sub-section 4.7.2, the case-study RPB's creation of a Priority List in 1992 was undertaken to ensure that its efforts to enforce consent conditions on the least compliant members of the discharging community were less protracted than had previously been the case. Notwithstanding the rarely encountered types of pollution incident which demanded immediate referral for prosecution,[118] the Priority List represented a gateway between the agency's internal efforts to secure discharger compliance and the pursuit of consent compliance via prosecution of offenders. As highlighted in sub-section 4.7.2, the Priority List comprised the most environmentally damaging discharges from premises within the RPB's locality and, by implication, those which the agency was particularly concerned to maintain within acceptable levels of consent compliance. Examples of the content of the Priority List are given in table 4.6:

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[117] Law, Interview, 28/10/94
[118] Such as a pollution incident where there had been large scale fish mortalities, adverse interference with an abstraction for industry, public supply or stock watering, or an adverse effect on Sites of Special Scientific Interest (SSSI), nature reserves or other areas of high amenity value (for example bathing beaches or public parks) (Case-Study RPB, Annual Report, 1992/93, p.80).

Table 4.6: Priority List Update 1993

Premises/Settlement	Priority Date Set	Current Situation/Progress being made	Recommendations/ Comments
A	Nov 92-Dec 95	Official target date still December 1995 although this is likely to slip. New date to be advised by Water Services.[119] Problems still being encountered with land acquisition for treatment works but compulsory purchase procedure began.	Keep under review.
B	Sept 1995	Problems with planning permission and land acquisition appear to have been resolved to a large extent.	Keep under review.
C	April 1992	A number of improvements have taken place. However, to date, samples of the discharge still contain high levels of pesticide well above consented limit on occasions.	Enforcement sampling being instigated with referral to Procurator Fiscal under consideration depending on analysis results.
D	March 1995	Final settlement tanks have been commissioned. Works operating satisfactorily	Delete from list.
E	Nov 1993	The residents have advised that repairs to treatment plant have been put in hand. Meanwhile, Procurator Fiscal has indicated that he will write and advise of obligation to meet consent.	Keep under review. Further action pending.

Source: Agenda Item, RPB Board Meeting, 1993

The Priority List detailed dischargers which were causing the RPB most concern in terms of their consent non-compliance. In addition, the agency also kept a list - compiled by the

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[119] Refers to the Water Services Department of the Local Regional Council.

agency's professional staff - detailing 'discharges causing concern to be investigated further with a view to inclusion in priority list'.[120] A typical example of the content of this list is shown in table 4.7 below:

Table 4.7 Discharges causing concern to be investigated further with a view to inclusion in Priority List

DISCHARGE	STATUS	RECOMMENDATION
Regional Council Sewage Treatment Works	Works within consent and previous low pH problems appear to be under control although values are still on the low side.	Delete from list.
Distillery	Consent compliance satisfactory.	Retain. Awaiting results of continuing investigations.
Regional Council Septic Tank	Compliance record has improved since Dept of Water Services revised the emptying/desludging regime. Now emptied every 6 to 8 weeks instead of 1 tank every 8 to 12 weeks.	Delete from list.
Regional Council Sewage Treatment Works	This works still has a poor record of compliance (42% pass rate on the last 12 samples) However, it is proposed that tertiary treatment in the form of a drum filter will be installed. This should improve consent compliance significantly which is marginal at present for BoD but significant for suspended solids.	Move to main priority list to ensure improvements promised are given sufficient priority. Proposed deadline - April 1994. This can be coupled with a consent review for ammonia as dilution limited.

Source: Agenda Item, RPB Board Meeting 1993

A third list compiled by the RPB's professional staff contained discharges which were on the main Priority List and which the staff had been given authorisation by the Board to refer directly to the Procurator Fiscal's Office if circumstances merited such actions. Examples of such discharges are included in table 4.8:

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[120] Actual title of list.

Table 4.8 Priority list discharges where approval given for prosecution if circumstances merit such actions

Premises	Recommended Status
Surface Water Sewer	Retain
Sewage Treatment Works	Delete. Performed well since March in terms of quality, but failures of flow rate.
Sewage Treatment Works	Retain. Variable performance
Surface Water Sewer	Retain. Continued problems with soakaway failure

Source: Agenda Item, RPB Board Meeting, 1993

The introduction of the Priority List fulfilled two important functions as regards the agency's enforcement process. Firstly, the list provided both the RPB's professional staff and its Board with a clearer picture as to which discharges within the agency's constituency were the least compliant in meeting their consent conditions and what progress was being made by the operators of these discharges to improve consent performance.[121] Secondly, the list provided the Board with enhanced accountability with regard to the professional staff's pollution control activities in relation to such discharges. This second function is arguably the more important in relation to understanding the RPB's enforcement process, as it again illustrates the nature of the interaction between the professional staff and the Board in this respect. As with action taken on the basis of Pollution Incident Reports discussed earlier, the formal authority for placing dischargers on (or removing them from) any one of the above three lists rested with the Board. However, an examination of tables 4.6, 4.7 and 4.8 and the full lists from which they are abstracted suggests that the impetus in determining courses of action in relation to particular discharges was derived from a combination of two factors: Firstly, the professional staff's close proximity to the discharges which enabled them to apply their scientific expertise in relation to the environmental implications of these discharges. Secondly, the criteria imposed by the Common Enforcement Policy in terms of achieving consent compliance. For example, in table 4.6 with regard to Premises/Settlement C, the 'current situation/progress being made' box states 'A number of improvements have taken place. However, to date, samples of the discharge still contain high levels of pesticide well above consented limit on occasions'. followed by the comment that, 'Enforcement

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[121] This was in keeping with the more strategic outlook being adopted by the RPB as discussed in sub-section 4.7.2 of this chapter.

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sampling (is) being instigated with referral to Procurator Fiscal under consideration depending on analysis results' (Table 4.6). Similarly, in table 4.2, the information contained in the 'status' box alludes to the requirements of the CEP ('This works still has a poor record of compliance (42% pass rate on the last 12 samples)') while also expressing an opinion as to the environmental implications of proposed improvements by stating, 'However, it is proposed that tertiary treatment in the form of a drum filter will be installed. This should improve consent compliance significantly, which is marginal at present for BoD but significant for suspended solids' (Table 4.7). This information was then used by the professional staff as the basis for recommending the following in relation to the discharge: 'Move to main priority list to ensure improvements promised are given sufficient priority. Proposed deadline - April 1994. This can be coupled with a consent review for ammonia as dilution limited' (Table 4.7). The same pattern is discernible in relation to table 4.8 wherein the professional staff were given authority by the Board to proceed directly to the Procurator Fiscal with a case if circumstances merited so doing. As with the preceding, the decision as to whether to retain a discharge on the list was driven by information provided by the agency's professional staff relating to consent performance.

This section has examined the interaction between intra-organisational policy actors at various levels of the case-study RPB's hierarchy in relation to determining the implementation of the agency's pollution control policy. The final section of the chapter goes on to examine how the concept of sustainable development was interpreted within the agency in relation to its pollution control policy.

4.9 The RPB's Interpretation of 'Sustainable Development'

As section 4.4 highlighted, the central policy goal of the case-study RPB was to protect the aquatic environment under its geographical jurisdiction. However, it would be misleading to think of the organisation as a purely 'green' agency bereft of wider policy objectives. The vigour with which the RPB pursued the implementation of its main policy objective was constrained by the realpolitik associated with pollution control. As a member of the case-study RPB's Senior Management Team observed:

> Our mission as an RPB is very simple and it is that we are going to do the very best we can for water quality in this area. But we have to bear in mind that its with the proviso that we're managers of the environment. I mean we're not in a 'Greenpeace' type organisation....This RPB is, I suppose, really involved in a balancing act. Its always looking to protect the interests of all the people who use water. And that's

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not just the people who fish in it, although they're very important. And its not just those who regard it as an amenity... Its also for people who use it for industry (Lewis, Interview, 18/9/94).

This view was reiterated by the RPB's General Manager who, when asked if the agency attempted to achieve sustainable development when implementing its enforcement policy, replied:

> Yes. I think the RPBs have always seen themselves as the honest brokers between the people who would have disregard for the environment and those who would see the country almost depopulated in the interests of protecting a pristine environment. We've seen ourselves right in the middle and I think that most of the RPBs have balanced their ambitions for improvement against the need for the local community to thrive.....I've never seen an RPB accept environmental standards deteriorating. But what they have done, in the interests of supporting the local economy, is said 'We can wait for improvement'. And that's probably still true (Harris, Interview, 28/7/94).

When discussing the elements incorporated into the implementation process, a Board Member also alluded to the wider perspective taken by the case-study agency in implementing pollution control policy:

> The RPB has these different bits of strategy, but they're all basically directed towards cranking up the water quality in circumstances where it needs cranking up, while maintaining it where its already in good quality. But with a constant feeling of realism in that we still have to allow people to live and work in our area....*It isn't, strictly speaking, our concern to worry about industry and employment. But everybody wants to be realistic* (Roberts, Interview, 20/10/94, emphasis added).

The 'realism' to which the Board Member referred was reflected in the RPB's Mission Statement, which characterised the implementation of pollution control policy as involving 'the pursuit of the highest effluent standards *while compatible with sustainable economic development*' (RPB, 1993. Emphasis added). This was undertaken by the RPB setting consent conditions which created a wide 'safety zone' between the standard required and the standard which would result in environmentally damaging pollution entering a watercourse.[122] In this way, high environmental quality was sustained due to the fact that the majority of consent infringements which the agency encountered did not compromise the environmental quality standards which it set for the aquatic environment.[123] Much of

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[122] This point is noted in the RPB's 1992/93 Annual Report, which states, 'Scottish practice, in sharp contrast to that of the rest of the UK, is to set quite severe consent conditions so that a fair safety margin lies between non-compliance with consent and measurable pollution of a receiving water '(1993, p.11).
[123] This was partly the rationale for the introduction of the Common Enforcement Policy, as the RPB's Chief Pollution Control Inspector explained, stating, '...the approach was brought in whereby if someone

the agency's interpretation of sustainable development was therefore bound up in the environmental standards which it set for dischargers to abide by. While the RPB's approach to enforcement outlined a particular philosophy as to *how* to achieve and maintain these standards, the standards themselves remained the true bench-mark for sustainable development as understood by the agency. This was because the standards set represented a trade-off between economic activity which polluted the aquatic environment and the quality of that environment. The bottom line in this trade-off was that the aquatic environment had to be able to assimilate effluent without compromising its environmental quality. A member of the agency's Senior Management Team reiterated this point, stating:

> As long as we feel that a particular watercourse can take in the effluents that are being directed into it with our authority then we will allow that effluent in there. If we ever feel that the watercourse is not able to take that effluent - that it can't self-purify within a very short distance - then we won't allow it (Lewis, Interview, 18/9/94).

Setting consent conditions which created a wide margin between levels of effluent authorised to enter watercourses and levels which would cause unsustainable environmental damage partly explains the 'we can wait' philosophy which the General Manager mentioned earlier.[124] It enabled the agency to take a more pragmatic approach to pollution control than would have been the case had the margin between consent levels and unsustainable environmental damage been closer. This was evident in the agency's evaluation of the limits of a discharger's ability to reach a particular standard of effluent discharge, as a Board Member made clear, stating:

> There are major economic factors which act as a counterweight to wild ambitions.....Economics come into it where it is just not feasible or possible for someone to incur the capital to make the improvements which are the only thing that will improve an effluent[125] (Finn, Interview, 7/11/94).

That the RPB had to account for the state of the local economy in its deliberations was also highlighted by another Board Member, who said:

now exceeds their consent, as long as they stay within their consent limits for 75% of the time then we accept that its a biological process that we're operating' (Barclay, Interview, 18/9/94).
[124] This factor alone doesn't completely explain the RPB's patience regarding the rate at which environmental improvement was achieved. Other factors including the agency's emphasis on educating dischargers into methods of 'best practice' to deal with their effluent and the problems associated with adopting a more confrontational approach (outlined in section 4.6) must also be considered in this respect.
[125] This echoes Inspector Nelson's interview comment (cited in sub-section 4.8.1) that a consent has to be 'something that's achievable' (Interview, 18/10/94).

We are acutely aware of the fact that we've got to be careful that we don't make consent conditions ruinously expensive for industry (Baxter, Interview, 11/11/94).

The preceding extracts from interviews indicates that the ability of dischargers to meet the financial costs of achieving consent compliance was a factor which Board Members and members of the Senior Management Team deemed important in determining consent conditions. Interviews with Pollution Control Inspectors indicated that the dischargers' capacity to finance environmental improvement was also an important issue in terms of pollution control at the field level. For example, one Pollution Control Inspector expressed his disquiet at the prospect of pursuing an enforcement strategy which would lead a company to either relocate outwith the RPB's locality or go into liquidation as a result of formal sanctions being placed on the discharger.[126] He stated:

> I would be very reluctant for that to happen. A lot of the communities here are quite small communities. They're very dependent upon the local industries and I'd be horrified to think that I was the person who caused a major economic problem (Gray, Interview, 19/10/94).

Another Inspector was even more forthright in his response to the possibility of removing a discharger from the local economy as a result of the RPB's enforcement strategy, claiming:

> I would never, ever, put anyone out of business unless he was to *absolutely* force me to[127] (emphasis in original). *You just wouldn't get away with it here* (emphasis added) (Collins, Interview, 7/10/94).

The capacity of dischargers to bear the costs of environmental improvement, underpinned by the safety net of a wide margin between consent conditions and unsustainable environmental damage, was an important factor in determining the RPB's interpretation of what constituted sustainable development in relation to the aquatic environment. However, another Inspector cast doubt over the extent to which 'sustainable development' had any practical applicability in relation to the RPB's activities due to the concept's increasingly politicised nature.[128] The following interview extract illustrates the point he was making:

How does the RPB's corporate plan's emphasis on sustainable development affect the day to day process of pollution control?

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[126] Formal sanctions in the form of a fine or a custodial sentence.

[127] The decision to put a discharger out of business would not be made by an Inspector, as much of the preceding analysis in this chapter has illustrated.

[128] See O'Riordan in Turner et al (1988) for a more detailed discussion of the politicisation which the concept of sustainable development has undergone.

It doesn't.

Does it put a gloss on what's happening in the day to day process?

Yes. Take the example of a hypothetical company discharging a highly noxious substance which is bio-accumulative. Under the auspices of sustainable development we can either use it to shut down the company or keep the company open, depending on what is politically more acceptable. Its such an open-ended, wishy-washy statement. Is it sustainable development for employment or sustainable development for fish? Sustainable for whom?

You have to balance environmental and economic considerations in the job?

We do that on instinct. We pick up vibes from The Scottish Office via the Senior Management Team. And the vibe at the moment is, 'Be aware of the implications of a consent or a prosecution, in terms of jobs due to the fragile state of the economy's recovery'. That's got nothing to do with sustainable development. That's sustainable recovery (Dobson, Interview, 7/10/94).

The above indicates a moveable feast with regard to interpreting what constituted sustainable development within the RPB's pollution control activities. However, the RPB's apparent readiness to take account of the prevailing political winds was perhaps understandable given a previous occasion when control of the implementation process had been wrested from the agency. This occurred during the early 1980s when the RPB was forced to endure the anathema of a public inquiry as a result of a company appealing against its consent conditions on the grounds that it viewed these conditions to be excessively stringent.[129] Although the Secretary of State found in favour of the RPB, he stated that the recessionary economic climate of the time meant that the company could not meet the proposed consent conditions without placing itself at an economic disadvantage with its competitors. Consequently, a less environmentally demanding set of conditions, along with a revised time-table for implementation, were drafted (Walker, Interview, 19/9/94). Given UK environmental regulators general reluctance to become embroiled in appeal situations and the case-study RPB's negative experience in that respect[130] during the early 1980s, the latter's emphasis on economic factors in its interpretation of sustainable development is understandable.

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[129] In that the RPB was demanding that a more environmentally benign quality of effluent be discharged into the aquatic environment than the company was prepared to provide.

[130] From the RPB's perspective, the appeal was negative for the following reasons: the appeal took control of the implementation process from the agency; the agency had to set less demanding consent conditions for the discharger; and, the appeal's outcome sent a message to the discharging community that it was worthwhile challenging the RPB's consent decisions as they could potentially be changed to the benefit of the discharger on appeal.

The RPB's lack of enthusiasm in invoking the appeals procedure as part of policy implementation also presented the agency with a dilemma regarding its efforts to balance environmental and developmental issues through its role as a statutory consultee in the planning process.[131] An Inspector explained the nature of this dilemma:

> Our comments regarding planning applications are always aimed at being able to immediately defend the position that we take. We tend not to want to refuse too much because we don't want to have to go to the Secretary of State. That's Senior Management's policy. The boss has said that we will find other ways of achieving our aim without putting ourselves right in a spot and saying we are the ones objecting.....The sustainable development thing, in my opinion, comes right down to this planning aspect. But there's no doubt that what we do is possibly pass the buck to the planners more than I think we should. For example, if we don't want a particular development, we will construct some sort of phrase where we imply quite clearly that this is unacceptable. But, because of the situation,[132] we would have to accept the discharge and we then hope that the planners will read into this what we want them to and come up with some other reason for refusing (Collins, Interview, 7/10/94).

This 'implementation by proxy' highlights one of a number of complicating factors regarding the RPB's pursuit of sustainable development within the context of its pollution control policy. In relying on the ability of planning officials to interpret the signals which the RPB placed in its comments to planning applications, the agency was prepared to relinquish control of an important mechanism through which it achieved what it considered to be sustainable development. In addition, the RPB's receptiveness to economic and political factors illustrates that the agency's interpretation of sustainable development was far from straightforward.

The implications of the above, along with other pollution control implementation issues raised in this chapter, are discussed in the concluding chapter of the thesis. Prior to that, the study moves on to examine implementation of the Conservative Government's distributive environmental policy as undertaken through the policy instrument of the Special Grants Environmental Programme.

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[131] The planning function was undertaken by the Planning Department of the local Regional Council.
[132] The 'situation' being the possibility of an applicant appealing against the RPB's decision.

PART IV

IMPLEMENTATION AS ENABLING

The Scottish Office's Implementation of Distributive Environmental Policy

5.1 Introduction

This chapter constitutes the first section of the analysis of The Scottish Office's implementation of its distributive environmental policy via the policy instrument of the Special Grants Environmental Programme (SGEP). As such, the focus of the analysis is on The Scottish Office's intra-organisational decision-making process of allocating SGEP funds to voluntary environmental organisations in order to implement Government policy objectives. As discussed in sub-section 3.4.3 of chapter 3, the SGEP was one of a number of policy instruments which Central Government applied (directly or indirectly) to the voluntary environmental sector in Scotland during the early 1990s in pursuit of its environmental policy objectives. As a distributive (Lowi, 1966, 1972) policy instrument, the SGEP represented a mechanism for securing environmental policy objectives quite different to the regulatory instrument employed by the policy actors in the RPB case-study. Rather than discourage environmentally harmful activity (ultimately through threat of sanction) as was the case with the RPB's water pollution control policy, Government policy towards the voluntary environmental sector involved providing financial resources to encourage activity leading to environmental improvement. As this chapter demonstrates, both the characterisitics of the SGEP as a policy instrument, and the target group at which it was directed, meant that the case-study distributive policy lacked the clear objectives and cohesion in implementation at the intra-organisational level that was evident in relation to the regulatory environmental policy discussed in the preceding chapter. The implications of this for the evaluation of implementation success forms one of the themes for the discussion in the concluding chapter of the thesis.

5.1.1 Chapter Structure

The chapter adopts the following structure in order to address the research agenda outlined in chapter 1. Section 5.2 outlines the rationale for adopting intra-organisational structure and processes as the main unit of analysis within the context of this chapter. Section 5.3 introduces the key policy actors who interacted at the intra-organisational level within The

Scottish Office in the course of implementing distributive environmental policy via the SGEP. Section 5.4. considers the formal objectives of the policy and section 5.5 examines the categories of funding employed by The Scottish Office through the Programme to implement these objectives. Section 5.6 discusses changes to the SGEP following a review of its administration in 1992. Following this, section 5.7 analysis the intra-organisational dynamics of The Scottish Office's allocation of SGEP funds in order to implement the case-study policy's objectives. Section 5.8 briefly examines the approach adopted by The Scottish Office in monitoring funded organisations' progress towards their SGEP-related targets. Finally, section 5.9 summarises the main issues discussed in the preceding analysis and provides a link to chapter 6.

5.2 The Units of Analysis

Section 4.2 of chapter 4 explained the rationale for focusing on the intra-organisational process within the case-study RPB through which its policy actors implemented the agency's pollution control policy. As with the previous case-study, the analysis contained in the current chapter also focuses on policy implementation at the intra-organisational level. It does so by examining the roles of specific policy actors within The Scottish Office in relation to the implementation of Government's distributive environmental policy through the SGEP. The reason for adopting this approach relates to particular features associated with the application of this case-study policy instrument As a distributive policy instrument, the SGEP was designed to enable The Scottish Office to allocate financial resources to voluntary organisations so as to contribute towards fulfilling Government's environmental policy objectives in relation to the voluntary environmental sector. However, given that the aggregate amount of funding for which organisations applied routinely exceeded the Programme's annual budget, the allocative process was not an automatic process of distributing funds in the amounts requested by each applicant organisation. Instead, allocating SGEP funds encompassed a decision-making process involving deliberations over a number of variables - congruence of applicants' activities with Government policy objectives, conflicting inter-Departmental agendas, performance measurement - which are discussed in the course of this chapter. As the Division responsible for administering the Programme, the Rural Affairs Division of The Scottish Office was at the heart of the decision-making process regarding grant allocation. However, as will be illustrated in later sections of this chapter, policy actors from other Departments within The Scottish Office also had an important input in determining the allocation of SGEP funds. For these reasons,

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an analysis of the implementation of the case-study distributive environmental policy must take account of both vertical decision-making processes within the Rural Affairs Division and horizontal decision-making processes between the Rural Affairs Division and other Departments within The Scottish Office.

As noted in the preceding section, the SGEP was a policy instrument which distributed financial resources to voluntary environmental organisations in order to encourage them to pursue particular Government policy objectives. An assessment of the Programme's ability to achieve these objectives therefore requires an understanding both of funded organisations' roles in the implementation process and their perceptions of, and disposition to, the policy objectives to be implemented through the SGEP. Consequently, vertical inter-organisational relationships between funded organisations and, predominantly,[1] the Rural Affairs Division of The Scottish Office provide a second unit of analysis to be applied to this case-study.[2] It is this unit which structures the analysis undertaken in chapter 6. Figure 5.1 illustrates the range of inter-organisational policy actors involved in the implementation of distributive environmental policy through the SGEP.

[1] Section 6.7 of chapter 6 examines inter-organisational dynamics between funded organisations and other Scottish Office Departments within the context of the SGEP.
[2] This unit of analysis is applied in chapter 6 of the thesis which focuses on the input of SGEP funded organisations to the implementation of case-study distributive environmental policy via the SGEP.

Figure 5.1 Distributive Environmental Policy Implementation via the SGEP : Significant Actors[3] and their Patterns of Interaction
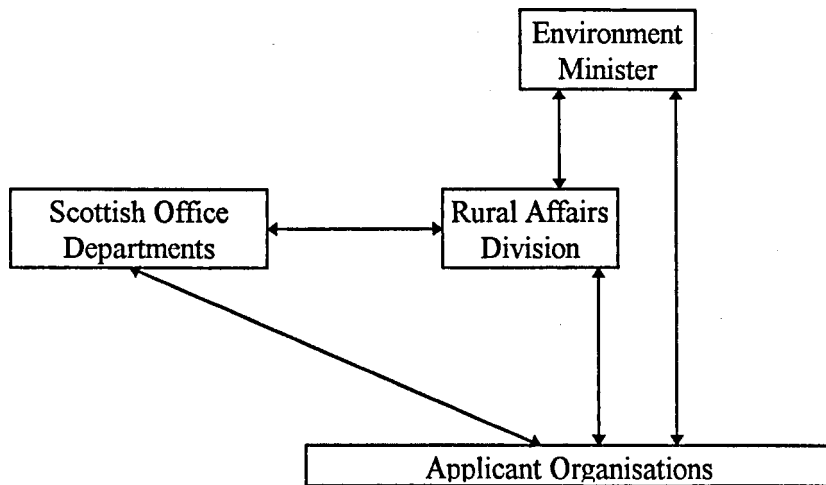
Key: ←——————→ (Interaction)

As figure 5.1 illustrates, The Scottish Office Environment Minister constituted one policy actor in relation to the Scottish Office's intra-organisational process of allocating SGEP funds to particular applicant organisations. However, the role of this actor was mainly limited to providing the policy actors within the Rural Affairs Division with formal permission to fund organisations which they recommended for the award of grants. As such, the Environment Minister's direct input to the implementation of the policy was minimal and therefore his role is not considered in detail in this section.

The key Scottish Office policy actors involved in the allocation of SGEP funds were located within the Rural Affairs Division and within Departments which were consulted by the Rural Affairs Division as to the policy merits of funding particular applicant organisations. Consequently, it is upon the roles and interactions of these policy actors that the analysis contained in this chapter focuses. The next section briefly introduces these actors as a prelude to this analysis.

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[3] As with the analysis undertaken in chapter 4, 'policy actors' are defined as individuals acting on behalf of (and within the constraints set by) their organisations or Departments.

5.3 Scottish Office Intra-Organisational Policy Actors

5.3.1 Executive Officer - Rural Affairs Division

An Executive Officer[4] within the Rural Affairs Division was responsible for the day to day management of the SGEP. As such, this actor represented the main point of contact between the Rural Affairs Division and the voluntary environmental sector as regards the operation of the Programme. The Administrator undertook a wide variety of tasks in relation to the management of the Programme. In particular, this actor was responsible for collating all the applications for funding, upon the deadline for receipt having been reached, and disregarding any which did not meet the funding criteria of the Programme.[5] Using a Card Index System,[6] the Administrator then summarised information regarding applicants' organisational aims, financial position and, where possible,[7] Government environmental policy objectives to which SGEP funding of the applicant organisations would help the organisation contribute. In cases where he felt able to do so, this actor would make a recommendation, to be subsequently authorised by senior colleagues[8] in the administrative hierarchy, as to whether or not to fund a particular applicant. Following discussions with senior colleagues, the Administrator decided upon which other Government Departments to consult in relation to particular applications and collated the responses of these Departments on a data-base. The Administrator was also responsible for producing the Ministerial draft submission[9] which would ultimately be sent to the Environment Minister for approval to allocate grants to specified organisations. Other administrative duties undertaken by the Administrator in relation to the Programme included checking quarterly financial returns

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[4] Hereafter referred to as 'the Administrator', 'the Programme Administrator', or 'The SGEP Administrator'.

[5] These criteria were: that applicants operate in more than one local authority district or islands area of Scotland; and, if core funding was sought, that applicants apply for a maximum contribution of 50% towards their core costs (The Scottish Office, 1992b).

[6] The Card Index System is discussed in more detail in sub-section 5.6.2.

[7] The analysis contained in 5.7 explains why it was not always possible for the Administrator to do this.

[8] These included the Higher Executive Officer (HEO), Principal Executive Officer (PEO) and, ultimately, the Head of the Division, who constituted this policy actor's line managers within the Rural Affairs Division. The implementation roles of the HEO and PEO in relation to the case-study policy, as implemented via the SGEP, were mainly confined to occasional suggestions as to which Departments to consult, checking the data-base of Departmental comments and occasionally making funding suggestions or providing the Programme Administrator with information regarding particular applicants. It is due to the peripheral implementation roles of both the HEO and PEO that these policy actors do not feature specifically in the analysis contained in this chapter. However, the text does occasionally use the terms 'policy actors within the Rural Affairs Division' and 'the Rural Affairs Division' to collectively refer to the Executive Officer, the Higher Executive Officer, the Principal Executive Officer and the Head of the Rural Affairs Division within the context of the intra-organisational policy implementation process within The Scottish Office.

[9] The Ministerial Draft contained information on every application for core and project funding received by the Rural Affairs Division during each funding period. More importantly, it also contained the recommendations for funding which the Division put forward for Ministerial approval.

from funded organisations which detailed their expenditure of SGEP funds. The Administrator also assessed progress reports submitted by funded organisations in relation to the achievement of targets which they had specified in their applications for funding. As part of the monitoring process, the Administrator also undertook visits to funded organisations' headquarters and to the sites of projects to which the SGEP had contributed funding.

5.3.2 Head of Rural Affairs Division

The Head of the Rural Affairs Division occupied the top level of what was a very short organisational hierarchy within the Division in relation to the SGEP. It was this official who was ultimately responsible for the management of the Programme within the Rural Affairs Division. However, he had a withdrawn role in relation to the actual implementation of the Programme. In this respect, the Head of the Division adopted a role of general oversight, mainly limiting his interventions to commenting on specific aspects regarding the administration of the Programme[10] and offering guidance on the general profile of applications for funding.[11] This actor was also responsible for approving the content of the draft Ministerial submission prior to its circulation to other Scottish Office Departments and to the Environment Minister.

5.3.3 Consulted Civil Servants from other Scottish Office Departments

As highlighted in section 5.2, and as discussed in more detail in section 5.7, Civil Servants from other Departments within The Scottish Office were important policy actors in determining the allocation of SGEP funds. The practice of circulating applications for SGEP funding to other Departments was well established, with a number of different Departments being approached by the Programme Administrator to provide him with additional information regarding the merits of funding particular applications. There were no set criteria as to who within a Department should be consulted in order to get a Departmental

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[10] In relation to the 1992/93 batch of funding applications, this actor notified the Programme Administrator that he 'would like to plan to retain at least a small % of funds to be able to meet the (initiatives) which arise and which reflect to our credit with Ministers and our constituency'. (Hand-written note in response to Minute from Programme Administrator detailing SGEP funding applications for 1992/93).

[11] This actor was able to provide such assessments upon receipt of 2 spreadsheets (One detailing core funding applications and one detailing project funding applications). In relation to the 1992/92 spreadsheet detailing applications for project funding, the Programme Administrator had planned to recommend funding 10 projects with an average grant award of £7,500 each. In response, the Head of the Division had written, 'Why not secure a wide spread with a lower average, e.g. 15 at £5,000 average?' (Hand-written note in response to Minute from Programme Administrator detailing SGEP funding applications for 1992/93).

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viewpoint regarding an application. Therefore, responses were received from Civil Servants of different administrative grades within particular Departments. These responses were then used or discounted by the Programme Administrator in deciding which applicants to recommend for funding and how much funding to recommend.

5.4 Objectives of the Case-Study Distributive Environmental Policy

As discussed in the previous chapter, The Scottish Office left the formulation of pollution control policy objectives largely to the discretion of the River Purification Authorities responsible for their implementation. In part, the withdrawn role adopted by Government in this respect was a legacy of the practice of setting locally determined environmental quality standards to account for circumstances specific to each locality. While Central Government had been content to allow environmental regulation in Scotland to be determined in such a fashion for over a century, its use of much newer policy instruments associated with the voluntary environmental sector was rather more prescriptive. To some degree, this more interventionist approach was a reflection of the characteristics of the policy instruments that Government employed in the sector. As sub-section 3.4.3 of chapter three discussed, Government policy in relation to the voluntary environmental sector in Scotland has been directed towards securing the overall objective of sustainable development through the mechanism of allocating financial resources to particular organisations operating in the sector. This allocative process necessitated a more proactive role for Government when, as was the case with the Special Grants Environmental Programme, the policy instrument was administered from within a Department of The Scottish Office. Further emphasis was placed on the proactive nature of this role by the findings of the *'Efficiency Scrutiny of Government Funding of the Voluntary Sector: Profiting from Partnership'* (The Home Office, 1990). The questions which this Report raised about the efficacy of Government Departments' management of funding programmes brought into sharp focus the need for policymakers to clarify their policy priorities in relation to target groups in the sector and ensure that funded organisations delivered policy outcomes in line with these priorities.

The agenda regarding policy prioritisation which emerged in the wake of the 1990 Home Office Report was subsequently to have important ramifications for the administration of the SGEP. However, upon its establishment in 1987, the initial environmental policy

objective which the instrument was intended to achieve did not stray beyond the general aim of :

> assist(ing) Scottish voluntary environmental organisations to improve their overall capability and effectiveness in carrying out practical environmental conservation or improvement work (SGEP, Internal Review, 1991, p.1).

The wide span of the Government's distributive environmental policy objective was further emphasised by the categories under which organisations could apply for funding under the auspices of the SGEP. Voluntary organisations operating under any one or more of the following four categories of activity were considered eligible candidates for grant award. These were: *practical environmental conservation or improvement work; technical, educational or training activities* involving a specific output such as training packages, courses or technical advice; *co-ordination of bodies carrying out activities concerned with environmental conservation or improvement;* and, *co-ordination of rural land use and environmental interests* (The Scottish Office, 1992b, p.5).

The Scottish Office's pursuit of a policy objective that did not lay parameters beyond contributing to the voluntary environmental sector's ability and effectiveness to achieve environmental improvement revealed little by way of explicit strategic thinking as regards the relationship between Government's environmental policy and the sector. The policy's lack of more specific objectives at the time of the SGEP's creation was acknowledged by the SGEP Administrator during an interview. He stated:

> I think that the objectives of the policy were very simple when the Programme was first set up. Basically, organisations wanted to do things using volunteers so The Scottish Office gave them money to help them do it.....The main aims of the policy remain that we're trying to help voluntary organisations to perform things better and be more efficient. But we're also following the line whereby the voluntary sector has to be doing something that the Government wants to do. Its got to mesh together in that respect (Hill, Interview, 3/6/94).

By 1992, the evolution of the policy had resulted in more specific[12] objectives being grafted on to the overarching objective of facilitating environmental improvement by supporting the activities of voluntary environmental organisations. These included: encouraging involvement and 'stake-holding' in the environmental policy process; facilitating

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[12] These objectives were recounted to the author during an interview undertaken with a senior Civil Servant in the Rural Affairs Division as part of the 1992 review of The Scottish Office Environment Department's contribution to the voluntary environmental sector (This study is discussed in more detail in section 5.6 of this chapter).

environmental education through the dissemination of environmental information and increasing environmental awareness; providing a forum for debating environmental issues; and, enabling Government to fulfil aspects of its statutory obligations. In addition, the SGEP was intended to fulfill two operational objectives which were generic to any Government distributive policy aimed towards the voluntary sector. In turn, the pursuit of these generic objectives can be traced back to the broader policy agenda regarding Government-voluntary sector relations in general which was discussed in chapter 3. The first of these objectives was that of providing 'pump-priming' funding for voluntary environmental organisations. This was to be done by providing recipients with a three year platform of financial stability from which they were expected by Government to cultivate alternative sources of funding.[13] The second of these objectives was that of directing public funds towards voluntary organisations in possession of sufficient managerial skills to ensure value for money in their use of such funding.[14]

The implementation of all of the above objectives was viewed by Government as being undertaken on a 'partnership' basis with the voluntary environmental sector. The nature of this partnership was relatively unambiguous from the perspective of The Scottish Office. In return for recieving financial resources, (as dispensed by The Scottish Office through the policy instrument of the SGEP), funded voluntary environmental organisations were expected by Government to undertake functions or activities which contributed to the achieving of one or more of the particular objectives associated with the case-study distributive environmental policy (while at the same time fulfilling the two generic objectives relating to 'pump-priming' and securing 'value for money').

Although the policy objectives described in the preceding added some flesh to the overarching objective of contributing towards environmental improvement, their broad nature did not suggest a particular strategic view as to the substance of Government's distributive policy beyond pursuit of the socially desirable goal of an improved environment. One explanation which accounts for the broad nature of the objectives of the case-study distributive policy relates to the characteristics of the instrument through which the objectives were pursued and the target group at which the policy was aimed. A brief comparison of the instruments of environmental legislation and the SGEP illustrates the

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[13] For example, from within the business community and local government.
[14] This latter objective reflects the broader policy agenda which Government funding of the voluntary sector was designed to address (as outlined in sub-section 3.4.3 of chapter 3).

point. In the last chapter, it was shown that, operating through the policy instrument of COPA 1974, the case-study RPB sought to *discourage* a narrow range of activity (polluting the aquatic environment) being undertaken by a small and functionally uniform[15] target group (the discharging community). This combination of a narrow range of activity and a relatively uniform target group therefore enabled the case-study RPB to formulate the specific and easily measurable[16] policy objective of protecting and improving the quality of its aquatic environment. In contrast, the policy instrument of the SGEP was used by The Scottish Office to *encourage* a wide range of activity undertaken by a large and diverse target group (voluntary environmental organisations). In order to accommodate these factors, Government therefore formulated the broad policy objective of facilitating environmental improvement. To articulate anything more specific risked excluding members of the target group from applying for SGEP funding if they felt they could not meet the objectives of the policy.[17] The advantages of maintaining wide parameters of eligibility can be discerned from the SGEP Administrator's explanation of the rationale for articulating broad objectives within the context of the Programme:

> That way, we get in a very large number of applications. That's bad in that it increases our workload, *but its good in that we get the cream of the crop.* I would much rather we spent a lot of time going through the applications and got the best out of a very large number of applications, rather than just getting 40 and funding 32 of them, for example (Hill, Interview, 3/6/94, emphasis added).

The range of activities undertaken by organisations in the voluntary environmental sector illustrates the multi-sectoral dimension of the environment as a policy issue, as discussed in chapter 1. This multi-sectoral dimension, as reflected in the collective range of voluntary environmental organisations' activities, helps explain the broad nature both of the policy's overall objective of achieving environmental improvement and of its supplementary objectives, as well as explaining the broad eligibility criteria applied to organisations seeking funds. Specifically, the policy required sufficiently broad objectives to accommodate the variety of environmental activities[18] undertaken in the voluntary environmental sector.

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[15] In that the polluting behaviour at which the RPB's pollution control policy was aimed was of a generally uniform nature (as illustrated by the standardised nature of the majority of consents to discharge effluent which were granted by the case-study RPB).

[16] In that it was possible to precisely attribute changes in environmental quality of controlled waters to the dischargers' consent compliance (or non-compliance).

[17] The broad nature of the case-study distributive policy's objectives brings into focus a central research question with which this thesis is concerned; that is, how can implementation success be measured? This question frames a major part of the discussion contained in the concluding chapter.

[18] For example, such activity included the promotion of archeology, encouraging the use of sustainable transportation methods, and the provision of environmental education in Scotland.

In addition to helping to explain the broad nature of the case-study distributive environmental policy's objectives, the sectorally diverse range of activity undertaken by voluntary environmental organisations also provided a rationale for the administering Rural Affairs Division's practice of circulating applications for SGEP funding to other Departments throughout The Scottish Office. This practice is discussed in more detail in section 5.6. Prior to that discussion, however, the next section goes on to consider the categories of SGEP funding through which the objectives of the case-study policy were to be met.

5.5 Categories of Funding

5.5.1 Overview

The Scottish Office employed two specific funding categories via the SGEP in order to achieve the policy objectives discussed in the preceding section.[19] The first of these categories was that of *core* funding which was the only category of funding allocated through SGEP during the period from the first year of the Programme's operation in 1987/88 until 1989/90. Core funding was allocated to successful applicant organisations as a contribution towards their central administrative costs,[20] with each award of funding being allocated for a period of three years. In the first year of the award, successful applicants were allocated a specific sum of finance and formally informed by the Rural Affair Divison as to the amount of funding that they could expect to receive during the second and third years of funding. The amount of this 'indicative' funding was intended to taper as the funding block progressed from Year 1 to Year 3. It was also stipulated by The Scottish Office that the allocation of the indicative components of funding during Year 2 and Year 3 of the block was dependent upon applicants performing to the satisfaction of the adminstering Division in relation to the achievement of performance targets specified in their original application forms. Funding in the core category was intended to fulfil the 'pump-priming' objective discussed in the previous section. This was to be achieved by providing successful applicants with the financial stability to develop their forward plans in order to establish alternative sources of income upon completion of their three year block of core funding.

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[19] The discussion in this section focuses on the categories of core and project funding as they were structured prior to the publication of *'An Assessment of the Scottish Office Environment Department's Contribution to the Voluntary Environmental Sector'* (McCulloch, et. al., 1993a) after which the core category was replaced by that of strategic funding (as discussed in section 5.6 of this chapter).
[20] For example, costs relating to staff salaries or the purchase of office equipment (such as computers).

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A *project* funding category was added to the Programme and became operational for the 1990/91 round of grant allocation. This category of funding was offered to successful applicants for one year[21] as a financial contribution towards the costs of specific environmental projects[22] which the applicant organisations wished to undertake. In this respect, priority was assigned to applications where proposed projects exhibited evidence of both innovation and demonstrable effect.[23] Table 5.2 illustrates the number of organisations allocated grant under the categories of core and project funding between 1987/88 and 1992/93.

Table 5.2 Number of Organisations In Receipt of SGEP Core and Project Funding: 1987/88 - 1992/93

Year	Core Funded Organisations	Project Funded Organisations
1987/88	19	Not Applicable
1988/89	20	Not Applicable
1989/90	21	Not Applicable
1990/91	26	1
1991/92	29	11
1992/93	39	12

Source: (McCulloch, et.al., 1993a)

5.5.2 Pressures Towards Extended Funding

Section 3.4.2 of chapter 3 highlighted a key finding of the Home Office's 1990 Report, entitled *'Efficiency Scrutiny of Government Funding of the Voluntary Sector: Profiting From Partnership'*, to be that:

> Departments are funding the core costs of the same voluntary bodies for long periods, whether or not their work is still a priority (The Home Office, 1990).

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[21] Project funding was offered for up to three years following the adoption of a recommendation contained in the Report of the 1992 review of the SGEP (McCulloch et.al, 1993a) as discussed in section 5.6 of this chapter.

[22] Examples of SGEP funded projects included an office waste paper recycling scheme and an environmental maze with access for disabled people.

[23] These criteria echoed the advice of the 1990 Home Office Report, entitled *'Efficiency Scrutiny of Government Funding of the Voluntary Sector: Profiting from Partnership'*, that short term projects should only be funded when the Government sponsor was convinced that there would be a long term benefit.

There was evidence of this tendency in relation to the SGEP's category of core funding. Analysis of the core funding patterns of allocation of the Programme between 1987/88 and 1992/93 inclusive,[24] reveals that of the 43 voluntary environmental organisations to be awarded core funding during that time period, 19 (39% of the sample) had received funding for 4 or more years. Of those 19 organisations, 14 (or 33% of all core funded organisations) had received continuous core funding throughout the six years that the Programme had been in existence. Moreover, of the 14 continuously core funded organisations, only 4 had their core grant continuously tapered throughout their 6 years of allocation. The level of grant allocated to the other 10 organisations had fluctuated throughout their funding periods.

The rationale for core funding had been to provide successful applicants with a platform from which to seek alternative sources of revenue as their three year SGEP funding block was progressively tapered and finally terminated. Consequently, the funding patterns discussed in the above represented a serious anomaly as regards the pump-priming aim of the core funding element of the Programme. The SGEP's Administrator explained factors which had led to some organisations receiving funding over an extended period of time:

> Basically, we couldn't get away from funding them! There are two reasons for this. Firstly, if we stop funding some of these organisations, what they do collapses. Secondly, even when not giving them any particular commitment to go on past three years of funding, you would have given funding to them anyway. Their applications stood head and shoulders above the others when you compared them. *We also had no particular system which said that these organisations were doing things that were so important that we'd have to give them continued funding. So we did it unofficially at the time* (Hill, Interview, 3/6/94, emphasis added).

Examination of the core grant allocation for the period 1987/88 to 1992/93 inclusive, indicates a distinct pattern in terms of the long term allocation of core funding. Specifically, of the 14 organisations in receipt of grant over the first 6 years of the Programme, 9 were national[25] voluntary environmental organisations. This statistic suggests a degree of natural selection to have been at work as regards determining which organisations continued to receive core funding beyond the formal three year funding block. The implication being that if an applicant organisation was a national body then it was likely to receive longer term core funding via the SGEP. The dominance of national organisations regarding the reciept

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[24] See Appendix 12 for full details regarding core and project funding allocations during this period.
[25] For the purposes of this study a national organisation is defined as one which is responsible for co-ordinating an environmental activity throughout Scotland. Examples include the Scottish Wildlife Trust, the Council for Scottish Archaeology, and the Royal Society for the Protection of Birds.

of funding also reinforces the validity of the comment, made in the preceding interview extract, that an unofficial strategic allocation of resources was being undertaken within the context of the SGEP prior to the Programme being reviewed in 1992.

Their national status provides one explanation as to why certain organisations dominated the core funding process. However, this factor alone does not adequately explain why the amount of grant awarded often tended to fluctuate upwards during these extended funding periods. The Programme Administrator offered an insight into why this occurred:

> The thing is that if you started off with an organisation who are supposed to get a tapered grant, then you look at them in year 4 and they're saying, 'Oh, but we're starving, give us more!'.....You can't just say, 'Right, we're going to keep cutting your funding down', because eventually, even if you're still funding them after 6 years and you've been down to next to nothing, they would still be going 'Feed us!' (Hill, Interview, 3/6/94).

Sub-section 6.3.2 of chapter 6 highlights the difficulty which many voluntary environmental organisations experienced in securing core funding from potential sponsors.[26] This, in turn, made it potentially difficult for the SGEP's Administrators to disengage organisations from the Programme. This difficulty was exacerbated when these actors perceived particular core funded organisations to be making important contributions towards achieving the Government's environmental policy objectives.

A review of the Scottish Office Environment Department's contribution to the voluntary environmental sector was carried out in the autumn of 1992. In the aftermath of the review, a significant reconfiguring of the SGEP was undertaken in order to remove the potential area of difficulty which unstructured long term core funding presented for the Rural Affairs Division. At the same time, the review resulted in the SGEP being placed on a more strategic footing in terms of its implementation of Government's environmental policy objectives. The next section considers this review and its outcomes in relation to the SGEP in more detail.

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[26] A representative of a voluntary environmental organisation who participated in the 1992 review alluded to the essentially unglamorous nature of organisations core activities by stating, 'there are companies that like to spend money on people getting muddy and environmental projects in action' (McCulloch, et. al., 1993a, p.30).

5.6 Recalibrating the SGEP

5.6.1 The 1992 Review

As discussed briefly in chapter three, the 1990 Home Office Report, *'Efficiency Scrutiny of Government Funding of the Voluntary Sector: Profiting from Partnership'*, outlined a specific agenda for the future relationship between Central Government and the voluntary sector in terms of funding arrangements. A main theme of the Report was the need for Central Government Departments to evaluate whether funded organisations were the best in their field at performing particular activities of value to Government or, indeed, whether these activities were still representative of Departmental policy priorities. A second fundamental theme of the Report was the extent to which voluntary organisations met the objectives for which they were in receipt of Government funds.

The agenda identified by the 1990 Home Office Report formed the backcloth to The Scottish Office's commissioning in September 1992 of a four month study to assess the nature of the funding relationship between Government and the voluntary environmental sector in Scotland. The study,[27] undertaken by The Robert Gordon University, resulted in a Research Report entitled *'An Assessment of the Scottish Office Environment Department's Contribution to the Voluntary Environmental Sector'* (McCulloch, et al, 1993a). The study addressed a number of issues in relation to the SGEP,[28] including: its achievements to date; the balance of the Programme in relation to core and project funding; the extent to which project funding had delivered short term aims and longer term objectives; the effectiveness of core funding as a pump-priming mechanism; the need for systematic monitoring and evaluation of their activities by funded organisations; and, Departmental practices in operating and monitoring the Programme and its outputs (The Scottish Office, 1992b, p.2).

Upon its completion, the study reported that the SGEP provided added value in the form of non-SOEnvD public and private sector funding and through contributions in the form of time given by volunteers. It also stated that the Programme enabled voluntary environmental sector organisations to undertake activities which they would otherwise be unable to do, and which were broadly in line with Government policy (McCulloch, et al 1993a). However, despite these positive comments, the Research Team which conducted

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[27] The study also included the remit of assessing the effectiveness of work undertaken with Scottish Office financial support through UK2000 Scotland.

[28] See Appendix 13 for full details of the Research Brief as it related to the SGEP.

the study noted a lack of clarity as regards SOEnvD's objectives for funding the voluntary environmental sector, stating:

> While the Government has identified its objectives in funding the voluntary sector in general terms, SOEnvD has not clarified these objectives with regard to its environmental policy objectives. Similarly, it has not prioritised its environmental objectives with regard to its funding of the voluntary sector (McCulloch, et al, 1993a, p.ii).

The Research Team recommended that the SOEnvD's environmental objectives in funding the sector be more explicitly prioritised in order to provide voluntary environmental organisations with a greater awareness of the reasons for, and scope of, Government support of the sector. They also stated that, partly as a consequence of the failure to clarify and prioritise its environmental objectives in relation to the voluntary environmental sector, the SOEnvD could not be certain that funding provided through the Programme was being directed towards its priority areas.

With regard to the mechanism of project funding, the Research Team found that the concept of innovation, highlighted by the SOEnvD as an important benchmark upon which project funding applications would be assessed:

> was neither clearly defined nor understood within either SOEnvD or the voluntary environmental sector and that the relationship between innovation and dissemination (which must be the ultimate objective lying behind the preference for innovatory projects) was similarly unclear. Clarification of the concept of innovation and its relationship with dissemination is required (McCulloch, et al 1993a, p.iv).

The most important of the Research Team's findings related to the nature of the Programme's funding categories themselves. SGEP's offer of 'indicative' funding for Years 2 and 3 of the funding block was intended to build on the 'firm' funding offered in Year 1 of the block. However, the Research Team found that recipient organisations considered this offer to be an insufficiently strong guarantee of funding to enable these organisations to incorporate it into their forward financial planning with any confidence[29] (McCulloch et al, 1993a). This perception surprised Scottish Office officials who regarded 'indicative funding' to be as close to being guaranteed as any grant funding could be. Moreover, the

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[29] This dissatisfaction with funding arrangements was articulated by a representative of a SGEP funded voluntary environmental organisation during a 'Round Table' discussion undertaken as part of the review process. The participant stated, 'A problem is consistency of year on year funding. Not knowing where you're going from one year to another is not an effective way of spending public money' (Round Table Transcript, 1992).

Research Team found that the functions which core funding was intended to perform were not altogether clear. They stated:

> (T)he concept of core funding has become confused. Core funding encapsulates 3 distinct types of funding: developmental, ongoing project, and long-term administrative support. *It is recommended that SOEnvD should clarify the nature of its contribution to the voluntary environmental sector by redefining the categories under which funding can be awarded* (McCulloch et al, 1993b, p.10, emphasis added).

The Research Team recommended that the category of core funding be replaced with a 'strategic' category of funding and outlined three means by which such a category should be established. Firstly, the SOEnvD should identify which of its strategic needs could best be met by the voluntary environmental sector. Secondly, the Department should identify which voluntary environmental sector organisations could best fulfil these strategic needs. Thirdly, SOEnvD should fund such organisations to fulfil its strategic needs on a 3 year indicative basis (McCulloch, et al, 1993a, p.47).

The Research Team also recommended altering the structure of the existing project category of funding in recognition of the fact that the recommendation to create a 'strategic' category of funding would reduce the number of eligible organisations. This recommendation entailed broadening the time-scale for project funding to between one and three years while prioritising projects with a demonstrable effect which furthered the Government's environmental objectives. The Research Team further recommended that project grants of a developmental nature[30] should be tapered as the funding block progressed and that the SOEnvD should also continue to give priority to innovative projects (McCulloch, et al, 1993a, p.49).

5.6.2 The Response of The Scottish Office

Following consideration of the study's findings in relation to SGEP,[31] the SOEnvD decided to act upon a number of the Research Team's key recommendations. The most important aspect of the Department's response was to change the Programme's funding categories as recommended by the Research Team. This led to the creation of a new 'strategic' funding category to replace that of core funding, and an extension of the category of project

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[30] 'Developmental' funding in that it was designed to act as a 'pump-priming' mechanism so as to attract further funding from alternative sources.

[31] As a result of this, The Scottish Office gave no commitments to long term funding during the 1993/94 round of grant allocation.

funding, as discussed in the preceding.[32] In addition, The Scottish Office also attempted to provide greater clarity as to the policy priority areas to which SGEP funding would be directed during the 1994/95 round of grant allocation. It did so by stating in the documentation distributed with application forms that applications which addressed any of three themes (environmental education, bio-diversity, or sustainable development) would be given priority consideration in the allocation of SGEP funds.

The adoption of the amended funding categories by the Rural Affairs Division signalled a move away from the trend of long term funding without any strategic policy objective which had characterised the Programme prior to the Review. The Programme Administrator explained the change in approach:

> We are now using the Research Team's recommendation entirely, where we give non-strategic organisations three years project funding. Its now a case of 'three years and you're out'. They can find another part of the organisation for us to fund......but we're not going to risk developmental funding for another three years. *These organisations have got to realise that at the end of three years we are out. They've got to find their own funds and not be dependent on us, which was happening before* (Hill, Interview, 3/6/94, emphasis added).

The replacement of 'core' funding with 'strategic' funding was seen as important by The Scottish Office, both for what it provided for recipients in terms of security of funding and for the message it sent to non-recipients, as was also highlighted by the Programme Administrator:

> Strategically funded organisations like it now. They have a mechanism now whereby its made explicit that we're going to fund them. *More importantly, its made explicit to the other organisations which we don't consider strategic, We're saying, 'Don't count on us, get your act together......You will get this amount of funding over the next three years. After that time we will no longer be giving you funding'.* We've spelt that out. Its in black and white (Hill, Interview, 3/6/94, emphasis added).

Moreover, the adoption of a strategic category of funding suggested an effort to add greater clarity to the case-study policy's objectives. In this respect, the category was important because it was designed to provide greater transparency to an allocative process wherein priorities for funding had previously only been implicitly stated. In particular, the advent of strategic funding made Administrators examine more closely the reasons *why* they were

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[32] These categories were made operational for the 1994/95 round of grant award.

funding these organisations. The Programme Administrator illustrated how this process of strategic rationalisation worked in relation to particular organisations:

> (Organisation) is a fairly easy one. That was one that, as soon as you start saying, 'strategic government function', came immediately to mind for the obvious reasons.[33] There are other ones as well, which are perhaps not quite so obvious but which I thought deserved strategic funding. There was one small organisation which was selected. Now, they're basically the only ones working in the field. We need someone like that to provide central advice to local Government, to advise people, to push councils to actually deal with the policy area. So although they are a small organisation, we nevertheless see them as being very influential (Hill, Interview, 3/6/94).

However, this process of rationalisation could be applied more easily to some organisations than to others, as the Programme Administrator explained:

> There are two very general organisations which have got a huge range of things that they can do, but they're very wide in their focus. Now, we know that what they do is central towards a lot of the work that gets done in relation to environmental improvement in Scotland. However, within the terms of the SGEP, as its now turned out, they're not performing a strategic Government function. *We want to be certain what we're now funding in the future. And we're going to be going into consultation with both of these organisations to try and drag out of them what is it that they see as their strategic function which will contribute to Government policy. We want to fund that. If we find out exactly what it is that these organisations want to do for us, then the chances of them getting continuing funding would be greater* (Hill, Interview, 3/6/94, emphasis added).

The above interview extract indicates that the task of rationalising the SGEP's support for the voluntary sector was not a straightforward one in respect to some organisations. Moreover, the efforts undertaken by The Scottish Office to uncover particular strategic functions which more 'generalist' national organisations could provide highlight two issues in relation to the evolution and implementation of the case-study policy through the Programme. Firstly, these efforts heralded a move away from the 'selection-box' approach to funding which had been a feature of core funding in the past, whereby an organisation attempted to 'sell' itself as a valid recipient of grant on the basis of the variety of activities it undertook. Secondly, they highlighted that Government was attempting to use the policy instrument of the SGEP in a more proactive fashion than had previously been the case in order to contribute to increasingly specific policy objectives. This, in turn, was in keeping with the agenda which had been identified in the 1990 Home Office Report, *'Efficiency*

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[33] The 'obvious reason' being that this organisation was responsible for upholding sections of the Wildlife and Countryside Act 1981.

regarding the need to identify policy priorities and ensure value for money in relation to the funding process.

The extent to which the recalibrating of the SGEP's funding categories succeeded clarifying the objectives of the case-study policy forms one of the themes of the next chapter as the analysis considers the policy implementation process from the perspective of SGEP-funded organisations. Before that, however, the analysis in this chapter moves on to examine the intra-organisational dynamics within The Scottish Office in relation to implementing the case-study policy through the SGEP.

5.7 The Intra-Organisational Dynamics of Implementation

5.7.1 Overview

The characteristics of the SGEP reflected its origins as a policy instrument designed to *react* to applications for funding from voluntary environmental organisations, rather than to proactively target such organisations for funding. As such, measuring the success of The Scottish Office's distributive environmental policy hinged upon the extent to which the Rural Affairs Division was able to select organisations to fund which would deliver outcomes which were in line with Government environmental policy objectives. At the same time, the Divison had to judge the extent to which the allocation of these resources would result in their efficient and effective use so as to secure value for money in terms of Programme outputs. In both of these respects, the interactions between the SGEP Administrator and policy actors from consulted Departments were particularly important in determining the intra-organisational SGEP funding process within The Scottish Office. Figure 5.3 illustrates the various stages of that process.

Figure 5.3 Scottish Office Decision-Making Process for Allocating SGEP Funding

```
                              ┌──────────────────────┐
                              │ Applications submitted to│
                              │  Rural Affairs Division  │
                              └──────────┬───────────┘
         ┌───────────────────┐          │
         │ Reject applications│◄─────────┤
         │ outwith SGEP criteria│        │
         └───────────────────┘          ▼
                              ┌──────────────────────┐
                              │  Relevant applications │
                              │  circulated to specific│
                              │    Departments for     │
                              │ comments/recommendations│
                              └──────────┬───────────┘
                                         │
                                         ▼
                              ┌──────────────────────┐
                              │ Rural Affairs consider │
                              │ comments/recommendations│
                              │    from Departments    │
                              └──────────┬───────────┘
                                         │
                                         ▼
                              ┌──────────────────────┐
                              │ Ministerial submission │
                              │ drafted for Environment│
                              │  Minister's Approval   │
                              └──────────┬───────────┘
                                         │
                                         ▼
                              ┌──────────────────────┐
                              │ Minister accepts/rejects│
                              │   recommendations      │
                              └──────────┬───────────┘
                                         │
                                         ▼
                              ┌──────────────────────┐
                              │ Award of grant to successful│
                              │     applicants         │
                              └──────────────────────┘
```

The key stages of the The Scottish Office intra-organisational decision-making process, in terms of shaping implementation of policy through the SGEP, are indicated by the boxes which contain text in bold typeface in figure 5.3. The following analysis considers the allocative process in relation to these key stages.

5.7.2 The Input of the SGEP Administrator

The role of the Executive Officer responsible for the day to day administration of the Programme was particularly important in relation to the intra-organisational decision-making process leading to the allocation of grants.[34] As discussed in sub-section 5.3.1, this actor fulfilled an important co-ordinating function in deciding which applications should be

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[34] The analysis that follows relates to the intra-organisational decision-making process as it relates to the allocation of SGEP grants under the unreconstructed categories of core and 'one year' project funding. However, the issues which Scottish Office policy actors considered within this allocative context were similar to issues which they subsequently had to consider under the strategic and 'one to three years' project funding categories following the administrative changes introduced to the SGEP by SOEnvD.

sent to particular Departments within The Scottish Office for comments as to their suitability for funding. However, in addition to this co-ordinating function, the Administrator was also able to more directly influence the decision-making process regarding the allocation of grants. This is illustrated by a content analysis of the Administrator's Card Index System, (mentioned previously in sub-section 5.3.1), relating to SGEP core funding applications received by the Division for financial year 1992/93. Findings in relation to this analysis are contained in Table 5.4.

Table 5.4 Profile of SGEP Administrator's Card Index System

Applicant	Funding Type[35]	Recommend	Reason[36]	Consult Departments
1	Firm			
2	Firm			
3	Firm	Fund	Publicity +	
4	Indicative	Fund	Prog R +	
5	Firm	Fund		
6	Indicative	Fund	Prog R +	
7	Firm			
8	Firm			*[37]
9	Indicative	Fund	Statute	*
10	Firm			*
11	Firm	Fund	Admin +	
12	Indicative	Fund	Prog R +	
13	Firm			*
14	Firm			
15	Indicative	Fund		
16	Indicative	Fund	Prog R +	
17	Indicative	Fund		*
18	Indicative	Fund	Prog R +	*
19	Indicative	Fund		
20	Indicative	Fund	Admin +	*
21	Firm	Refuse	Ineligible	
22	Indicative	Fund		
23	Firm			
24	Firm			*
25	Indicative			
26	Firm			*
27	Indicative			*
28	Indicative			

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[35] 'Firm' means an initial application for funding. 'Indicative' means a commitment to fund subsequent to a previous 'firm' application having been awarded funding.

[36] 'Publicity +' = positive publicity for the Rural Affairs Division; 'Prog R+' = good progress regarding SGEP related targets; 'Statute' = statutory function; 'Admin+' = satisfactory administration (e.g. good quality Annual Reports, Forward Plans); 'Admin -' = Unsatisfactory administration (e.g. Annual Reports/Forward Plans not included in application, or of poor quality).

[37] '*' means that other Scottish Office Departments were consulted.

Table 5.4 (continued) Profile of SGEP Administrator's Card Index System

Applicant	Funding Type	Recommend	Reason	Consult Departments
29	Indicative			*
30	Indicative	Fund		
31	Indicative			
32	Firm			*
33	Firm			*
34	Firm			
35	Firm			*
36	Firm			*
37	Firm			*
38	Firm			*
39	Firm			*
40	Firm	Fund	Prog R +	
41	Firm			*
42	Firm			*
43	Firm			*
44	Firm			*
45	Firm			*
46	Indicative	Fund	Policy	
47	Indicative			*
48	Firm	Refuse	Admin -	*

Source: The Scottish Office - Internal Documentation

From the data contained in table 5.4 it can be seen that the SGEP Administrator made positive funding recommendations in relation to 35% of the total sample. However, when the Administrator's documented recommendations are examined specifically in relation to applications for 'Firm' (Year 1) or 'Indicative' (Years 2 or 3) core funding, a marked contrast is in evidence. In particular, the data reveals that the Administrator made recommendations regarding 5 of 29 applications for 'firm' funding (or 17% of the 'firm' sample). In contrast, the Administrator made recommendations regarding 13 of 19 applications for 'indicative' funding (or 68% of the 'indicative' sample). This contrast in the Administrator's input in assessing 'firm' and 'indicative' applications is important in explaining the decision-making process regarding the allocation of core funding. In particular, the limited number of recommendations made in relation to 'Year 1' applications emphasise the particular allocative difficulties faced by the Programme's Administrator in general. These difficulties, which essentially reflect the limited rationality of decision-makers (Lindblom 1959), stemmed from having to implement a programme of funding whereby its Administrator drew from a pool of applicants whose environmental remits impinged upon a variety of policy sectors. This factor, coupled with this actor's own lack

of specialist environmental expertise, made it difficult for the Programme Administrator to deliver detailed appraisals of all applications. Thus, the Programme Administrator who compiled the Card Index System was reluctant to make explicit recommendations regarding new, and therefore unfamiliar, applicants. However, this actor was more proactive in making funding recommendations for applications which fell into the 'indicative' category of funding.

This contrast can be explained by the fact that 'indicative' applicants had already cleared the first hurdle of the allocative process by securing initial funding either one or two years previously.[38] Thus, questions such as *'what can this organisation contribute to Government policy?'* were superseded by questions such as, *'is this organisation meeting its targets regarding its contribution to Government policy?'*. This distinction is highlighted by the fact that of the 13 reasons specified in table 5.4 as underpinning the Administrator's recommendations in relation to either 'firm' or 'indicative' applications, the majority (9) related primarily to functional aspects of applications. These aspects related exclusively to satisfactory progress in relation to set targets for Year 1 or 2 funding or the quality of administrative documentation in evidence to support applications. Consequently, the Programme Administrator's task was made easier in succeeding years of funding, as the focus of the decision-making process moved from deciding *whether* to allocate funding, to deciding *how much* funding to allocate. In this respect, the Administrator's close contact with an applicant[39] made the former a pivotal player in determining the outcome of an application for indicative funding. The Administrator explained the factors which shaped his input regarding funding decisions for organisations in the indicative phase of a funding block.

> I've got perceptions of organisations' abilities based on the quality of the returns we're getting from them and how co-operative people in charge seem to be about the organisation's ability to do things. So, before we give them money, I've already got an idea anyway of how well an organisation can do a certain activity (Hill, Interview, 3/6/94).

The contrast regarding the Programme Administrator's input in assessing 'firm' and 'indicative' applications is significant in that it highlights the important part played by the consultative dimension of the allocative process. Analysis of data contained in table 5.4

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[38] Or five years previously in some cases.
[39] Through the monitoring of quarterly returns and, in some cases, through visits to applicants headquarters (See sub-section 5.7.3 for further details).

reinforces this view. Of the 48 applications in the sample, 25 (or 52% of the sample) were circulated to other Departments within The Scottish Office for consultation purposes. Of the sample of 25 applications circulated, 18 were related to 'firm', or Year 1 applications for funding, while the remaining 7 were for 'indicative' funding. The fact that over two thirds of applications circulated for consultation related to 'firm' or Year 1 applications supports the preceding analysis regarding the difficulties presented to the policy actors within the Rural Affairs Division by a multi-sectoral application pool and their own limited knowledge. Clearly, these actors wished to solicit the views of other Departments before coming to final decisions regarding the allocation of grant for the majority of 'Year 1' applications.

5.7.3 The Input of Consulted Departments

The combination of the multi-sectoral nature of the environment as a policy issue, (as reflected by the range of activities undertaken by applicants for funding), and the limited capacity of the administering Division to comprehensively assess the policy merits of each application, provided the rationale for circulating particular applications to relevant Departments within The Scottish Office. The practice had been endorsed by the 1992 review of the SGEP, but the Report of the review had stated:

> it is unclear the extent to which these assessments reflect the policy priorities of SOEnvD or those of the Department undertaking the assessment (McCulloch, et al, 1993a, p.4).

The potential for conflicting Departmental priorities to colour the views of consultees was a factor of which policy actors within the Rural Affairs Division were well aware. The Programme Administrator, speaking in 1992,[40] acknowledged that there were circumstances where other Departments and the Rural Affairs Division might be at cross-purposes as regards the merits of funding a particular application:

> Departments follow different agendas in as much as they may have contacts with a certain organisation which is applying to us for the first time. The consulted Department might have their own views on how good or bad the organisation are. But they look at the application from two viewpoints. Firstly, 'What is that application doing for us in our Department?'. Secondly, 'Is that following the objectives of Government's environmental policy?'. I'm not sure if that's their first consideration. In fact, I'm pretty sure its their second, after, 'Is that doing us any good?' (Hill, Interview, 11/10/92).

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[40] Interviewed within the context of the 1992 review of the SOEnvD's contribution towards the voluntary environmental sector.

The next sub-section confirms that that consultees did not always evaluate the merits of applications in terms of the extent to which they would contribute to Government environmental policy objectives. However, the consultation process generally provided valuable information to assist the administering Division in arriving at funding recommendations. This was particularly the case in relation to applications from organisations of which policy actors within the Rural Affairs Division had little or no knowledge. The Programme Administrator provided an example to illustrate the value of consultation in this respect:

> There's a big input for some organisations which we just don't have any particular brief on. Organisations which we don't have any contact with and no idea what they do. For instance, with one organisation, we effectively let the consulted Department decide whether they should be funded. *We wouldn't have let them decide on the amount of money to allocate because we'd have to look at that in terms of every other application.* In the end, the consulted Department said, 'We wouldn't support what they want to do', although they liked the organisation. So we said, 'Fine'. *We were doubtful about it anyway, but its nice to have somebody who knows better to actually confirm it* (Hill, Interview, 3/6/94, emphasis added).

From the above, it is evident that the Programme Administrator was prepared to exercise a degree of pragmatism in delegating responsibility for determining the funding suitability, or otherwise, of a candidate, if not in relation to the allocation of specific sums of grant awarded to successful applicants. Pragmatic considerations were also in evidence as regards the Division's consultations with Scottish Natural Heritage (SNH), another provider of funds to the voluntary environmental sector. The SGEP Administrator explained the nature of this relationship:

> We consult SNH. Not in the sense that we give them individual applications, but we have meetings to discuss what applications they're going to fund and what we will fund, because on a national level there are a lot of applications which could go to both of us. You've got to decide how to divide it. In one particular case, an organisation was asking for funding from four sources. Any one of the sources which decided to turn them down would make the project pretty much non-viable. SNH had doubts about the application and we had doubts about it. SNH decided they weren't going to fund the organisation. We said, 'Well, we didn't want to fund them anyway, but we'd have to think again if you were'........Its a domino effect (Hill, Interview, 3/6/94).

5.7.4 'Core' Application Consultation

As indicated in sub-section 5.7.2, circulating applications to Departments with policy expertise in applicants' areas of activity was a tool employed by policy actors in the Rural

Affairs Division in order to overcome their own limited ability to assess the policy merits of applications for funding from certain organisations. The benefits of this practice were significant. In particular, the feedback which these actors received as a result of the consultation exercise provided them with a platform from which to undertake a more systematic selection of applications for funding than would otherwise have been the case. However, the consultation process proved to be less fruitful from the Rural Affairs Division's perspective when it received responses from consultees who were apparently following their own Departmental policy agendas as opposed to that of the Programme. In such circumstances, the policy actors within the Rural Affairs Division faced something of a policy dilemma. On the one hand, they were keen to maintain a functioning relationship with the consulted Department lest, as was likely, the Division should require to call upon their expertise in relation to an application in a future round of the funding process. On the other hand, the policy actors within the Rural Affairs Division wished to avoid allocating funds to organisations if such funding would serve policy objectives other than those relating to the Programme. The following extract from a consulted Department's Minute to the SGEP's Administrator regarding an application for core funding conveys something of the policy nuances which the latter had to disentangle from responses:

> The applicant occupies a unique and pivotal position, both in the field of activity, and in relation to the Programme. It is the umbrella organisation for the field of activity, representing all interests and providing a vital link with comparable bodies in environmental conservation. It is unique, both through its involvement at grass roots level, and as the only forum in the field of activity where statutory bodies meet with the voluntary sector. It has a crucial role in the education field. It organises training courses....... which bring together statutory and voluntary organisational bodies. *It is important to the strategic aims and operational needs of our Department that the activities of the applicant are not curtailed.* (The consulted Department) strongly recommends that core funding at the level notified for 1992/93 should be given in 1993/94 and the following two financial years (Extract of Minute from Consulted Department A to Programme Administrator, 15/2/93, emphasis added).

From the above, it can be seen that the consulted Department, while making a strong case for core funding the cited applicant, was quite explicitly promoting the application's worth in terms of the Department's own policy agenda. This territorial approach to assessment was compounded by this particular Department's decision to recommend that this, and another four applications on which it had been invited to comment, receive the amount of funding which the applicants had requested. The consulted Department's failure to rationalise the bids drew a somewhat terse response from the Head of the Rural Affairs

Division who, in communicating with a more junior administrative colleague regarding the consulted Department's recommendations, wrote:

> This is unhelpful. The consulted Department are supporting *all* (emphasis in original) bids without differentiating, and those total £40,000 (about one sixth of total SGEP core support). I think this is poor value for money. *We will need to discuss tactics* (emphasis added) (Note from Head of Rural Affairs Division to SGEP Administrator, 22/2/93).

Consultation with other Departments regarding the suitability or otherwise of applications for funding generally tended to draw rather more helpful responses from the Rural Affairs Division's perspective. As discussed in the above, the Division valued the input of other Departments when they could provide insights as to the general funding suitability of organisations with which policy actors within the Rural Affairs Division were unfamiliar. Equally valuable, from the latter's perspective, was the input which Departments could provide regarding the 'fit' of applicants' aims and activities in relation to particular aspects of the Government's environmental policy. The following extract from a consulted Department's Minute in response to the Rural Affairs Division's request for information regarding an application provides an example of the type of objective feedback which served as a useful aid to the Division in the selection process:

> You posed a number of questions regarding the organisation's application for core funding.......There is no doubt that the aims of the organisation fit in with Government policy on developing and extending environmental education. The organisation, in fact, are highlighted in the Report of the Secretary of State's Working Group on Environmental Education,[41] as an important independent organisation who, among other activities, provide material on environmental education for use in schools. I am not aware of any other agency which has responsibility for this kind of activity. Bearing in mind that the organisation have never previously been awarded core grant under the SGEP, the Division recommend that on this occasion, grant be awarded to the organisation as per their application (Extract of Minute from Consulted Department B to Programme Administrator, 8/3/93).

Three elements contained within the above response illustrate its usefulness to the Programme Administrator in deciding whether to recommend the award of funding for this particular applicant. Firstly, the consulted Department was able to illustrate, through reference to a particular Government Report, the congruence of the applicant's aims in relation to Government's environmental education policy objectives. Secondly, the Department discounted the possibility that a more suitable candidate for funding was

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[41] Working Group on Environmental Education in Scotland (1993).

undertaking the same activities as the applicant organisation.[42] Thirdly, in highlighting that this would be the applicant's first grant award under the Programme, the wording of the consulted Department's recommendation that the funding be awarded 'on this occasion' suggested an objective assessment of the organisation's merits. As such, this was in contrast to the recommendations contained in the previously cited Minute.

5.7.5 'Project' Application Consultation

As illustrated by the preceding discussion, the practice of consulting other Government Departments provided useful information upon which policy actors within the Rural Affairs Division could base their decisions regarding the allocation of core (or latterly strategic) funding. However, the practice was arguably more useful to the Rural Affairs Division in relation to deciding which applications should receive project funding. There are two reasons for this. In the first instance (as discussed in sub-section 5.7.2) once initial 'Year 1' core funding had been granted, subsequent allocative issues tended to revolve around how much funding to provide in succeeding years. Consequently, policy actors within the Rural Affairs Division did not require to appraise the merits of an organisation in the same way during Years 2 and 3 of a funding block as they did when deciding whether to provide Year 1 core funding. Consulted Departments, when they were brought into the decision-making process by the Rural Affairs Division, were thus restricted (in theory)[43] to providing information as regards whether the applicant's activities remained in harmony with Government environmental priorities during years 2 and 3 of the funding block or whether other organisations could perform the same functions more efficiently and effectively.

The second reason that the consultation process was particularly useful to the Rural Affairs Division in relation to allocating funds, via the project category of the Programme, related to the specific characteristics of the category itself. The core (latterly strategic) funding mechanism presented the Rural Affairs Division with applications which could be assessed against fairly standard criteria. These included the 'fit' of applicants' activities with Government environmental policy objectives (as assessed by the Rural Affairs Division with the aid of the views of other Government Departments) and the capacity of applicants to deliver their stated targets in relation to grant (as assessed by the Rural Affairs Divsion through examination of, for example, these organisations' Annual Reports and Forward

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[42] Thereby illustrating that SGEP policy actors within The Scottish Office took account of the Home Offices'(1990) questioning in its Report as to whether Government Departments funded the best delivers of particular services within the voluntary sector.

[43] The previously noted example of Departmental feedback illustrates that this was not necessarily always the case in practice.

Plans). These criteria also applied in relation to assessing applications for project funding. However, in addition, applications for project funding were also assessed in terms of the largely technical[44] criteria of 'innovation' and the projects' capacity to exhibit 'demonstrable effect'. Consequently, an assessment of these additional criteria required expertise in the policy field to which a particular project related. The addition of these extra criteria therefore enhanced the importance of consulting other Departments in relation to assessing the suitability of projects for funding through the SGEP. This was due the limited policy expertise of policy actors within the Rural Affairs Division in relation to applicants' areas of activity.

Consulting other Departments within The Scottish Office provided the Rural Affairs Divison with valuable technical information as to the viability of a project which would otherwise have been unavailable to this official. For example, the following extract from a consulted Department's Minute to the SGEP Administrator reveals reservations within that Department regarding both the level of innovation and the centrality to Government policy objectives of a project involving reuse of scrap materials. The author of the Minute wrote:

> I am sure this is a worthwhile project in terms of creativity and the encouragement of creativity in children and adults......*However, I have misgivings about its credibility in environmental terms.* It seems to me that the project.... is merely delaying the entrance of the waste into the waste stream by transferring industrial waste into the household waste stream. In practical terms, it seems to me that the "creative use" of the scrap by, for example, children, is, at some stage in the not too distant future, likely to find its way into the dustbin. I agree that the project will result in the "reuse" of scrap material but could not describe it as recycling. *I cannot see how this would benefit the environment.*
>
> *I cannot say whether the idea of a store is innovative, but I understand that it is not uncommon for, for example, play-groups to make use of scrap metals for the purposes described.*
>
> Consequently, *I do not feel this is in the spirit of the Government's policy on recycling* and *I do not consider this to be an efficient, economical or effective use of taxpayers money under the environmental flag* (Extract of Minute from Consulted Department C to Programme Administrator, 18/2/93, emphasis added).

Consultation with another Department regarding a different application from a separate organisation provided a sceptical assessment of the technical validity of a proposed project. The Department considered that:

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[44] 'Technical' in the sense that there were often specific processes associated with proposed projects which required specialist expertise to enable a full assessment of their environmental viability to be undertaken (see Minute extracts C and D cited in this sub-section for examples).

This project appears to be misconceived. There is no explanation as to how a hatchery could contribute to a scheme to monitor or improve water quality or inform the public. Restocking should not be done without the authority of the local district Salmon Fishery Board - and then only in very restricted circumstances. If there is not, then natural restocking by migratory fish entering the river is likely. Recommend application is graded 0[45] (Extract of Minute from Consulted Department D to Programme Administrator, 28/2/92).

Examination of another inter-Departmental Minute indicates a degree of pragmatic flexibility to also have been at play in terms of assessing the worth of particular proposals, as the following extract reveals:

Project consistent with Government aims and objectives. However, some complications:

1. *Similar project proposed for grant last year. Rejected on grounds of not being innovative.* 2. Applicant Organisation unlikely to be able to put any of own resources into the programme.

Our funding should be conditional on Scottish Enterprise involvement and the attraction of contributions from other non-Central Government sources. Subject to the views of other Government Departments who also have an interest in recycling, I would attach high priority to an offer of support and suggest you offer £X thousand initially, with the prospect of some additional support if it proves impossible to attract sufficient funding from other sources. High priority (Category 3) but subject to caveats about other funding sources (Extract of Minute from Consulted Department E to Programme Administrator, 26/2/92).

The comments contained in the above extracts of inter-Departmental Minutes provide an insight into the type of information which the SGEP's Administrator, in particular, used to determine the suitability of a project for funding. However, they also reveal a distinct lack of innovation among the submissions, and in one case, serious doubts about the technical rationale for a particular project. The evidence contained in these extracts conflicts with the assertion (made in the 1992 review of the SGEP) that there was a lack of understanding within The Scottish Office regarding the concept of innovation. Comments made in two of the above cited Minutes illustrate that the actors who wrote them were quite clear as to the innovative merits of the applications which they were assessing. Indeed, the response in the last Minute cited in the above explicitly specified that the project was not innovative but advocated funding in any case. In explaining this, the Programme Administrator suggested that there were limits to the rigour with which the criteria of innovation could be applied to project proposals for funding:

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[45] O = 'Not a Priority'; 1= 'Low Priority'; 2 = 'Medium Priority'; 3 = 'High Priority'.

There are only so many innovative projects that you're going to get, because an innovative items only innovative until somebody does it and eventually you're going to run out of innovative things to do. Its always a subjective evaluation. You can always say, 'Well, this is a bit more innovative than that one', but few things are going to be truly innovative (Hill, Interview, 3/6/94).

As was the case with the decision-making process regarding the allocation of core funding, the feedback which policy actors within the Rural Affairs Division received from consulted Departments provided them with a wider frame of reference in recommending the allocation of project funds than would otherwise have been the case. In particular, information regarding the technical validity, degree of innovation and fit of project proposals in relation to Government environmental policy all played a significant part in the Division's deliberations as to which applications to recommend for funding. In addition, examination of the Card Index System regarding 1992/93 applications for project funding illustrates that other factors also contributed to these deliberations. These included: whether reference was made to an aspect of Government environmental policy to which the proposed project was relevant;[46] the eligibility of a proposal under the terms of the funding category;[47] and, the extent to which the proposal had been well-constructed in terms of its methodology.[48] By evaluating proposals on the basis of these criteria, and through consideration of inter-Departmental feedback, the Programme Administrator, in particular, was able to arrive at recommendations for funding which would be put forward to the Head of the Rural Affairs Division for approval and then submitted to the Environment Minister for final approval.

5.8 Monitoring Funded Organisations' Progress Towards Their SGEP-Related Targets

Having decided which applicants to fund, and once Ministerial authority had been granted to make awards, the chief remaining implementation task for the Rural Affairs Division was the inter-organisational one of monitoring funded organisations' progress in relation to their set targets. This, in turn, was undertaken by the Programme Administrator through an approach in which elements of pragmatism and flexibility were evident. Thus, for example, a core (or latterly, strategically) funded organisation which did not manage to achieve its set

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[46] A project proposing to create a cycle-path was funded on the strength of the 1990 White Paper, 'This Common Inheritance:Britain's Environmental Strategy', promoting sustainable transport.
[47] Reviewing a proposal to employ a part-time member of staff to investigate issues of relevance to the applicant organisation's remit, a SGEP Administrator wrote, 'This looks like an on-going thing. Not really a project. (e.g., could you say it had been completed?)'.
[48] Referring to a particular application, the Administrator had written, 'No accounts, they're sending them down. Application form doesn't really explain *how* they'll do these things. Not keen. Consult (Department)'.

targets during the specified period would not necessary have its following year's grant withdrawn (providing it was not at the end of its funding block), despite that course of action being one that was available for The Scottish Office to adopt. The Programme Administrator explained the rationale for the approach adopted within the Division in relation to monitoring organisations' progress:

> Its unrealistic to expect 100% compliance with targets because organisations are always going to say they can do more things in order to get funding. Things may change. They may not get the other matching source of funding. We would be looking at effort. We would worry if an organisation got the funding and then sat back and relaxed. But if an organisation genuinely wanted to do something and thought it could do so with the funding but only met, say, 3 out of 6 targets and made substantial progress towards the other three, then we wouldn't be entirely worried. If there were extenuating circumstances. If the organisation couldn't get money from another source or they didn't reach targets because somebody left them, we wouldn't be too worried. If an organisation failed very heavily on all 6 targets, then we would look at why they weren't meeting the targets. The targets are inflexible in that we want to produce them, *but if the organisations don't produce them, we can be flexible in our response in evaluating why they didn't make it, depending on the circumstances.*
>
> **When you say 'effort', what do you mean?**
>
> If an organisation has performed well in respect to sending everything in on time, they've done a good report, they've obviously had people working hard on it trying to get things done, yet still failed.....Or if things are sent back to you as evidence that shows that they've tried (Hill, Interview, 3/6/94, emphasis added).

The approach outlined by the SGEP Administrator in the above contained similarities to that adopted by case-study River Purification Board policy actors when deliberating over possible courses of action to take in relation to pollution offences. As with policy actors within the regulatory agency, the SGEP Administrator would look for evidence of mitigating factors outwith the organisation's control and evidence that it had made a genuine effort to achieve its targets before resorting to the ultimate sanction of withdrawing the recipient's funding.

5.9 Conclusion

From the analysis contained in the preceding sections of this chapter it can be seen that the apparently straightforward task of allocating SGEP funding so as to secure environmental improvement was, to borrow Pressman and Wildavsky's (1973) phrase, 'complex and convoluted'. In part, this complexity was attributable to the diverse nature of the voluntary environmental sector. As was explained in section 5.4, it was this feature which made it

disadvantageous for The Scottish Office to formulate environmental policy objectives with regard to the sector which were more specific than those previously discussed: encouraging involvement and 'stake-holding' in the environmental policy process; facilitating environmental education via dissemination of environmental information and increasing environmental awareness; providing a forum for debating environmental issues; and enabling Government to fulfil aspects of its statutory obligations. These objectives were, in turn, designed to contribute to the policy's overall objective of securing environmental improvement.   Faced with the task of securing these broad objectives, the intra-organisational decision-making process undertaken within The Scottish Office to allocate funds therefore represented something of a moveable feast.   At the heart of this decision-making process lay the interactions between the Programme Administrator and policy actors within consulted Departments. In the absence of clearly defined and formally stated policy priority areas, the allocation of core (latterly strategic) and project funding depended largely upon the judgement of the Programme Administrator as to the fit between applications and Government environmental policy objectives.   In turn, this judgement was reinforced to a greater or lesser extent by feedback from consulted Departments as to the merits of funding particular applicants.   The impact of the interaction between the Programme Administrator and policy actors within consulted Departments in shaping the policy implementation process at the allocative stage is discussed in more detail in the concluding chapter.

As the earlier discussion in relation to the replacement of core with strategic funding highlighted, the majority of organisations awarded strategic funding had previously been in receipt of core funding for 4 years or more.   The establishing of the strategic funding category may therefore be viewed as fulfilling the function of making *explicit* factors which policy actors within The Scottish Office had *implicitly* considered during the process of allocating SGEP funding under the previous core category.   These factors included: whether the applicant organisation was responsible for co-ordinating activity in a sphere of environmental policy on a national basis (as was the case with 9 of the 14 organisations which had received continuous core funding throughout the first 6 years of the Programme's operation); and whether the organisation fulfilled a statutory obligation on behalf of Government (as was the case with the Royal Society for the Protection of Birds which was continually core funded, (and latterly strategically funded), between 1987 and 1994.   Other considerations revolved around the merits of funding large scale, but more 'generalist', voluntary environmental organisations (The merits of so doing were generally

viewed by policy actors within the Rural Affairs Division as being high[49]). As such, the reconfiguring of the SGEP in 1993, to create both a strategic and an extended project category, signalled an effort on the part of The Scottish Office to clarify its distributive environmental policy objectives as pursued in relation to the voluntary environmental sector through the Programme. The impact of this reconfiguration on the case-study policy implementation process provides one focus for the next chapter as the analysis turns to examine the part played by SGEP-funded organisations in that process.

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[49] Such funding had enabled Government to fulfil the general policy objective of assisting the sector to involve people in environmental improvement work through the SGEP's contribution towards the core costs of organisations which used volunteers. However, it was the proposed strategic funding of these organisations which had led The Scottish Office to consult them in order to establish what their strategic contribution towards Government environmental policy would be (as discussed in sub-section 5.6.2).

SGEP-Funded Organisations and The Scottish Office's Distributive Environmental Policy

6.1 Introduction

Section 5.4 of chapter 5 explained that the case-study distributive environmental policy as implemented via the SGEP was designed to contribute towards Government's long term policy objective of sustainable development by pursuing a range of associated objectives - encouraging 'stake-holding' in the environmental policy process, facilitating environmental education, providing a forum for the debate of environmental issues, and, enabling Government to fulfil statutory functions - while at the same time pursuing the 'generic' objectives of providing organisations with 'pump-priming' funding and ensuring that organisations delivered 'value for money' in their use of funding. Chapter 5 also explained that The Scottish Office sought to achieve these policy objectives by engaging the voluntary environmental sector in a process of partnership. The Scottish Office's perspective on its role in this partnership was relatively unambiguous involving the allocation of funds to voluntary environmental organisations which it judged to be best equipped[1] to implement the objectives outlined in the above. However, as this chapter reveals, The Scottish Office's unambiguous perspective regarding its role in the partnership was not necessarily mirrored by funded organisations' perspectives as to their role in the policy implementation process.

6.1.1 Chapter Structure

The chapter adopts the following structure in order to examine the part played by SGEP-funded organisations in the implementation of the Government's distributive environmental policy. Section 6.2 analyses the perceptions of funded organisations as to the objectives of the case-study policy. It does this in two ways. Firstly, by examining the perceptions of SGEP-funded organisations (interviewed in 1992[2]) as to The Scottish Office's expectations of them. Secondly, by examining the perceptions of funded organisations (interviewed in 1994[3]) regarding the objectives of the case-study policy as implemented via the SGEP.

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[1] On the basis of the criteria discussed in section 5.7 of chapter 5.

[2] Individual interviewees from the 1992 sample are distinguished through the allocation of a specific number to each when cited in interview extracts within the text (e.g. Organisation 1, etc.).

[3] Individual interviewees from the 1994 sample are distinguished through the allocation of a specific letter to each when cited in interview extracts within the text (e.g. Organisation A, etc.).

Section 6.3 goes on to consider the impact of the broad nature of the policy's objectives upon organisations' approaches to constructing applications for funding prior to the reconfiguring of the SGEP's funding categories in 1993. Section 6.4 considers the influence of The Scottish Office's patronage, both directly (via SGEP funding), and indirectly (via the support of Departments consulted by the Rural Affairs Division in the course of allocating SGEP funds), upon funded organisations' activities. Section 6.5 discusses the impact of the introduction of new SGEP funding categories in 1994/95 upon the implementation process from the perspective of recipient organisations. Finally, section 6.6 summarises the main points made in the analysis contained within this chapter.

6.2 SGEP-Funded Organisations' Perceptions
of the Case-Study Policy's Objectives

From the perspective of The Scottish Office, SGEP-funded organisations were active partners in the pursuit of the environmental policy objectives outlined in the previous section. That this was the case was illustrated by the rationale for the application of the policy instrument itself. In return for receiving funding under the auspices of the SGEP, organisations were expected by Government to undertake activities in a manner consistent with the achievement of its policy objectives. Section 5.4 of chapter 5 explained that the broad nature of the policy objectives which The Scottish Office pursued via the policy instrument of the SGEP was a reflection of the multi-sectoral activity collectively undertaken by voluntary environmental organisations. These broad objectives were advantageous to SOEnvD in that they enabled it to extend the concept of partnership with the voluntary environmental sector so as to include a wide range of organisations and their associated environmental activities in that partnership. Paradoxically, however, the broad nature of the SOEnvD's distributive environmental policy objectives made it difficult for its partners in the implementation process - SGEP-funded voluntary environmental organisations - to discern with any degree of certainty what their precise role in that partnership was supposed to involve. That this was the case is illustrated by the responses of all 43 organisations in receipt of SGEP funding[4] in 1992/93 to the question, 'What do you think the Scottish Office Environment Department expects of organisations such as your own?'.[5] Of these respondents, only the representatives of 13 of the organisations (30%

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[4] Sample includes both core and project funded organisations in 1992/93.
[5] This was an 'open' question asked to all 43 of the SGEP-funded organisations individually in interview during the data collection process undertaken for the SGEP component of the 1992 review of The Scottish Office Environment Department's contribution towards the voluntary environmental sector (McCulloch, et al, 1993a).

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of the sample) were able to identify what they perceived the SOEnvD's expectations of their organisations to be. These perceived expectations are detailed in table 6.1

Table 6.1 SGEP Funded Organisations' Perceptions of SOEnvD's Expectations of Them (1992/93)

	PERCEIVED SOEnvD EXPECTATION							
	Practical Conservation[6]	VFM[7]	Pump-Priming[8]	Volunteering[9]	Info for policy process[10]	Coordinate activity[11]	Raising Public environ awareness[12]	Symbolic value of funding organisation[13]
1		*		*				
2			*					
3		*		*				
4					*			
5					*			
6						*		
7						*		
8					*	*		
9	*							
10						*	*	
11						*	*	
12								*
13				*			*	
Total	1	2	1	3	3	5	3	1
Base = 13								

Source: Scottish Office - Internal Documentation

The fact that less than one third of representatives of organisations in receipt of SGEP funding in 1992/93 were able to identify what the SOEnvD expected of their organisations suggests a distinct lack of clarity on the part of voluntary organisations as to the nature of the partnership through which Government was attempting to implement its distributive policy objectives via the SGEP. This impression is reinforced by the spread of responses provided by the representatives of the 13 organisations who were able to identify what they perceived SOEnvD expectations to be regarding organisations like their own. A number of

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[6] That organisations undertake activity leading to practical conservation.
[7] That organisations provide value for money in their use of SGEP funding.
[8] That organisations use SGEP funding as a 'pump-priming' mechanism to access funding from other sources.
[9] That organisations undertake environmental improvement activity through the use of volunteers.
[10] That organisations provide information which contributes to the environmental policy process.
[11] That organisations undertake the co-ordination of environmental activity within the voluntary environmental sector.
[12] That organisations undertake activity leading to increased environmental awareness on the part of the public.
[13] That organisations provide SOEnvD with symbolic value in terms of the implementation of its environmental policy.

these perceived expectations - encouraging volunteering, raising public environmental awareness, pump-priming through core funding, and ensuring value for money for allocated financial resources - were in line with the policy objectives identified as those of the case-study distributive environmental policy in section 5.4 of chapter 5. However, the fact that only a minority of respondents[14] detailed in table 6.1 cited any one of these perceived expectations suggests a lack of clarity on the part of SGEP-funded organisations as to the case-study distributive policy's objectives and their part in the implementation of these objectives. This view is reinforced by interview comments made by a number of representatives of recipient organisations during the collection of data for the 1992 review of the SGEP. The Assistant Director of one organisation suggested that there was a lack of strategic oversight emanating from SOEnvD in relation to the policy:

> Its not always very clear what the Scottish Office Environment Department is trying to achieve.....There's no feel of real, coherent strategy. I sometimes wonder how much they're reacting to what we're putting forward. You know, there's a strategy to have an environmental strategy. But I'm not sure that they're certain what the focus of that strategy is (Organisation 1, Interview, 18/11/92)

The Director of another funded organisation also noted what he perceived to be a lack of strategy in relation to the policy's implementation. He stated:

> We have no real sense of a Scottish Office 'plan' regarding the voluntary environmental sector. There's no real mechanism for feedback as to Scottish Office expectations......We are at a door, a hand comes out and gives us money, but we never get in the door (Organisation 2, Interview, 12/11/92).

The above comment suggests a lack of engagement on the part of The Scottish Office in relation to the voluntary environmental sector and to funded organisations regarding the objectives which Government wished these organisations to achieve as a result of funding. The impression that the case-study policy lacked clarity in terms of its objectives was further reinforced by a senior administrator within another SGEP-funded organisation, who stated:

> There are Civil Servants in The Scottish Office who are going through a bureaucratic process of dishing out funding to organisations such as ours.....*as long as you put the right sort of words down, they still dish out the funding.....I don't sense from their point of view that they're particularly bothered about what we're doing* (Organisation 3, Interview, 5/11/ 92, emphasis added).

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[14] A minority of a minority when viewed within the context of the entire sample of 43 organisations.

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Analysis of data collected for this thesis in 1994 does not suggest that the replacement of the categories of core and 'one year' project funding with those of strategic and 'one to three years' project funding had led to a significant clarifying of the case-study distributive policy's objectives from the perspective of funded organisations. Of the representatives of 10 funded organisations interviewed in 1994, only 5 provided positive responses[15] to the following 'open' question, 'What do you understand the objectives of the Scottish Office Environment Department's distributive environmental policy, as implemented via the SGEP, to be?' However, all of the 5 respondents who were able to provide a positive response in identifying the objectives of the case-study policy couched their answers in terms of the policy objective(s) that they considered *their organisation* to be fulfilling on behalf of Government, as opposed to what the various objectives of the policy were per se.

Of these 5 respondents, 3 suggested that they owed their status as strategically funded organisations to their ability to undertake co-ordinating functions in relation to the voluntary environmental sector. One respondent suggested that SOEnvD valued their organisation's capacity to encourage linkages between the environment as a policy issue and other areas of public policy:

> Certainly what we understand, in relation to our grant, is that they are looking for us to help bring together the non-environmental sector to look at environmental issues and to provide a framework to bring together communities to address environmental issues.....So I see their grant funding our general activities on the basis that there are elements of those activities which will impact on the environment (Organisation B, Interview, 19/9/94).

The view that Government valued the ability of organisations to link environmental issues into other sectors of activity was also put forward by another respondent as a reason for SOEnvD strategically funding their organisation through the SGEP. This respondent stated:

> I think that The Scottish Office Environment Department has an interest in funding our organisation in particular because we have a perspective that's perhaps slightly different from some of the other organisations in receipt of core grants. In particular, our perception of the environment is in its broadest sense. Its something that impacts upon the social side of things and really that's the message that has to be put across. Obviously, a lot of organisations are doing a good job in talking to converted environmentalists out there, but there is a big need to get that message spread further and wider......So I think that The Scottish Office sees that we have an important role to play in that (Organisation H, Interview, 29/9/94).

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[15] In that these respondents were able to identify objectives which they perceived the policy to be pursuing.

While the afore-mentioned interviewees perceived their organisations' funding to be based upon their ability to integrate environmental considerations into other areas of activity within the voluntary sector, the representative of another organisation perceived Government to value a different co-ordinating function as a basis for its allocation of funding. In particular, this respondent suggested that The Scottish Office viewed the organisation as an effective mechanism for transmitting views to Government from within the sector as regards particular policy issues:[16]

> In terms of our organisation, what we did sense years ago was wanted, was a one-door entry to the voluntary sector. The Scottish Office could perceive that there were a lot of groups out there, and that it would be easier for them if they get a one-door entry. It would save them a lot of effort......So that's one of the things that we perceived that they wanted; a clear picture of where the voluntary sector was and where they could get at it. And I think we fulfil that purpose. (Organisation G, Interview, 6/10/94).

Another interviewee echoed the view that funding particular organisations enabled The Scottish Office to solicit opinion within the voluntary environmental sector about policy issues. However, this respondent also suggested that there was a symbolic element associated with this practice:

> I think there's a recognition now that the voluntary sector can reach parts that Government agencies or Government Departments actually cannot reach. And that by supporting aspects of that work, particularly strategic aspects, The Scottish Office can ensure that they're getting feedback which they may, or may not, take account of. It actually ensures that they do get a broad view of implications of policy change.....I suppose The Scottish Office's funding of us gives them the opportunity to say, 'We're supporting you. This is your opportunity to tell us where we're going wrong. But you needn't expect us to necessarily take notice of what you're saying' (Organisation I, Interview, 26/10/94).

The symbolic element to which the above comment alluded was also highlighted by another respondent who, while suggesting that their particular organisation was SGEP funded by virtue of the fact that no other organisation undertook similar work in Scotland, suggested:

> Central Government has to be seen to have a policy on the environment and only by giving a certain amount of money, albeit small amounts, can they say that they are helping their policy to be implemented (Organisation C, Interview, 26/9/94).

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[16] The value to Government of the co-ordinating functions undertaken by voluntary environmental organisations is discussed in more detail in Macleod and McCulloch (1996).

The representatives of the remaining five organisations in the 1994 sample were unable to identify the objectives which SOEnvD was pursuing through the implementation of its distributive environmental policy via the SGEP. One respondent attributed that to what the policy actor considered to be the vague nature of these objectives, stating:

> I get a much better idea of what SNH want with their programme *because you have to relate more specifically to their objectives than you do with the Scottish Office Programme.* With The Scottish Office, its not so obvious. You don't really know what they're trying to do. Obviously, you hear in the news what Government at the top level wants to do but that doesn't really filter down to us in terms of what we're supposed to be doing...... Generally, you don't get an idea of the wider thing. You see the specific questions and you feed what you're doing into those questions (Organisation F, Interview, 5/10/94, emphasis added).

From the preceding analysis, it can be seen that the majority of SGEP funded organisations surveyed in 1992 lacked a clear understanding of the objectives of the Government's distributive environmental policy as implemented through the SGEP. In part, this was a reflection of The Scottish Office's lack of priorities for funding in relation to the policy's implementation[17] (this absence of priority areas itself being a product of the broad nature of the policy's objectives). A similar lack of clarity in relation to the policy's objectives is discernible when considering the responses of SGEP-funded organisations surveyed in 1994. Representatives of 5 of the 10 funded organisations who were interviewed were unable to identify objectives which the case-study policy was intended to achieve, and the 5 respondents who provided a positive response identified only particular objectives which they considered their own organisations to be fulfilling on behalf of Government via Programme funding. This latter finding, in conjunction with the previously cited survey evidence in this section, suggests that a number of organisations were able to discern the objective(s) which SOEnvD's wished to achieve in funding them *after* the allocation of grant. However, the paucity of policy reference points made it difficult for all organisations to construct applications which made them sufficiently attractive candidates for grant to secure them 'firm' funding for Year 1 of a funding block[18] and subsequent 'indicative' funding. Therefore, the next section examines how organisations overcame such difficulties as the chapter considers factors which influenced the construction of applications for core and project funding.

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[17] A failure highlighted in the 1992 review of SOEnvD's contribution to the voluntary environmental sector (McCulloch et al, 1993a).

[18] Securing Year 1 funding was the key aspect of an application for the reasons discussed in sub-section 5.7.2 of chapter 5.

6.3 Constructing Applications

6.3.1 Core Funding Applications

In the absence of environmental policy objectives more specific than those discussed in section 6.1, prospective recipients of SGEP core and project grants were compelled to adopt an approach to constructing applications which the representative of one SGEP-funded organisation described as 'fruit-machine fund-raising'.[19]   Other than the four categories of eligibility discussed in section 5.4 of chapter 5, organisations were bereft of explicit policy reference points upon which to base their applications and reinforce their individual cases for core funding.   The difficulty which this presented to applicant organisations was most apparent in relation to their efforts to secure 'firm' Year 1 funding. As section 5.6 of the previous chapter illustrated, the likelihood of failing to secure 'indicative' funding during Years 2 and 3 of the block was negligible. This was due to the change in emphasis in policy actors within the Rural Affairs Division's assessments of applications during Years 2 and 3, when they moved from evaluating *whether* funding particular organisations contributed to Government policy objectives, to evaluating the *efficiency and effectiveness* of these organisations' contribution to Government policy objectives. Therefore, in attempting to negotiate the initial hurdle of securing 'firm' Year 1 funding, applicant organisations had to illustrate to the Rural Affairs Division that they constituted suitable candidates for funding through the Programme.

Some organisations were able to undertake this task with more confidence than others. For example, as noted in section 5.6.1 of chapter 5, one organisation undertook a particular statutory function on behalf of Government which made them an obvious priority (from the Rural Affairs Division's perspective) for core, and latterly strategic, SGEP funding. The task of 'selling' themselves in their initial applications as attractive funding propositions was also easier for national organisations which could demonstrate that they were organisations performing a particular function in the voluntary environmental sector which was of importance to Government. The representative of one funded organisation illustrated how the organisation approached this task:

> We try to sell a networking information service and integration within the voluntary environmental sector because we think its important, not just for the sector, but also for Government Departments....We sell the fact that our Members value us and that

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[19] This comment was made in the course of a 'round-table' discussion involving SGEP-funded organisations during the data collection stage of the 1992 review of SOEnvD's contribution towards the voluntary environmental sector.

we're getting people together to discuss how to go about things together rather than separately (Organisation G, Interview, 6/10/94).

For other organisations, the task of selling themselves as attractive candidates for funding was based upon providing Government with exclusive access to particular sub-sectors within the voluntary environmental sector. The Director of one national voluntary organisation explained how this worked in relation to that particular organisation:

> We're the only organisation in the voluntary environmental sector who have access into organisations with an interest in this sector. So The Scottish Office can say that they're covering this side of the voluntary environmental sector by funding us (Organisation I, Interview, 26/10/94).

While organisations such as those cited in the above may have had characteristics which made them particularly viable candidates for SGEP funding, applicants nevertheless frequently resorted to moulding their applications for funding to include factors which they perceived would strengthen their case for grant allocation from the perspective of the Programme's Administrators. These included attempting to illustrate how a particular organisation's activities could contribute to environmental policy objectives, as stated in Government publications, and incorporating key words and phrases which reflected the language and emphasis of Government environmental policy. The Director of one organisation explained how that organisation had approached the task of moulding its applications for core funding:

> There are very few objectives within the voluntary sector part of the white paper,[20] so you make sure you address those objectives that are cited. And you use the set words, *partnership, liaison, etc., etc.,* (Original emphasis).......When I look back at some of the things we used to put into the applications I am stunned that they were accepted. They were wishy-washy and unprofessional (Organisation I, Interview, 26/10/94).

For one funded organisation, what it felt to be the somewhat intangible nature of its core activity of raising environmental awareness presented a challenge with regard to making its functions fit with what it perceived to be the objectives of the case-study policy. One of the organisation's administrators outlined the problem (by no means exclusive to the SGEP) which the issue raised in putting together the organisation's application for Programme core funding:

> One has to try and find ways of addressing what you want to do in any application. There are all these buzz-words that you want to get across......Filling out the

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[20] The interviewee was referring to *'This Common Inheritance: Britain's Environmental Strategy'*, published in 1990.

application forms one always has a difficulty trying to speak in language that one perhaps wouldn't use oneself to describe the activity that we are doing. To try and make it fit in the strictures of the application form.....Our work is less tangible in a lot of ways and it cuts across areas of work which are quite difficult to pigeon-hole as rural issues or urban issues or a land use issue, or whatever. *So for us, its an issue of creative use of language to try and say that what we're doing here is actually creating an awareness of land use or promoting awareness of rural issues* (Organisation H, Interview, 29/9/94, emphasis added).

Not all organisations were as studied as the organisations cited in the preceding interview extracts in their approach when applying for core funds through the Programme. One representative of a funded organisation claimed that its application had not been constructed to suit any particular policy agenda which it may have perceived the Programme to have been pursuing:

> We just chucked everything in and hoped for the best and hoped that by firing all those various different things at them something would hit (Organisation E, Interview, 5/10/94).

While, on the one hand, such an approach might reinforce the image of 'enthusiastic amateurism' which has been attributed to the voluntary sector,[21] on the other, it reflects the difficulty which organisations had in shaping their applications to meet the objectives of a policy which lacked specific reference points upon which to base an application. As sub-section 5.6.2 of chapter 5 indicated, this obstacle was reduced to some extent with the establishment of themes[22] which were to be given priority during the 1994/95 round of grant allocation. Prior to their establishment, however, applications for core funding were directed towards a Programme with what a number of applicant organisations considered to be vague objectives.[23]

6.3.2 Project Funding Applications

The main value of the SGEP to funded organisations related to its allocation of core funding, which was traditionally viewed by voluntary organisations as more difficult to attract from funding bodies than project funding. This difficulty in attracting core funding in comparison to project funding is reflected in tables 6.2 and 6.3. These figures highlight sources of core funding and project funding for SGEP-funded organisations in 1992.

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[21] Representative of Organisation 1 (Interview, 18/11/92).
[22] 'Environmental education', 'bio-diversity', and 'sustainable development'.
[23] The interview extracts cited in the previous section of the chapter are indicative of funded organisations perceptions that the case-study policy's objectives were vague.

Table 6.2 Other Sources of Core Funding for SGEP Core Funded Organisations (1992/93)

Source	% Currently receiving Core funding from.	% Received Core funding from in past.
Charitable Trusts	44	49
Local Authorities	51	46
Business Community	24	34
Local Enterprise Companies	10	12
Scottish Office (not SOEnvD).	10	7
Scottish Conservation Projects Trust	2	2

(Base = 41)

(Source: McCulloch et al, 1993a)

Table 6.3 Other Sources of Project Funding for SGEP Project Funded Organisations (1992/93)

Source	% Currently receiving Project funding from	% Received Project funding from in past
Local Authorities	67	42
Business Community	83	58
Charitable Trusts	58	25
Local Enterprise Companies	67	25
Scottish Office (Not SOEnvD)	25	0

(Base = 12)

(Source: McCulloch et al, 1993a)

The Government's recognition of the difficulty which organisations experienced in generating core funding, as opposed to project funding, was reflected in the relatively small amount of funding which the SGEP allocated to the voluntary environmental sector through its project category in comparison to its core funding category.[24] As discussed in section 5.5 of chapter five, project funding was intended by Government to contribute to the achievement of its environmental policy objectives by prioritising the allocation of grants to applicants whose project proposals met the criteria of innovation and demonstrable effect. However, the importance which the Programme placed upon the criteria of innovation presented particular difficulties for organisations applying for project funds. In this context, applicants experienced problems in reconciling the Programme's emphasis on innovative

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[24] See Appendix 12 for examples of this difference.

projects with their own views as to the wider merits of developing particular projects within their sectors of operation. The Director of an organisation which had received SGEP project funding in the past explained the nature of the dilemma:

> Its difficult when you've got something that may not be that different from other projects, but you know its good and needs to be done. Trying to find something that's novel just for the sake of a grant isn't really such a good idea.....It's difficult being innovative on demand. Coming up with a good idea that fits in specifically with a grant programme's criteria is quite difficult to do (Organisation A, Interview, 30/9/94).

The difficulty in generating 'innovation on demand' was further highlighted by another interviewee. This respondent also emphasised the potential tension between accommodating the Programme's criteria of innovation while at the same time undertaking projects which an applicant organisation considered to be of environmental benefit. This is indicated in the following interview exchange:

> **Is it difficult to constantly come up with something innovative?**[25]
>
> It is because we're beavering away on getting access to the countryside and things like that.....Basically, we are creating an infra-structure which should be fairly fundamental as far as our society is concerned. So its not something that's completely new. Its something that should be there anyway. That's the difficulty.
>
> **Does that become a problem?**
>
> It did last year in that the SGEP Administrator gave me a ring and said, 'I'm sorry, we're not going to give you any money this year because we've given you money for the last two years and you've not come up with anything special'. *So I did feel the pressure then, for the first time, to find something new for him* (Organisation C, Interview, emphasis added).

The difficulty associated with the need to show evidence of innovation in a project funding application was an important one in view of the symbolic value which an award of this nature could have for the prospects of successfully completing a project. The Director of Organisation C explained:

> The Scottish Office is a catalyst organisation because, once The Scottish Office say they are coming into a project, it immediately gives the project a better profile. Then we can go along to other organisations and say, 'The Scottish Office are putting £5000 in to this project for administrative or volunteer costs. How about coming up with money for materials and so on?'. There's certainly a symbolic element, particularly with volunteer projects (Organisation C, Interview, 26/9/94).

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[25] The chapter contains interviewer's questions in bold throughout the chapter when they are included as parts of interview extracts.

The preceding discussion has highlighted the difficulty in relation to the construction of applications for core funding which organisations encountered, as well as discussing ways in which they attempted to resolve such difficulty. These difficulties involved a lack of reference points as to policy priorities in relation to the SGEP. Organisations efforts to resolve this difficulty involved emphasising aspects of their remit which they perceived to be important to Government, couched in language which they hoped would make them appear more favourable candidates from the point of view of the Rural Affairs Division. It is evident that organisations applying for project funding through the Programme also encountered difficulties, although these were of a different nature. In particular, the SGEP's emphasis on innovation in relation to project proposals was viewed by applicants as a constraint upon their ability to secure funding for projects which they considered to be of value in relation to their sectors of activity. An organisation's success or otherwise in relation to securing SGEP funding was largely based upon The Scottish Office's assessment of information contained within their application forms. However, as section 5.7 of chapter 5 illustrated, the support of consulted Departments could also be an important factor in the allocation of funds. The next section examines the influence of The Scottish Office's patronage from the perspective of funded organisations. In particular, the analysis considers impacts of direct patronage through the allocation of funds and indirect patronage in the form of endorsements of support from consulted Departments.

6.4 The Influence of Patrons

Section 5.6 of the previous chapter outlined the intra-organisational decision-making process as regards the allocation of SGEP funding and discussed the contribution of consulted Departments within The Scottish Office in that process. In the course of that discussion, it was illustrated that policy actors within the Rural Affairs Division generally found the input of consulted Departments to be of value in the allocation process as it provided those actors with a wider perspective on the merits of funding particular applicants than would otherwise have been the case. It also emerged from the discussion that on occasion policy actors within the Rural Affairs Division perceived consulted Departments to be following policy agendas other than that of the Programme. In such circumstances, these actors was less receptive to the recommendations of consultees than was the case when they perceived Departments to be objectively evaluating applications on the basis of whether they contributed to the case-study policy's objectives. This intra-organisational decision-making process exemplified both the importance to policy actors within the Rural

Affairs Division of consulting Departments and the type of judgements which these actors had to make in evaluating consultees' responses and recommendations. In addition, the discussion of the intra-organisational dimension of the allocative process also illustrated the potential value to applicant organisations of patronage on the part of consulted Government Departments.

As was evident from the analysis undertaken in section 5.7 of chapter 5, not all applicants for core or project funding enjoyed the support of consulted Departments within The Scottish Office.[26] However, evidence from the interview extracts cited in that section indicates that certain organisations would have their applications assessed in a favourable light by consulted Departments. The Director of one funded organisation explained that this had been her experience in submitting the organisation's application for core funding:

> I think that any push forward for us came from the Planning Department. That was my understanding. That we should be looked at reasonably favourably by the Planning Department.......Which ties in completely with the work that we do here as its planning orientated. (Organisation D, Interview, 30/9/94)

From both the above comment, and the previous discussion regarding the limited environmental policy expertise of actors within the Rural Affairs Division, it can be seen that securing the support of particular consulted Government Departments enhanced the prospects of an organisation's application being successful. However, as indicated in the preceding, a consulted Department's support did not necessarily guarantee that funding would be awarded if the Rural Affairs Division had doubts as to the merits of that advice in relation to achieving the policy's objectives. That this was the case was borne out by the experience of the Director of one funded organisation, who stated:

> I've had private talks with one of the people involved. If the consulted Department said 'no' and the Rural Affairs Division had no reason for questioning that 'no', then that would go ahead as a 'no'. If they said 'yes', but the Rural Affairs Division felt that the application wasn't appropriate, then that would become a 'no' and that's quite right. *So, from a technical expertise point, the consulted Department definitely have an influence, but taking that step further, its the responsibility of the Rural Affairs Division* (Organisation I, Interview, emphasis added).

Although securing the support of Departments consulted in the SGEP grant allocation process was a task which some organisations, such as the above, actively undertook, it was a practice which could result in both positive and negative outcomes for the applicant

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[26] That this was the case is evident from comments regarding core and project applications contained in inter-Departmental Minute extracts cited in section 5.7 of chapter 5.

organisations. For Organisation I, in particular, the support of a consulted Department appears to have brought it both benefits and drawbacks. On one level, the Department's patronage was beneficial in helping the organisation to secure core funding through the SGEP. However, there were also costs relating to the extent to which the applicant organisation felt it could undertake activity or express opinions which it perceived to conflict with those of the consulted Department. In this respect, the Director of Organisation I was conscious of its need to tread carefully so as not to lose the Department's support while still enabling the organisation to promote its own policy agenda in relation to that Department's sphere of responsibility. The Director explained the delicate nature of the balancing act in which the organisation was engaged in this respect:

> I had regular lunches with the highest placed (policy actor) within the consulted Department across whose desk our application goes. I think that's the difficulty that we're always conscious of. We've got a dual role here. We've got to make sure that we don't upset the consulted Department so much that they say 'Well, we're not going to clear your grant this year'. But equally, we want to be as proactive as possible in both our project work and our strategic work to actually encourage change within the consulted Department. So its a two way thing. *Some organisations are that much more secure in their membership funding that they don't need the Scottish Office strategic funding. Equally, they can be that much more vociferous about what they think of Government policy and what they think is happening within the organisation* (Organisation I, Interview, 26/10/94, emphasis added).

The above example of the type of considerations which organisations had to take account of when interacting with patron Departments within The Scottish Office raises questions as to the efficacy of the Special Grants Environmental Programme, in particular, and distributive policy instruments in general, in fulfilling Government's environmental policy objective of enabling voluntary environmental organisations to have an on-going input to the environmental policy process. It is clear from the comments of the Director of the cited organisation that the organisation felt there to be constraints which compromised its ability to contribute input to the environmental policy process in an unencumbered fashion. In particular, it can be seen that the importance which the organisation placed upon SGEP core funding had a prejudicial influence on its interactions with a Department which it viewed as influential in determining whether or not it received funding.

The potential risks which applicant organisations ran of being 'captured' (Makkai and Braithwaite, 1992) by patrons were not necessarily restricted to their relationships with supportive SGEP consultee Departments. Evidence elicited from interviews suggests that

the direct patronage bestowed by SOEnvD through the Programme itself could also serve to prejudice the behaviour of particular SGEP-funded organisations in relation to their input to the environmental policy process. For one organisation, the receipt of core funding award had a constraining influence on the views which it expressed in relation to aspects of Government environmental policy, as the organisation's Director explained:

> We feel that we can't be too radical in our attacks on the Government because we're getting money from The Scottish Office. So it does have some kind of negative effect. Whereas organisations that don't get money from The Scottish Office feel that they can be much more radical and say more of what they think than we can. So, to a certain extent, I do feel that it does hold me back personally in saying what I want to say. *There's always that tension between the funding you need and what you think Government is doing and not doing regarding policy. It does tend to influence your actions* (Organisation C, Interview, 26/9/94, emphasis added).

The representative of another funded organisation also highlighted the way in which being in receipt of SGEP funding had the potential to constrain a funded organisation's capacity to present independent and fully representative submissions of its views to policy debates. This interviewee stated:

> Although, on the one hand, its good to have the funding, not having the funding gives you an amazing sense of independence. We can say what we like to (X) at a Scottish Office Department and have an engagement with him, where we don't have to worry about questions like, 'What will be the impact on our grant if we say too much to (x), if we bang away too hard at it?'....I don't think we're an irresponsible organisation....But nevertheless, we do expose them to criticism which they may resent and which they could take out on us by cutting the financial legs from underneath us. *I think that has happened to a certain extent.* I will never allow us to become financially dependent upon Scottish Office funding (Organisation J, Interview, 27/9/94, emphasis added).

For another core funded organisation there was a recognition that while the policy objectives of both organisation and The Scottish Office were best served by ensuring that their relationship was conducted on a co-operative basis, it was also important from the organisation's perspective to maintain a distance from Government. As the organisation's Director explained:

> I think the Rural Affairs Division understand that we have to maintain the respect of individuals and organisations......They understand our constraints and we understand Civil Servants' constraints, and we try and work within that. We could become a different organisation and challenge them in a campaigning style. We just don't work that way. We are accused of being too close to Government. These accusations come from people who are perhaps distant from Government and they see our access and say we're in Government's pocket. And to some extent the

relationship is close. *I wouldn't say we're in their pocket any more than they're in our pocket, but its certainly something we have to be wary of* (Organisation B, Interview, 19/9/94, emphasis added).

Securing the support of The Scottish Office through its allocation of SGEP funding was clearly of benefit to an organisation, most obviously in terms of the financial assistance that it offered. However, as the preceding discussion illustrates, this support had the potential to constrain the behaviour of funded organisations in relation to, for example, the views they expressed regarding particular policy issues. Similarly, the experience of one strategically funded organisation illustrates that gaining the patronage of an SGEP consulted Government Department could also have a detrimental effect upon a funded organisation's capacity to pursue its own policy agenda in a completely uninhibited manner. However, despite these potentially problematic issues, the benefits to organisations of being funded by the Programme evidently outweighed its costs.

The penultimate section of the chapter goes on to assess the impact of SOEnvD's administrative changes to the SGEP (following the review of the Programme undertaken by The Robert Gordon University in 1992) upon the policy implementation process from the perspective of funded organisations. In particular, it examines the impact of SOEnvD's decision to replace the category of 'core' funding with that of 'strategic' funding. The section also assesses the influence of Government's emphasis on securing 'value for money' for allocated grants from the perspective of funded organisations.

6.5 Funded Organisations' Perspectives on Policy Implementation via the Recalibrated SGEP

The reconfiguration of the SGEP's funding categories which took place following the 1992 assessment of The Scottish Office Environment Department's contribution to the voluntary environmental sector, and which became operational in 1994, was designed to enable The Scottish Office to rationalise the distribution of resources through the Programme. The reasons for this were two-fold. Firstly, the categories were changed in order to establish Departmental priorities for funding through the strategic element of the Programme. Secondly, they were changed in order to ensure that only organisations which fulfilled Government's strategic policy objectives in relation to the voluntary environmental sector actually received funding. This, in turn, was intended to eliminate the practice of core funding organisations over an extended time-period without formally evaluating their contribution to fulfilling Government environmental policy objectives in relation to the

sector. At the same time, the extension of the 'project' category's time-frame from one to up to three years funding was designed to provide 'pump-priming' funding to organisations undertaking activities which The Scottish Office did not consider to be of strategic importance in fulfilling its distributive environmental policy objectives.

As the discussion in section 6.2 indicated, half of the organisations interviewed in 1994 had clear perceptions as to Government's objectives in allocating funding to them during the first year of the Programme's operation using the new funding categories. The Director of one organisation explained the situation from the perspective of his own organisation:

> We got the money originally and we're not an environmental organisation. *We got it on the basis of working with rural communities. But it was never very clear precisely what The Scottish Office expected from us.* You know, we submitted our three year business plan and our annual operational plan and that was it. I think it is now clearer since the review of the Programme. We understand more clearly what Government is looking for regarding their money.
>
> **What's made it clearer?**
>
> I suppose the focus has become less 'environmental'. Environmental progress is seen as a by-product of a range of other initiatives. The environment is just part of a holistic approach to rural development. And I don't think, under the old regime, that was very clear. It certainly wasn't very clear in a formal sense. *Whereas, now, there's a formal understanding that rural development had to be approached in an integrated way and the environment has a part to play in that.* Certainly from filling in the forms and the information you get about objectives and relating our objectives to The Scottish Office, its an awful lot clearer than it used to be (Organisation B, Interview, 19/9/94, emphasis added).

The perception that realigning the funding categories had enabled Government to strategically prioritise the organisations it funded, and the objectives it wished to achieve, was echoed by the Director of another organisation during interview:

> **Do you think there is a strategic approach to the SGEP now?**
>
> Yes, because The Scottish Office fund national organisations and address strategic issues by doing that. Whereas before, they were funding organisations that should have been funded under a project banner.
>
> **Do you think the distinction between 'strategic' and 'project' funding is important?**
>
> I think it reflects a clearer view of approach, if you like. If you've got strategic needs for the whole of the country then you feed support, not necessarily money, into national organisations which address these issues (Organisation I, Interview, 26/10/94).

While the introduction of the new categories provided clarification for half of the organisations surveyed in 1994 as to The Scottish Office's rationale for allocating SGEP funding to them, they also performed a rather more pragmatic function from the point of view of organisations which had been allocated strategic funding. In particular, strategic funding provided greater financial stability to these organisations. It did so by replacing the informal and ad hoc arrangements regarding core funding which had characterised the Programme under the previous regime and instead guaranteeing funding for a longer period, *as long as* organisations continued to contribute towards Government's strategic policy objectives. The Director of one organisation explained the contrast with the previous system and implications of the new approach to funding for his own organisation:

> Funding us with seed-corn money for three years and then expecting us to go and make our own financial way in the world is totally unrealistic. We've been on this scheme for 4 years. But there are other organisations which have been on the scheme for a great deal longer. *And it just seemed to go on and on. There was always this game that everybody played before, where funding was expected to end after three years and it went on after that. Now, its clear its not short term strategic funding. The potential is there for longer term as long as you perform* (Organisation B, Interview, 19/9/94, emphasis added).

The award of strategic funding also had practical benefits for another organisation which were separate from considerations as to what Government's strategic environmental objectives consisted of. As was the case with regard to Organisation B, these revolved around the difficulties associated with attracting core funding from alternative sources and the way in which strategic funding relieved some of that pressure from the recipient organisation. Its representative explained how this was the case:

> On the face of it, we could have had cause for feeling more secure when we first read the letter, because it does talk about strategic funding. For the kind of body that we are, it would be quite difficult to get core funding like that. The way they split their funding into strategic and project categories is quite helpful to us. Core funding is what we need and its more difficult to get. Its much more difficult for us to attract funding by breaking our work into parcels called 'projects' than it is for other organisations which have quite a number of ways in which they can batch their work into projects.....At the moment the SGEP seems designed to meet our needs. But we're not complacent about it and we do bear in mind that The Scottish Office are not in the business of long term funding. So the grant may not go on (Organisation G, Interview, 6/10/94).

The financial stability which strategic funding afforded to organisations was also welcomed by the representative of another recipient organisation. This actor highlighted during an interview that it enabled the organisation to use the funding to 'pump-prime' income from

other funding sources while at the same time providing guaranteed core income for a longer period:

> There's a lot more stability and a lot more scope for us to actually use that money in different ways. For instance, we match fund it against the European Social Fund.[27] But obviously, as with any voluntary sector organisation, you are always up against funding problems and its obviously a big help when you are guaranteed funding for three years (Organisation H, Interview, 29/9/94).

From the above, it can be seen that SOEnvD's decision to replace core funding with strategic funding was viewed as a positive development in the administration of the SGEP from the perspective of strategically funded organisations. In particular, there is evidence that these organisations welcomed the category change as it had the effect of reinforcing and making explicit the value of these organisations to Government in its pursuit of environmental policy objectives in relation to the sector. This formal confirmation of a hitherto unstated relationship was, in itself, not necessarily an important development for organisations which had their own particular environmental remits to undertake and which did not necessarily see themselves as components in an overall Government strategy towards the voluntary environmental sector.[28] However, confirmation of their strategic importance to Government policy *was* important to these organisations in that it provided them with a basis for greater financial stability from which to continue to undertake their particular organisational remits (as illustrated earlier in this section by the interview comments of the representatives of Organisations B and H respectively).

One further issue to consider is the extent to which the revision of the funding categories and The Scottish Office's increased emphasis on securing 'value for money' through SGEP funding actually had an influence on the outputs of funded organisations activities. Certainly, the Director of one strategically funded organisation which had previously been in receipt of core funding throughout the Programme's existence acknowledged that the policy instrument had undergone an administrative transformation. However, this interviewee expressed reservations as to the extent to which this transformation had substantively changed the outputs which this organisation had produced in the course of undertaking its particular remit:

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[27] See Weidenfeld and Wessels (1997) for a discussion of the European Social Fund
[28] That this was the case is conveyed by the comment of the representative of one strategically funded organisation that her organisation did not feel part of an overall Government environmental strategy (Organisation E, Interview, 5/10/94).

I think The Scottish Office is being careful about being more certain that it can justify giving money to the voluntary sector. That's one reason why, over the years, the application form has changed. I don't know if things have changed that much over and above that. I know they have in that the financial administration of the Programme has been tightened up. *I doubt whether the Programme has changed at all in terms of what The Scottish Office are getting out of it. We mould our application to fulfil their needs, but our needs, according to our mission statement, haven't changed over the years* (Organisation I, Interview, emphasis added).

This interview extract illustrates an important point in relation to the capacity of the SGEP to shape the outputs arising from funded organisations' activities. As a result of the funding changes that followed the 1992 review of the Programme, The Scottish Office was able to target resources through the instrument on a more selective basis by establishing strategic policy priorities which were reflected in its allocation of strategic funding to particular organisations. However, this did not necessarily mean that funded organisations changed *their* organisational objectives to suit a 'top-down' policy agenda which they perceived to be emanating from The Scottish Office. As an instrument designed to distribute resources in response to funding applications from the voluntary environmental sector, there were, in any case, limits to the Programme's capacity to implement a substantive 'top-down' policy emanating from The Scottish Office. Indeed, the efficacy of applying such an approach to policy would also be questionable given Government's perception of the voluntary sector in general as being a reservoir of innovative activity which bridged the areas of responsibility of the individual and the state (The Home Office, 1992). The agenda emanating from Government was therefore not policy driven in the sense of attempting to change the activities of funded organisations so as to deliver organisational outputs which suited particular Government environmental policy objectives. Rather, the agenda was driven by administrative considerations designed to ensure that resources which Government contributed to the sector via the Programme (the outputs of the distributive policy), assisted these organisations to deliver their own individual outputs (leading to the Government policy outcome of environmental improvement) in a manner which represented what The Scottish Office considered to be a satisfactory return in terms of value for money.

Government's on-going agenda of securing value for money for its allocation of funding to the voluntary sector in general had an important impact on the administration of the SGEP. In particular, this agenda had the effect of making applicant organisations produce applications for funding which required increasingly detailed information regarding targets which SGEP funding was to assist in achieving. One interviewee implied that the administrative aspects of completing their organisations first core funding application in

1987 was a task which demanded less administrative rigour on the representative's part than was the case with its 1994 application for strategic funding:

> **Do you have to include more information in your application now?**
>
> Yes, compared to 1987 when we first got core funding. As far as I remember, all I really had to do was say how much I wanted and bid for it each quarter. But I accept that a voluntary organisation should be responsible for the way it spends the money......Its a question of just being business-like in the way that you fill in the forms (Organisation G, Interview, 6/10/94).

Another interviewee was also of the opinion that the process of completing applications for funding through the Programme required the inclusion of increasingly specific information:

> The application has got more stringent in that you have to say what you want to achieve, what the aim is, what the actual material things will be. Like a 10% increase in something, and how you're going to monitor it, and how you're going to know whether you've achieved success. So The Scottish Office have got a little more stringent in that......I feel the more information you can provide them with, and the more organised you seem, the better your chances of getting funding (Organisation F, Interview, 5/10/94).

The greater emphasis being placed by policy actors within the Rural Affairs Division on organisations providing increasingly specific information regarding the types of targets whose achievement SGEP funding was to contribute reflected Government's general pre-occupation with ensuring that resource allocation represented value for money. However, the increased emphasis placed on target setting was not reciprocated by the adoption of substantially different methods of monitoring funded organisations progress in meeting specified targets. Indeed, SOEnvD's monitoring of such targets rarely progressed beyond the examination of progress reports in relation to achievement of grant related targets which funded organisations were required to submit on twice yearly basis. The Director of one funded organisation explained how the process of monitoring worked from the perspective of this interviewee's organisation:

> They ask for a report. It used to be that you put in your report and the impression you got was that it was just filed. You know, 'Sent in report, tick, filed'. *The fact that you weren't actually achieving these targets, or you said that you hoped to achieve them by the end of the financial year, was never checked up*.....The Rural Affairs Division are going to have a lot of half-yearly statements in their files but to fit in with their new needs you change your objectives and set up the targets. *You never actually say whether you achieved these targets, and you start again every year* (Organisation I, Interview, emphasis added).

The impression that monitoring of organisations' targets was generally limited to an assessment which did not go beyond checking the submitted progress reports of funded organisations was reinforced by another organisation's representative who said:

> The Rural Affairs Division ask you to set out targets for the year and things like that, so you send them your targets and they write back and say, 'That's fine' and then the following year, you send them a letter saying, 'We've achieved our targets' and they say, 'That's fine', and that's it. *So they're quite trusting. I think that, although there's a lot of paperwork involved in the application, they're not too fussy, which is good* (Organisation F, Interview, 5/10/94, emphasis added).

The experience of the organisations cited in the preceding two interview extracts suggests that the Rural Affairs Division operated a system of monitoring progress towards targets which placed significant faith in the integrity of the organisations in relation to the accuracy of their submissions. In part, the Rural Affairs Division had little option but to adopt such a pragmatic approach given the limited resources at its officials' disposal to monitor progress in a more detailed manner.[29] There was evidence too from funded organisations of the pragmatic approach adopted by the Rural Affairs Division in relation to assessing the extent to which funded organisations achieved the targets which they had stipulated in their application forms (as discussed in section 5.8 of chapter 5). For example, one interviewee expressed the opinion that the Rural Affairs Division exhibited a degree of flexibility in this respect:

> The Rural Affairs Division are not rigid in sticking to targets. If, for example, I said target 1 was to produce a report on A and at the end of the year I had a good reason for not having produced it; we'd done something else instead, or we were still fund-raising for it, I don't think they'd yank our money back. Because The Rural Affairs Division will accept that we've been spending the money on that goal or similar. So I don't think the targets are rigid in that respect. On the other hand, if you gave the Rural Affairs Division 5 targets and at the end of the year achieved nothing, I would expect them to say, 'Well, this is really not working. What went wrong here? Maybe we should discuss with you your target setting for the coming year' (Organisation G, Interview, 6/10/94).

The Director of another funded organisation also reported that, despite increasing demands being made by The Scottish Office in terms of the level of detail to be included in the strategic funding application, there was still some flexibility built into the administration of the SGEP award. This interviewee stated:

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[29] With only one Administrator within The Scottish Office responsible for the Programme's administration on a day to day basis it was difficult to find time to undertake site visits to organisation. At the time of interview, the SGEP Administrator stated that it was planned to undertake site visits to a third of funded organisation each year (Hill, Interview, 3/6/94).

Certainly when I prepared the application for strategic funding this year I felt that there perhaps wasn't as much flexibility in the administration of the Programme. But there is, because I phoned up and said, 'I don't want to review what we're going to do this year, at the moment. Can that wait for six months?' And they said, 'Yes, that would be no problem' (Organisation A, Interview, 30/9/94).

6.6 Conclusion

From the analysis contained in the preceding sections, it can be seen that there was a lack of clarity among SGEP-funded organisations as to the objectives of the case-study distributive environmental policy. This was mainly due to the broad nature of these objectives. The lack of clarity experienced by these organisations was compounded by SOEnvD's reluctance to articulate specific priority areas at which to direct SGEP funding. As a consequence of this, organisations were compelled to promote themselves to The Scottish Office as suitable candidates for funding without specific policy reference points upon which to base their funding applications. The changes to the Programme's funding categories which SOEnvD introduced in 1994 provided a number of strategically funded organisations with a clearer understanding of Government's rationale in funding them. However, notwithstanding the introduction of priority themes to the allocation process in 1994, the broad nature of the distributive policy's objectives meant that a number of strategically funded organisations remained unsure as to what the policy was designed to achieve and, consequently, the part that they were to play in achieving it.

The redesignation of the SGEP funding categories led to administrative changes intended to assist the Rural Affairs Division in evaluating the extent to which the allocation of financial resources through the Programme represented a satisfactory return in terms of achieving value for money. However, as the discussion in the previous section indicates, despite the increased level of administrative detail requested in application forms, policy actors within the Rural Affairs Division demonstrated flexibility and pragmatism in their assessments of what constituted satisfactory performance in terms of organisations meeting targets specified in their application forms. This pragmatic approach to monitoring was further highlighted by the fact that judgements made within the Division regarding progress towards targets was based mainly on information provided by recipient organisations themselves.

Issues which this chapter has raised in relation to the implementation of the Government's distributive environmental policy via the SGEP are considered in more detail in the final part

of the thesis as the focus of analysis moves on to directly address the objectives that were set for the study in chapter 1.

PART V
CONCLUSIONS

Policy Conformance, Policy Performance:
The Contingent Nature of Measuring Implementation Success

The primary aim of this thesis has been to evaluate the way in which implementation of environmental policy in Scotland has been undertaken through use of the regulatory policy instrument of the Control of Pollution Act 1974 (COPA 1974) and the distributive policy instrument of the Special Grants Environmental Programme (SGEP). Both the RPB and The Scottish Office were successful in implementing their formal policy objectives: the RPB, and thereby The Scottish Office, succeeded in maintaining or, where appropriate, improving the environmental quality of controlled waters under its jurisdiction; and The Scottish Office succeeded in assisting voluntary environmental organisations to improve their overall capability and effectiveness in carrying out practical environmental conservation or improvement work. Therefore the central research issue to be considered in this final chapter is not whether these organisations achieved their objectives. Rather, it is to explain how these organisations measured implementation success and what these findings tell us about the implementation process within the case-study sectors in particular and in relation to public policy in general. This is done in sections 7.1 -7.5 of the chapter by applying the variables[1] identified in section 2.6 of chapter 2 as significant in structuring the implementation process to the empirical case-study findings detailed in chapters 4, 5 and 6. Following this, sections 7.6 and 7.7 draw conclusions in relation to the research agenda outlined in chapter 1.

7.1 Characteristics of the Policy Instrument

7.1.1 Regulatory Policy

The formally stated objective of the case-study River Purification Board's pollution control policy was 'to maintain or restore the wholesomeness of all relevant waters for which it (had) statutory responsibility' (Case-Study RPB: Policy Document: Pollution Control, 1988). This was to be achieved through 'the pursuit of the highest effluent standards while

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[1] These variables being: characteristics of the policy instrument; policy actors understanding of, and disposition to, formal policy objectives; administrative guidelines; formal authority relationships between policy actors; and, informal authority relationships between policy actors.

compatible with sustainable economic development' (Case-Study RPB, 1993). Applying Pressman and Wildavsky's (1973) concept of 'policy' as a hypothesis, it can be seen that the policy instrument of the Control of Pollution Act 1974 was designed to bridge the gap between initial conditions (the 'if' stage of the hypothesis), in this case the regulation of environmentally harmful activity, and predicted consequences (the 'then' stage of the hypothesis), in this case maintaining or improving the environmental quality of controlled water-courses. In this respect, COPA 1974 fulfilled Mazmanian and Sabatier's (1980) criterion of ensuring adequate causal theory for successful policy implementation; the theory of the instrument being that if a narrow range of behaviour (unconsented pollution of water-courses) by a narrowly defined and generally uniform target group (the discharging community) was discouraged, then the overall policy objective of maintaining or improving the environmental quality of controlled water-courses would be achieved.

However, COPA 1974 did not fulfill the important role that top-down theory envisages statute as playing in structuring the policy implementation process by providing concrete and specific criteria upon which to base policy performance assessments.[2] Instead, the instrument undertook this function through an agent by delegating responsibility for determining the parameters of pollution control policy to the RPB itself. This required the case-study RPB to set Environmental Quality Standards which specified the levels of polluting effluent which water-courses under its control could assimilate without compromising the environmental quality of these water-courses. From the RPB's perspective, successful policy implementation was therefore measured by the degree to which policy outputs, in terms of dischargers consent compliance, collectively achieved the policy outcome of maintaining water quality at levels consistent with the RPB's Environmental Quality Standards.

The policy instrument of COPA 1974 was therefore important in structuring aspects of the RPB's implementation of its pollution control policy in a number of ways. It provided the agency with the legislative authority to determine EQS and to set consent conditions accordingly. It also furnished the agency with the authority to use the formal tools of sanction - enforcement samples, formal samples, submission of reports to the Procurator Fiscal - which the RPB had the option of calling upon to implement its policy objectives.

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[2] See for example Van Meter and Van Horn's 1975 model which explains how policy objectives and standards can be clearly defined in statute so as to ensure compliance with these objectives by implementation actors. See also Mazmanian and Sabatier's more detailed refinements of statute's role in structuring the implementation process (1979, 1980).

However, the instrument did *not* structure the implementation process by determining either the specific content of the RPB's pollution control policy objectives or the circumstances in which its tools of sanction should be deployed in order to achieve these objectives. In these important respects, the agency's implementation of its pollution control policy was structured by the other variables discussed in subsequent sections of this chapter.

7.1.2 Distributive Policy

The policy instrument of the Special Grants Environmental Programme was designed to fulfil the objective of 'assist(ing) Scottish voluntary environmental organisations to improve their overall capability and effectiveness in carrying out practical environmental conservation or improvement work' (SGEP, Internal Review 1991, p.1) in order to contribute towards the Government's long term policy objective of sustainable development. Again applying Pressman and Wildavsky's (1973) concept of 'policy' as a hypothesis, it can be seen that the policy instrument of the SGEP was designed to provide the implementation link between initial conditions, (the 'if' stage of the hypothesis), in this case funding voluntary environmental organisations, and predicted consequences (the 'then' stage of the hypothesis), in this case achieving environmental improvement as a result of assisting these organisations' in undertaking their activities. In this respect, the SGEP also fulfilled Mazmanian and Sabatier's (1980) criteria with regard to ensuring adequate causal theory for successful policy implementation; this being that, if a broad range of behaviour (incorporating activity intended to facilitate environmental improvement) by a heterogeneous target group (the voluntary sector) was encouraged, then such activity would contribute to Government's long-term goal of sustainable development.

The SGEP was used by The Scottish Office to structure the implementation process in a number of respects. In particular, this policy instrument defined the type of funding which was to be allocated ('core/project', and latterly, 'strategic/project') and the criteria upon which it was to be allocated (relating to organisational status, categories of activity, matching funding sources, length of funding period, and tapering nature of funding). However, the SGEP differed in an important respect from the regulatory policy instrument employed by the RPB in that it was not used by The Scottish Office in order to stipulate the targets by which implementation success was to be measured. Instead, these targets were determined by applicant organisations themselves when submitting their applications for funding. As discussed in more detail in section 7.7, this issue was an important

contributory factor in determining how The Scottish Office measured implementation success in relation to the case-study distributive environmental policy.

7.2 Policy Actors Understanding of, and Disposition to, Formal Policy Objectives

The significance of actors' perceptions of, and disposition to, policy objectives has been highlighted by theorists from both the 'top-down' and 'bottom-up' schools as important to determining the success of the implementation process, but for different reasons. From a 'top-down' perspective, a prerequisite for effective policy implementation is that there is agreement among actors as to what objectives are to be implemented and that these actors should be supportive of these objectives (Hood, 1976, Gunn, 1978). This prerequisite is, in turn, founded on the premise that implementation is undertaken by operationally independent and functionally autonomous organisations. Alternatively, for 'bottom-up' theorists, agreement among policy actors as to the objectives of a policy is subsidiary to maintaining the bargaining arena (or, using Hjern and Porter's (1981) terminology, the 'implementation structures') where resources are dispensed within what these theorists view as the multi-organisational setting of policy implementation. From this theoretical vantage point, policy actors pursue their own organisational objectives within the context of policy implementation.

Viewed from either perspective, what Pressman and Wildavsky (1973) have described as the 'causal chain' attaching actions to objectives is dependent upon actors' perceptions of a policy's formal objectives and their disposition towards these objectives. This is not least because of Pressman and Wildavsky's finding that the 'causal chain' incorporates a number of 'decision-points' requiring clearance from relevant policy actors in order for the implementation process to proceed to the next link in the chain towards the achievement of objectives. Consequently, policy actors' understanding of, and disposition to, formal objectives can have a critical bearing upon their provision of clearances to enable implementation to proceed to the next stage in the process.

7.2.1 Regulatory Policy
The policy actors within the case-study RPB had a clear perception as to the formal objectives of the agency's pollution control policy and shared a favourable disposition towards the implementation of these objectives. This is evident from case-study data in

relation to both the RPB's approach to enforcement regarding unconsented discharges and its interpretation of the concept of sustainable development within the context of its pollution control policy. In particular, policy actors (ranging from Pollution Control Inspectors to Board Members) shared a common perception that the agency's prime objective was to maintain and, where appropriate, improve water quality by achieving consent compliance *on the basis of a co-operative approach with dischargers*. In part, the importance which these actors placed on pursuing such an approach was due to their reservations regarding the practical merits of pursuing an enforcement strategy based upon imposing sanctions on offending dischargers (as detailed in chapter 4). However, it was also as a consequence of an organisational culture within the agency which led these policy actors to view their role as that of environmental educators in relation to the discharging community's pollution control activities. Similarly, there was agreement between these policy actors as to the agency's interpretation of the concept of sustainable development within the context of its pollution control policy objectives. In this respect, sustainable development was viewed by these actors as involving the setting and enforcing of consent conditions which upheld the agency's Environmental Quality Standards without imposing financial constraints upon dischargers which would be excessively detrimental to their economic well-being.[3]

The favourable disposition of policy actors to the RPB's pollution control policy objectives is perhaps most strongly reinforced by considering the composition of the agency's Board. This body contained a majority of Members who did not represent interests which were directly concerned with environmental issues.[4] As was demonstrated in sub-section 4.8.4 of chapter 4, these actors did not, however, adopt overtly partisan positions so as to protect the interests which they represented at the cost of safe-guarding the environmental quality of controlled waters. Instead, they had very clear shared perceptions as to courses of action which the agency should adopt depending on the particular circumstances which had led to the legislation being contravened.

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[3] This approach was in keeping with the balancing between environmental improvement and economic costs common to the implementation of environmental regulation throughout the UK, as personified by the principles of Best Practicable Environmental Option (BPEO) and Best Available Techniques Not Entailing Excessive Cost (BATNEEC) incorporated into legislation (Tromans, 1991).

[4] Indeed, only the two Board Members who represented the interests of conservation could be said to fall directly into this category, although it is arguable that the Angling Representative also had a direct interest in ensuring that water-courses were of the highest environmental quality.

Factors which were considered in the event of contraventions of the appropriate legislation - evidence of negligence, potential seriousness of the offence, an offender's admission of responsibility for the pollution, a discharger's attitude towards agency staff, evidence of a discharger's efforts to engage in remedial clean-up action - were central to the deliberations of policy actors at each point in the 'implementation chain' within the agency. In this respect, there was a consistent pattern in the implementation process, in that particular combinations of the above factors would generally succeed in gaining 'clearance' at the various decision-points within the agency's decision-making hierarchy to enable implementation to proceed to the next stage. For example, a serious pollution incident where the discharger had failed to instigate clean-up action and had been unco-operative towards RPB staff would almost inevitably result in clearance being granted at the various decision-points within the intra-organisational implementation chain from the initial reporting of an unconsented discharge to the submission of a report to the Procurator Fiscal with a view to initiating a prosecution.

7.2.2 Distributive Policy

Allocating funds to voluntary environmental organisations to secure the objective of assisting them to improve their overall capability and effectiveness in carrying out practical environmental conservation or improvement work would appear to be a relatively uncomplicated task. That it was not owes much to the broad nature of that objective and to the diversity (in terms of activity type) and multi-sectoral nature of activity which collectively came under the general rubric of 'practical environmental conservation and improvement work' carried out by the voluntary environmental sector. Consequently, The Scottish Office's implementation of its distributive environmental policy via the SGEP did not involve allocating funds to target groups operating in a single sector of activity. Rather, the process involved evaluating the environmental policy merits of a range of applications which collectively detailed environmental improvement activities spanning a wide range of policy sectors including, for example, education, transport, and both natural and built heritage. Therefore, what appeared to be Scottish Office policy actors' administrative evaluations regarding 'practical environmental conservation and improvement work' in general, were in reality subdivided into evaluations regarding 'practical environmental conservation and improvement work' in relation to a host of different public policy sectors and their fit with Government environmental policy objectives therein. It was for these reasons that the policy's general objective articulated nothing more specific than a broad

aim to contribute funding to support the activities of organisations in the voluntary environmental sector.

It is evident, both from interview comments[5] and also from other primary data sources[6] cited in chapter 5 that there was a clear understanding and favourable disposition among the SGEP's Administrators as to the policy's broad objective and its attendant objectives of providing pump-priming funding, achieving value for money through funding, encouraging responsible citizenship, and enabling voluntary sector organisations to contribute to the environmental policy process.

However, the diversity and multi-sectoral nature of environmental activity contained in the voluntary environmental sector meant that the Rural Affairs Division represented something of a 'clearing - house' for applications, in that a substantial number of applications were circulated to policy actors within other Departments with policy expertise in sectors pertaining to particular applications. The frequent involvement of policy actors from within other Scottish Office Departments in the allocation process indicates that policy actors within the Rural Affairs Division had only a limited understanding of the fit between funding applications and Government's environmental policy objectives as they related to particular sectors. Given their limited understanding in this respect, the consultation process was designed to increase these SGEP Administrators' rationality in making funding decisions by drawing on the policy expertise of consulted actors. In particular, these consulted actors were expected to convey their perceptions as to the merits of funding specific applicants in relation to the contribution which these organisations made in achieving Government's environmental policy objectives (for example, environmental education) while also accounting for the policy's other objectives. In this way, the policy's overall objective of assisting organisations to undertake practical environmental conservation and improvement work was to be achieved by an aggregating process of considering the fit of particular applicant organisations to specific Government environmental policy objectives.

Given the multiplicity of environmental activity which was considered by The Scottish Office policy actors[7] under the broad canopy of the policy's overall objective, these actors'

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[5] For example, see the Programme Administrator's comments regarding the objectives to which the SGEP was to contribute (cited in section 5.4).
[6] For example, see the discussion regarding the contents of the Administrator's Card Index System in sub-section 5.6.2.
[7] Including policy actors from the Rural Affairs Division and from consulted Departments.

understanding of, and disposition towards, the environmental objectives to which applicants might contribute was therefore a key aspect of the intra-organisational implementation process. The assumption that consulted policy actors had a clear understanding of Government policy objectives in relation to particular applicants' areas of activity was one implicitly made by the Programme Administrator when deciding to circulate applications to these actors. Data from Minutes sent by consulted policy actors to the Rural Affairs Division (cited in chapter 5) indicates that they generally exhibited a favourable disposition to the objectives of the policy in their deliberations regarding particular applications. Data in chapter 5 also reveals, however, that certain consulted policy actors used the consultation process to promote their own Departmental objectives as opposed to making recommendations which were based exclusively on consideration of the case-study policy's objectives. In these circumstances, policy actors within the Rural Affairs Division had to decide as to the extent to which they followed the advice of consulted actors by considering such advice against the wider objectives of the policy.

As the target group which The Scottish Office was attempting to assist through the SGEP, voluntary environmental organisations had a favourable disposition to the objectives of the policy, *insofar as they were able to discern what these objectives were*. It is clear from data contained in section 6.2 of chapter 6 that funded organisations had mixed perceptions of the overall objectives which Government was attempting to achieve through the Programme. In particular, there was little evidence that individual objectives were generally understood by a sample of representatives of organisations funded in 1992/93 to be objectives of the case-study policy. However, representatives of a number of organisations funded in 1994/95 had a clear perception of Government environmental policy objectives to which their organisations contributed as a result of funding. This contrast in perceptions among funded organisations regarding the purpose of the Programme reflects both the broad nature of the policy's overall objective and the diversity of activity undertaken in the voluntary environmental sector in the name of environmental improvement.[8] Thus, while organisations were clear as to how they contributed to achieving Government's environmental objectives *after* they had received grants (because their applications had been processed (via consultation) by The Scottish Office in terms of their fit to Government environmental policy objectives and Government's rationale for

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[8] It should be noted that it is not crucial that funded organisations know all of the objectives of the policy for its succesful implementation to occur. Of more importance in determining implementation success is that the *behaviour* of these organisations is in line with these objectives.

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funding them had been made explicit[9]) it was more difficult for these organisations to identify how they did so when constructing their initial applications. This was due to the policy's general objective lacking specific reference points upon which applicants could focus their applications. In turn, it was for this reason that much of these organisations' energies in constructing applications for SGEP funding had been devoted to moulding their applications so as to incorporate concepts such as partnership and networking which they hoped would make them candidates favoured for funding by The Scottish Office.

7.3 Administrative Guidelines

Viewed from a top-down perspective, the exercise of wide discretion by field-level policy implementors is seen as a recipe for implementation failure due to the opportunity it provides for these actors to deflect or subvert the goals of the policy (Bardach, 1977). Consequently, much of top-down theorising has been preoccupied with efforts to develop prescriptions which limit such discretion. From a bottom-up perspective, on the other hand, the modification or subversion of a policy's formal objectives are inevitable by-products of an implementation process which policy-makers cannot expect to control by reining in the boundaries of administrative discretion employed by field level implementation actors (Barrett and Fudge, 1981). As the following explains, the implementation of both the regulatory and distributive case-study policies were increasingly the subject of formal administrative guidelines which reduced the level of discretion employed by particular policy actors in that process.

7.3.1 Regulatory Policy

Much of the literature on UK environmental regulation has portrayed the process as one dominated by informality and flexibility, leading to the exercise of considerable administrative discretion by field level policy actors which, in turn, exerts considerable influence on the implementation of pollution control policy (Hawkins, 1984; Vogel, 1986). However, the account of water pollution control, as practised by the case-study RPB in 1994, reveals an implementation process which, although still flexible in its execution, had been placed on a more formal footing. This in turn had limited the extent to which the agency's Pollution Control Inspectors (the RPB's field-level implementors) could exercise discretion in order to shape the outputs of the implementation process.

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[9] Via a Ministerial announcement made in Parliament.

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The introduction of the Scottish Levels of Service System in 1989 reduced the level of discretion employed by the RPB as an organisation by making it more directly accountable to The Scottish Office in the execution of its pollution control function. This, in turn, impacted upon the role of Pollution Control Inspectors as they were made more accountable to their superiors within the agency in relation to the execution of their duties.[10] Similarly, the introduction of the charging inspection schemes in 1992 to enable the RPB to recover costs incurred through monitoring consents formalised the previously ad hoc inspection process which had been undertaken on behalf of the agency.

The Common Enforcement Policy (CEP) adopted by all of Scotland's RPAs in 1993 also had a significant impact in determining the structure of the implementation process. Prior to its introduction, the decision-making process regarding courses of action to be pursued by the RPB in cases of consent failure was based upon an informal evaluation of the particular circumstances of each case. Within this context, there was scope for the RPB in general, and Pollution Control Inspectors in particular, to exercise considerable discretion in determining whether to invoke the formal tools of enforcement and formal samples and ultimately submission of a report to the Procurator Fiscal to initiate a prosecution case. However, the introduction of the CEP heralded an increasingly programmed approach to the enforcement process. In particular, the CEP reduced the capacity of field level policy actors to exercise discretion in implementing the policy as it formally specified circumstances in which the RPB should take particular types of enforcement action.

7.3.2 Distributive Policy

The SGEP which distributed resources to the voluntary environmental sector in 1994 was a markedly different instrument to that which had undertaken the same function in 1987. This contrast is most vividly illustrated by the fact that when it was established in 1987 there was no formal application form for organisations to use when applying for funding. However, The Scottish Office's use of increasingly detailed administrative guidelines had an important impact in structuring the implementation process as the Programme evolved. The most significant development in this respect was the replacement of the category of 'core' funding with that of 'strategic' funding and the replacement of the category of project funding for one year only with that of project funding for between one and three years.

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[10] This was as a result of having to complete an 'Inspectorate SLS Return' on a weekly basis (see Appendix 7).

Replacing the category of 'core' funding with that of 'strategic' funding was particularly significant because the change restructured the implementation of the policy through the Programme in two important ways. Firstly, it led The Scottish Office to formally specify its environmental policy priorities in relation to the voluntary environmental sector. Secondly, directing strategic funding exclusively towards national voluntary organisations which could contribute to achieving these priorities was intended to end the practice of funding organisations on a long term basis without any discernible indication of how they contributed to the achievement of the Government's environmental policy objectives. The funding category change also simultaneously reduced the discretion which could be exercised by SGEP Administrators in grant allocation by specifying that only national voluntary environmental organisations were eligible for strategic funding.[11]

The introduction of strategic funding was significant from the perspective of organisations funded under that category in that it formalised and made explicit the significance of the functions of a number of these organisations in meeting Government's strategic environmental objectives.[12] At the same time, this provided strategically funded organisations with greater financial security than they had experienced under the ad hoc arrangements which had characterised funding under the previous 'core' category of funding.

Other administrative factors also served to structure the implementation of the distributive policy. In particular, Government's general emphasis on measuring the extent to which the distribution of public funds secured 'value for money' had an impact on the administration of the SGEP. This was most evident in relation to the increasing amount of detail (regarding, for example, targets to which funding would contribute, tangible evidence of outputs, performance measurement, and indicators of success) which applicant organisations were required to give in their applications for funding. However, despite the increasingly stringent demands being made by The Scottish Office in this regard, there were limits to the extent to which such administrative guidelines were able to shape the

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[11] This was not necessarily a problem from the perspective of policy actors within the Rural Affairs Division as it enabled them to avoid the situations of long term core funding to little strategic effect which had occurred within the context of the Programme prior to its amendment following the 1992 review of SOEnvD's contribution towards the voluntary environmental sector.

[12] The process of clarifying Government's strategic policy priorities and the role of certain strategically funded organisations in meeting these objectives was clearly still in progress in 1994. For example, see the Programme Administrator's interview comments in relation to two strategically funded organisations (cited in section 5.6 of chapter 5) and the comments of the representative of Organisation F as to the vagueness of the policy's objectives (cited at the end of section 6.2 in chapter 6).

implementation process. This was because The Scottish Office was reliant upon funded organisations themselves to provide it with information. Therefore, policy actors within the Rural Affairs Division had few means, other than the word of the funded organisations themselves that they had achieved their targets, by which to assess the extent to which SGEP funding was delivering value for money in terms of grant expenditure.[13]

7.4 Formal Authority Relationships between Policy Actors

7.4.1 Regulatory Policy

Elmore's (1979) initial[14] dismissal of the ability of policymakers to control the implementation process as the 'noble lie' of top-down theory is indicative of the general agreement within the bottom-up school that the process cannot, and should not, be controlled by authoritative decision-makers. Nevertheless, formal authority relationships had a bearing upon the implementation process within the RPB case-study. The importance of such relationships was evident at a number of stages of the intra-organisational implementation process through which the agency enforced consent conditions and managed incidents of unconsented discharges. As explained in sub-section 7.3.1, the formalisation of the enforcement process which had limited the discretion employed by Pollution Control Inspectors was partly a product of the introduction of a number of different administrative guidelines. However, the formalising of the process was also attributable to the influence of the senior members of the RPB's professional staff.[15] In particular, one factor which reduced the level of discretion enjoyed by Inspectors was their superiors' insistence that these actors take formal samples when there was evidence of a clear breach of the appropriate legislation. As interview evidence contained in sub-section 4.8.3 shows, the emphasis which senior staff placed upon the taking of formal samples further limited the scope for Inspectors to decide for themselves the circumstances in which it was appropriate to take such samples. This in turn, contributed to the increasingly programmed approach being adopted by the RPB in relation to the policy implementation process.

There was also evidence of the significance of the exercise of formal authority within the RPB's organisational hierarchy with regard to the process of consent setting. Thus, while

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[13] Alternative methods of verifying that targets had been met included site-visits and evidence of materials produced by organisations as a result of SGEP funding, such as environmental information packs.
[14] Elmore revised his views in this regard in his attempt at theoretical synthesis as detailed in his *'Forward and Backward Mapping: Reversible Logic in the Analysis of Public Policy'* in Hanf et. al. (1985).
[15] Senior Pollution Control Inspectors, the Chief Pollution Control Inspector and the General Manager.

the majority of consents set by the agency were easily standardised and were processed by Pollution Control Inspectors, occasionally some consents required more individualised conditions to be attached to them. In these circumstances, (as discussed in sub-section 4.8.1 of chapter 4) senior policy actors were involved in setting consent conditions and determining the final form of the consent prior to it being sent to the RPB's Board for formal ratification.

As the preceding indicates, Board Members had the capacity to exert a significant influence in structuring the implementation of the RPB's pollution control policy by virtue of their formal positions within the organisation's hierarchy. In particular, these actors possessed the formal authority to sanction or veto particular courses of action on the part of the agency in relation to the implementation process. Thus, their 'clearance' (Pressman and Wildavsky, 1973) was required in order for the RPB to grant consents to discharge to applicant organisations. Importantly, the Board's 'clearance' was also required in determining courses of action on occasions when the enforcement process had transcended the professional staff's efforts to reconcile pollution problems by co-operative means. In this respect, it was only upon the formal authority of the Board that dischargers could be placed on either the RPB's 'Priority Pending List' or 'Priority List'. Equally, it was only upon the agreement of the Board that the RPB's professional staff were able to submit reports to the Procurator Fiscal in order to initiate prosecutions of dischargers alleged to have been responsible for unconsented discharges.

7.4.2 Distributive Policy

The relatively short Scottish Office organisational hierarchy through which the SGEP was administered meant that formal authority relationships between Scottish Office policy actors were limited. As explained in sub-section 7.2.2, the practice of consulting Departments with expertise regarding particular applications enabled the policy actors within the Rural Affairs Division to base their decisions regarding funding on the fit between applicants' activities and Government environmental policy objectives. In this respect there was a formal element to the relationship between SGEP Administrators and consulted policy actors in that the former were able to decide, firstly, which actors to consult, and secondly, whether to follow the advice of consulted actors in relation to particular applications. Formal authority relationships further structured the implementation process within The Scottish Office by determining the location of decision-points within its organisational hierarchy which required clearances before the allocative process could proceed to the next

stage. The most important of these decision-points[16] were situated at the level of the Head of the Rural Affairs Division and ultimately at the level of the Environment Minister. These policy actors had the capacity to block particular recommendations with which they did not agree (by virtue of their formal positions of authority within The Scottish Office) when these were submitted to them. While this did happen on occasion it was a very rare occurrence, particularly at Ministerial level.[17]

It can therefore be seen from the preceding that formal authority relationships were important in structuring the decision-points which the intra-organisational implementation process within The Scottish Office had to clear in order for grants to be allocated. However such relationships did not exert a significant influence in shaping the content of that process. As such, these relationships did not meet top-down theory's stricture that those in authority should be able to demand and attain perfect obedience from lower-level administrators (Van Meter and Van Horn, 1975; Hood, 1976; Gunn, 1978). Rather than faithfully following objectives transmitted from policy-makers at the top of The Scottish Office hierarchy downwards, lower level policy actors (via the focal point of the Programme Administrator) were instead feeding recommendations upwards to the Head of the Rural Affairs Division. These were then normally endorsed, firstly by this policy actor and ultimately by the Environment Minister, before being converted into policy outputs in the form of grant allocations to particular organisations.

Formal authority relationships were also important in structuring aspects of the inter-organisational implementation process between The Scottish Office and funded organisations. In particular, it was as a result of The Scottish Office's formal position as the provider of SGEP funds that its officials were able to demand particular grant-related information from applicant or funded organisations. This included the provision of specific information (regarding targets, measures of output and success) in relation to applications for grant and in relation to progress in meeting grant-associated targets. Similarly, policy actors within the Rural Affairs Division also exercised formal authority over funded organisations in that they could decide to terminate funding if they judged that funded

[16] Other decision-points within the Rural Affairs Division were situated at Higher Executive Officer and Principal Executive Officer level. However, as previously explained, these policy actors had roles in the implementation process which were mainly limited to oversight of the Programme Administrator's duties with regard to the administration of the Programme.

[17] The author is aware of only one occasion when a recommendation was refused by the Environment Minister.

organisations had not performed to the satisfaction of The Scottish Office in terms of meeting their grant-associated targets.

From the preceding it can be seen that formal authority relationships had a significant impact upon structuring the decision-points at which the various stages of the implementation process required policy actors clearances to proceed to the next stage. However, as will be explained in sub-section 7.5.2, obtaining clearance at these decision points was largely dependent on informal authority relationships at both the intra and inter-organisational levels.

7.5 Informal Authority Relationships between Policy Actors

Bottom-up theorists' rejection of formal hierarchical structure as a unit of analysis with which to evaluate the implementation process has led them instead to examine the importance of informal authority relationships in explaining the process (see for example, Barrett and Fudge, 1981; Hjern and Porter, 1981; Hanf and O' Toole, 1992). In this respect, it is argued by these theorists that implementation outputs are shaped by factors such as actors proximity to target groups and their technical expertise regarding the issue to be addressed by policy; factors which give rise to the exercise of informal authority by particular actors (Elmore, 1979). As the following sections indicate, informal authority relationships had an important part to play in the implementation of both the case-study regulatory and distributive policies.

7.5.1 Regulatory Policy

Sub-section 7.4.1 explained that the exercise of formal authority - by senior professional pollution control staff over Pollution Control Inspectors - played an important part in determining the circumstances in which the formal tools of enforcement should be deployed by the RPB. Formal authority relationships were also important in determining the locations of the various decision-points of the RPB's intra-organisational implementation chain at which points clearances were required for the process to continue to the next stage. However, while formal authority relationships were pivotal in determining *who* within the agency was involved at the various stages of implementation, informal authority relationships had a significant influence in determining *how* the implementation process was undertaken.

Informal authority relationships between the RPB's policy actors were in evidence at different stages of the implementation process. Although a combination of the introduction of various administrative initiatives and senior agency actors' emphasis on formal sampling had reduced the level of discretion employed by Pollution Control Inspectors, these policy actors were nevertheless still able to exert a significant influence on the implementation process. This was particularly so in relation to the intra-organisational decision-making process regarding whether to recommend to the Board that a report be prepared for submission to the Procurator Fiscal to initiate a prosecution against a discharger. In these circumstances, the senior RPB professional pollution control staff responsible for making such decisions,[18] would incorporate the views of the Inspector(s) who had dealt with the discharger at field level into their deliberations. This was because of these actors' proximity to the discharger and their first-hand knowledge of the variety of factors - including the discharger's attitude towards the pollution problem, evidence of negligence, and disposition towards the Inspectors - on which senior staff based the decision as to whether to recommend to the Board that a prosecution be sought.

Although, as the discussion in sub-section 7.2.1 indicated, RPB staff based many of their decisions in relation to enforcement on a variety of factors pertaining to the pollution and the dischargers actions, Board Members were nevertheless largely dependent upon information supplied by senior staff when making such decisions. Moreover, the professional staff were able to exert informal authority over these actors. This was due both to Board Members' limited contact with dischargers and their comparative lack of technical expertise in relation to interpreting the environmentally damaging effects of particular pollutions. As a consequence of these factors, Board Members were likely to act upon the recommendations of the General Manager in relation to deciding upon alternative courses of action to take regarding particular dischargers.

7.5.2 Distributive Policy

Informal authority relationships were important in shaping the distributive policy implementation process along its vertical dimension, both within the hierarchical structure of The Scottish Office and between The Scottish Office and funded organisations. Such relationships were also important in structuring implementation along its horizontal

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[18] These actors were the Chief Pollution Control Inspector and the General Manager.

dimension within The Scottish Office in relation to the input of consulted policy actors to the process.

As explained in sub-section 7.4.2, while formal authority relationships determined the location of decision-points at which the implementation process required clearances within the hierarchical structure of The Scottish Office, it was rare for these clearances to be denied by either the Head of the Rural Affairs Division or the Environment Minister. This was due to the informal authority possessed by the SGEP Administrator (who was responsible for passing the recommendations on to the Head of the Division) in relation to the implementation process. Much of the authority which the SGEP Administrator exercised in this respect was derived from this policy actor's proximity to, and familiarity with, applications as the only actor to examine *every* application submitted to The Scottish Office; and this actor's proximity to, and familiarity with, funded organisations' progress reports as the Scottish Office official to whom these documents was submitted by funded organisations. Due to these factors, the recommendations submitted by the SGEP Administrator to the Head of the Rural Affairs Division were unlikely to be substantively altered by the senior policy actor in the hierarchical chain of implementation within The Scottish Office. For similar reasons, the Environment Minister would be unlikely to substantively alter recommendations upon receiving them (once clearance had been secured from the Head of the Rural Affairs Division for the implementation process to proceed to this stage).

However, a significant amount of the information which the SGEP Administrator used to base recommendations which were passed upwards through the vertical decision-points within The Scottish Office hierarchical chain was derived from the input of consulted policy actors within other Scottish Office Departments. This had particularly been the case in relation to the SGEP Administrator's deliberations as regards whether to recommend to the Head of the Rural Affairs Division that first time core funding be offered to an organisation. This was also largely the case regarding recommendations for project funding specific applicants. Therefore, informal authority relationships between the SGEP Administrator and consulted policy actors were important in determining the grant allocation dimension of the Programme. While they were not formally party to the Scottish Office grant allocation process, consulted policy actors were nevertheless able to exert a significant influence in determining whether particular applicants received funding. This was because the SGEP Administrator's limited expertise in relation to the fit of a number of applicants' activities to

Government environmental policy objectives led this actor to place significant weight upon the opinions of consulted Departments about the merits of funding particular organisations. Factors which led the SGEP Administrator to accommodate the views of consulted policy actors in deliberations regarding funding recommendations included the Administrator's perceptions as to the following: consulted policy actors' level of expertise regarding the policy area in question; their opinion of the applicant's capabilities to contribute to achieving Government objectives in relation to the policy area; and, consulted policy actors' background knowledge of particular applicant organisations.[19]

As the data contained in section 6.4 of chapter 6 shows, informal authority relationships also had a bearing on interactions between certain funded organisations and The Scottish Office. For example, the assistance which the representative of one funded organisation perceived it to receive from a consulted Department in terms of supporting its SGEP applications had an impact on the organisation's relationship with that consulted Department. In particular, the representative of the funded organisation believed that it could not be overly critical of the consulted Department's activities lest it lose the Department's patronage regarding SGEP funding. Similarly, The Scottish Office was able to (knowingly or unknowingly) exert informal authority over certain funded organisations by the support which it conferred through the allocation of grant to recipients. For one strategically funded organisation, this support had a constraining impact upon its publicly expressed views regarding Government policy in a particular area.

Sub-section 7.4.2 explained that formal authority was exercised by the SGEP Administrator in relation to funded organisations. Such authority was exercised through this actor's ability to demand information from these organisations as regards the targets they intended to meet with the assistance of SGEP funds and their progress towards meeting these targets as the funding period progressed. Paradoxically however, the issues of target setting and target progress were also influenced by informal authority relationships. In this respect, the SGEP's distributive characteristics were an important feature. As indicated in sub-section 7.1.2, the policy was dependent upon targets set by organisations themselves in order to determine its objectives as opposed to proactively imposing targets upon these organisations in relation to grant expenditure. Therefore, applicant organisations were able to exercise virtually complete discretion as to the targets which they set in their applications

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[19] Including, for example, whether there were any reasons as to why it would be advantageous or disadvantageous to allocate funding to particular applicants.

for funding. Funded organisations also exercised a limited degree of informal authority over The Scottish Office in relation to feedback they supplied regarding their progress in meeting SGEP associated targets. This was due to the 'self-regulatory' nature of target monitoring in that the SGEP Administrator was dependent on information supplied by funded organisations on which to base evaluations as to the progress made in relation to agreed grant-related targets.[20]

7.6 Implementing Elements of an Environmental Policy

7.6.1 Overview

This penultimate section of the thesis draws together the strands of the preceding analysis regarding environmental policy implementation via the regulatory and distributive policy instruments which have provided the case-study focal points for the research. As sub-section 1.2.1 of chapter 1 explained, Governments have a variety of policy instruments at their disposal with which to try to implement their public policy objectives. In a policy area as diverse, multi-sectoral and complex as that of environmental policy, Government utilises a mix of different instruments in order to contribute towards the long term policy goal of sustainable development. The ambiguous conceptual properties of this macro policy objective make it difficult to measure its translation into the practice of policy and indeed, analysing 'sustainable development' has not been a theme of this study. That said, it is perhaps worth noting two points with regard to the concept as it relates to the policy contexts which have provided the focus of analysis.

For the case-study River Purification Board, operationalising the concept of sustainable development was an explicitly stated component of its overall pollution control objective (Case-Study RPB, 1993). While, as section 4.9 of chapter 4 illustrated, this involved the RPB placing the environmental quality of water-courses at a premium, it also involved the exercise of a certain amount of pragmatism in terms of the *time-scale* of improvement and the *degree* of environmental improvement which the agency should set its EQS to achieve. These findings are broadly illustrative of the complex issues to be faced in transforming the rhetoric of policy into the practice of policy.

For The Scottish Office, the concept of sustainable development had not been explicitly associated with the SGEP until it was specified as a priority theme for funding during the

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[20] The relatively small amounts of funding being distributed to each organisation made it unlikely that any external evaluation of the impact of that funding would itself provide value for money.

1994/95 round of grant allocation. That is not to say that the concept was ignored by policy actors within The Scottish Office. Evidence that consulted policy actors implicitly referred to the concept when deliberating over applications can be found in Minute extracts cited in chapter 5. However, given that in late 1994 the concept had only just emerged as a formally stated focus for the Programme, it can be seen that the concept's practical incorporation into the implementation process was far from complete.

Notwithstanding debates as to the status of sustainable development as a policy goal of either regulatory or distributive environmental policy in the two case studies, it can be seen that by the early to mid 1990s, elements of strategic thinking had began to crystallise in relation to each of these areas of Government's fragmented macro-level environmental strategy. For the case-study RPB, and its fellow RPAs, this was most clearly illustrated with the adoption of the Common Enforcement Policy in 1993. This had the net effect of adding greater formality to the enforcement process and can in retrospect be seen as part of the RPAs' rearguard action in the face of an increasing 'Europeanisation' of UK pollution control policy and the administrative upheaval which the creation of the Scottish Environment Protection Agency (SEPA) was to eventually bring (Macleod 1996, 1997).

For The Scottish Office's distributive environmental policy, as implemented via the SGEP, moves towards a more strategic approach to implementation were put in train by The Scottish Office with the reconfiguring of the SGEP's funding categories following the 1992 review of the (then) Scottish Office Environment Department's contribution to the voluntary environmental sector in Scotland (McCulloch et al, 1993a). This, in turn, was partly a reflection of the broader agenda with which Government was engaged (as outlined in chapter 3) regarding the pursuit of efficiency, effectiveness and 'value for money' in relation to its funding of the UK voluntary sector in general. The SGEP was subsequently to find itself party to a further reordering by The Scottish Office of its funding relationship with the voluntary sector. This followed administrative reorganisation in April 1996 when the Programme became one of the three elements of The Scottish Rural Partnership Fund.[21]

Against the background of these general closing observations, it is possible to draw some more precise conclusions with regard to policy implementation within the context of each of the case-study settings.

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[21] The other elements being 'The Scottish Local Rural Partnership' and 'The Scottish National Rural Partnership'.

For the RPB, measuring policy success revolved around the extent to which the agency controlled dischargers' compliance with their consent conditions (in relation to the frequency that discharges were within consent conditions and the environmental impact of the unconsented discharge in relation to the agency's EQS). By 1994, this process of control had become one dominated by a drive towards ensuring consistent consent *conformance* (Barrett and Fudge, 1981) in the sense that such discharges should remain within their consent conditions to the satisfaction of the agency. The adoption of this approach was intended to enable the RPB to avoid repeats of the persistent non-compliance on the part of key dischargers (the distilling industry and the Regional Council) which the agency had faced in the late 1980s. It was also the product of the external policy developments which had resulted in the introduction of the SLS system, the Charging Inspection Schemes, and, most influentially in terms of shaping the enforcement process, the Common Enforcement Policy. As such, by the mid 1990s the RPB's approach to enforcement was being transformed from one of flexible adaptation, to be moulded around the particular circumstances of a pollution incident, to a more rigidly programmed (Berman, 1980) approach emphasising formal enforcement procedures.

The RPB was able to demand policy conformance on the part of dischargers because of a number of factors. In particular, the agency had the capacity to evaluate implementation success in precise terms by measuring dischargers' adherence to consent standards and relating that information back to the impact on the RPB's Environmental Quality Standards. Precision in measuring success in this context was aided by certainty regarding the theory of the policy instrument. In this way, the RPB was confident that using the various formal legislative tools of pollution control relating to consent setting and consent enforcement in specific circumstances would maintain or improve the environmental quality of water-courses under its control.

The RPB's ability to pursue an approach to implementation based on securing policy conformance was further enhanced by the institutional setting of water pollution control policy. Thus, the policy actors involved in the ongoing implementation of policy were all situated within a single agency with an exclusive statutory responsibility for maintaining and improving the environmental quality of specified water-courses. As such, the agency's objectives were specific and well defined and therefore clearly understood by its intra-organisational policy actors. As a result of these factors the intra-organisational actors had

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a favourable disposition to the objectives which were to be implemented. It was for this reason that the progressive introduction of new administrative guidelines to the implementation process was not intended to radically alter the outputs of the process by notionally limiting activity on the part of field-level implementors likely to subvert the achievement of the agency's policy objectives. On the contrary, these policy actors were in accord with their colleagues throughout the agency as to the objectives of the RPB's pollution control policy. Therefore, the operational impact of these guidelines was to formalise and codify the circumstances in which particular courses of action should be followed in order to achieve these objectives.

As a consequence of the issues discussed in the above, certain variables commanded a higher currency than others in shaping the implementation process at its various stages within the RPB. In particular, formal authority relationships and administrative guidelines were influential in structuring the implementation process in relation to the activities of, and interactions between, policy actors located within the organisational hierarchy of the RPB's professional staff. Formal authority relationships most obviously shaped the implementation process in determining the circumstances in which Pollution Control Inspectors should take formal samples in relation to the enforcement of consent conditions. Administrative guidelines contained in the CEP were also important in this respect in that they stipulated particular courses of actions which Inspectors should follow when dealing with cases of unconsented discharges.

When policy implementation progressed to include policy actors at Board level the process was dominated by informal authority relationships. These, in turn, enabled the professional staff to direct the implementation of policy towards particular outcomes by virtue of their greater technical expertise and closer proximity to dischargers and pollution problems than was the case with Board Members. However, the common perceptions shared by actors throughout the agency as to the objectives of the policy, bolstered by administrative guidelines and formal authority relationships, served to produce an internal consistency as to the courses of action taken by the RPB in relation to particular pollution problems.

From both the above and the findings detailed in chapter 4, it can be seen that the case study RPB's implementation of pollution control policy had began to move almost imperceptibly from a philosophy based on pragmatic flexibility and informality to an increasingly proceduralised approach to regulation. However, this transformation did *not* signal a move

towards the adoption by the RPB of a more confrontational approach to implementation enforcement *per se* through the use of prosecution for offenders as a routine tool of enforcement.[22] In this important respect, the RPB's implementation of its pollution control policy remained true to the traditions of UK environmental enforcement.

7.6.2 *Distributive Environmental Policy: Implementation as Performance*

In contrast to the RPB's efforts to achieve policy conformance, The Scottish Office's distributive policy towards the voluntary environmental sector, as implemented through the SGEP between 1987 and 1994, was more concerned with ensuring policy *performance* in the sense of 'getting something done' (Barrett and Fudge, 1981) by matching funds with applications on a relatively flexible[23] basis. This flexible approach to implementation was partly the product of difficulties associated with directing funds towards a heterogeneous target group whose collective activities encompassed a wide range of policy areas. It was also partly the product of the policy's lack of clearly defined and explicitly stated objectives beyond that of assisting voluntary environmental organisations to improve their overall capability and effectiveness in carrying out practical environmental conservation or improvement work.

The combination of these two related factors - diverse target group and associated activity and a broad policy objective - made it difficult for The Scottish Office to measure implementation success in terms of policy conformance. With the RPB's pollution control policy, influencing specific target group behaviour (polluting behaviour) could be directly linked with achieving a particular policy objective (maintaining specific Environmental Quality Standards) thereby making it possible to measure implementation in terms of conformance to specific criteria. By contrast, The Scottish Office's distributive policy did not influence the behaviour of the members of the general target group at which the SGEP was aimed, beyond enabling them to continue with activities in which they were often engaged in any case. Therefore, it was difficult to directly link Programme outputs with environmental outcomes (in the form of funded organisations' environmental improvement activities) in the same way as could be done with the implementation of regulatory environmental policy. This problem of measurement was compounded by the heavy

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[22] This was partly due to policy actors' shared perceptions as to the objectives of the agency's pollution control policy (encapsulated in the philosophy of enforcement via co-operative means) and partly due to their shared misgivings as to the effectiveness of prosecution as an enforcement tool.

[23] 'Flexible' in the sense that allocation was not based upon achieving closely defined policy objectives or following rigid administrative guidelines as to the type of organisations to be funded and the circumstances under which they should be funded.

reliance of policy actors within the Rural Affairs Division upon 'self-monitoring' by funded organisations themselves in relation to their achievement of grant-related targets.

The process of policy implementation through the SGEP was further complicated by the fragmented nature of the institutional setting within which grants were allocated. Thus, while responsibility for administering the Programme lay with the Rural Affairs Division of The Scottish Office, the allocative process embraced a wide range of policy actors throughout The Scottish Office. In turn, while generally considering applications in terms of their fit with Government policy objectives (regarding their environmental benefit and the value for money which they offered), some of these actors occasionally followed their own Departmental policy objectives as opposed to those of the case-study policy when making their evaluations.

As a consequence of the above, the allocation of SGEP grants was largely a process of 'muddling through' (Lindblom, 1959) as Scottish Office policy actors attempted to match funds with organisations which they perceived to contribute to particular Government objectives in specific policy areas. In these circumstances, and in the absence of specific policy objectives, clearly understood by all policy actors, informal authority relationships constituted the dominant variable in shaping the implementation process within The Scottish Office. This was most evidently the case with regard to policy actors' relationships at the horizontal level within The Scottish Office. In this respect, the perceived policy expertise of consulted policy actors led the SGEP Administrator to attribute significant weight to their opinions as to the merits of funding particular organisations (when these opinions were perceived to be based on objective assessments of the organisations' applications). Similarly, the SGEP Administrator was also able to exert significant informal authority when making funding recommendations to senior colleagues involved in the allocative process within the Rural Affairs Division. This was due to this actor's familiarity with organisations regarding their grant-related target performance (regarding core/strategic Year 2 or 3 funding) and this actor's dissemination of consulted policy actors' recommendations regarding funding.

Policy implementation at the inter-organisational level was dominated by a combination of formal and informal authority relationships. Thus, The Scottish Office was formally able to make demands of funded organisations in relation to target setting and target progression. Informal authority was most evidently exercised by certain consulted Departments over

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particular funded organisations and, more directly, by the Rural Affairs Division in relation to certain funded organisations. This occurred in the sense that particular funded organisations felt constrained regarding the extent to which they could be critical of either a supportive consulted Department or Scottish Office policy in relation to particular areas.

By 1994 the process of implementing the distributive policy via the SGEP had begun to move towards a more programmed approach as a result of replacing the category of core funding with that of strategic funding. This had the impact of giving a higher degree of formalisation to what had previously been a relatively informal relationship between The Scottish Office and particular funded organisations. In particular, it had made explicit strategic objectives which Government wished to achieve through the funding of particular national voluntary environmental organisations. This funding development was also significant in that it signalled Government's intent to move away from the ad hoc funding arrangements which had characterised the Programme prior to the funding changes. As such, the changes to the Programme reflected Government's concern with ensuring that its allocation of public funds to the voluntary environmental sector provided what it considered to be satisfactory returns in terms of policy outcomes. From this, it is evident that Government's distributive environmental policy was adopting a more programmed approach in identifying strategic organisational funding priorities. While this shift to more programmed implementation was going on, the policy still retained the flexibility to adapt the process to fit the diverse range of activities for which it received applications for project funding. At the same time, The Scottish Office did not formally commit to funding organisations - on either a strategic or project basis - for periods of over three years. In these important respects, The Scottish Office's distributive environmental policy adhered to the philosophy of implementation as performance.

7.7 Contingency in Public Policy Implementation

The findings contained in this study in relation to the implementation of environmental policy in Scotland, through the instruments of the Control of Pollution Act 1974 and the Special Grants Environmental Programme, do not represent a further contribution to either the top-down school's litany of implementation failure or its pantheon of prescriptions to more closely match action with intent. Equally, these findings are not in accord with the bottom-up school's frequent portrayal of implementation as a process bereft of 'policy steering' from authoritative policy actors situated at the top of an implementing

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organisation's hierarchy. Instead, what emerge from the analysis of the case-study accounts detailed in chapters 4, 5 and 6 are portraits of policy implementation where policymakers' measures of success are contingent upon the extent to which the variables discussed in the preceding sections structure the process. By providing insights into the vagaries of policy implementation in the real world, the case-study findings illustrate that there is no one 'best' way to implement public policy. Rather, the process of implementation is influenced by the particular constellation of variables in relation to the particular policy context being studied. A number of conclusions can therefore be drawn from these case-study findings in relation to the implementation of public policy in general.

Contrary to the impression given by 'first generation' implementation studies of the early 1970s, public policy implementation is not a phenomenon beyond the control of policy-makers. As findings in relation to each of the case-studies contained in this thesis indicate, it *is* possible for authoritative policy-makers to impose order upon the implementation process from the top down so as to direct policy outputs towards achieving their desired policy objectives. For the River Purification Board this involved the exercise of formal authority by senior staff in relation to the enforcement activities of field level implementors, along with a structuring of the enforcement process by administrative means to ensure that dischargers conformed with their consent responsibilities. For The Scottish Office, efforts to impose order upon the distribution of SGEP funds involved the grafting of administrative procedures to the implementation process in the form of reconstructed funding categories and guidelines for applicants regarding grant-associated target setting.

However, findings in relation to each of the case-studies also indicate there to be limits to the extent to which the policy implementation process can be structured from the top down. Thus, even in the midst of the formalising of the RPB's pollution control policy, there existed sufficiently wide administrative parameters for field-level implementors to exercise a degree of discretion in enforcement. Similarly, and even more explicitly, the distribution of SGEP funds demonstrated an approach to implementation that owed little to pursuing tightly defined objectives from the top down and a great deal to adapting the contours of the implementation process to accommodate the wide variety of activity undertaken within the voluntary environmental sector in Scotland.

From the earlier discussion in this chapter, it can be seen that the characteristics of particular variables have a significant impact in shaping the policy implementation process.

In this respect, the design of the policy instrument (incorporating its causal theory), the target group at which the instrument is aimed and the nature of behaviour to be altered, can all have important repercussions in terms of evaluating implementation success. For the RPB, adequate causal theory (relating to the measurable impact of applying the instrument of COPA 1974 to changes in specific target group behaviour) enabled implementation success to be evaluated with a high degree of precision. For The Scottish Office, this proved a more difficult task as it was not always possible to directly attribute environmental improvement arising as a result of funded organisations' activities to the policy's outputs in the form of SGEP funding. As a consequence of this, The Scottish Office's evaluation of implementation success adopted a rather more pragmatic hue than that of its regulatory counterpart.

In addition to factors of instrument design and target group characteristics, the clarity of the policy objectives to be implemented and the disposition of policy actors to these objectives can also exercise a significant influence in determining the implementation strategies adopted by policy actors. In particular, broadly defined objectives, implemented by multi-functional agencies (or a number of separate agencies), lend themselves to adaptive implementation strategies in which policy outputs are seen to be in broad concert with the intent of policy. This approach can be viewed as a reaction to operational difficulties associated with measuring target group compliance in relation to widely defined objectives.[24] Adaptive implementation can also be viewed as a way of circumnavigating implementation problems associated with variable dispositions on the part of actors within the implementing agency or agencies and/or among members of the target group regarding the objectives of the particular policy. In such contexts, informal authority relationships are important in shaping the implementation process (as was illustrated in relation to the distributive policy), as broad policy objectives can be seen to be associated with limited administrative guidance with which to formally structure implementation.[25]

In contrast to the above, a more programmed approach to implementation is likely to be the outcome in situations where policy objectives are clearly defined and implementation

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[24] Such difficulties are compounded when target group activity is diverse and multi-sectoral, thereby providing a further justification for an adaptive approach to implementation.

[25] This need not always be the case. However, broad or vaguely stated objectives are unlikely to be accompanied by precisely detailed administrative guidance as to how to achieve these objectives. For example, the SGEP did not have an application form during the formative years of its existence. Conversely, as its objectives became more specific, the amount of administrative guidance (for example, in the form of information for applicants regarding grant target-setting) supplied to applicant organisations increased.

responsibility is delegated to sympathetic policy actors with a favourable disposition towards achieving these objectives. In such circumstances (depending on other variables such as, for example, the design of the policy instrument, or the target group behaviour to be altered) it is possible to secure policy outputs which are closely, if not completely, aligned with specified policy objectives. In these circumstances, formal authority relationships and detailed administrative guidance have important functions to play in closely structuring the implementation process.

The way in which public policy is implemented, (and consequently, implementation success is measured) is therefore contingent upon the mix of these variables within a particular policy context. A combination of clearly defined policy objectives, implemented by policy actors with a favourable disposition to these objectives, using a policy instrument with good causal theory which is applied to a functionally uniform target group, is likely to result in programmed implementation and should be evaluated in these terms. Conversely, adaptive implementation is the likely outcome in circumstances in which any of these variables display characteristics other than in the above.

To a large extent, therefore, measures of implementation 'success' are determined by Government's selection of policy instruments and the organisational contexts in which they are applied, as these factors can significantly affect the outputs and, ultimately, the outcomes of policy. These selection and application issues are important from the perspective of the *policy practitioner* when contemplating the means by which to resolve societal problems. In particular, they highlight the significant role played by *policy design* in the implementation of public policy through the selection of appropriate instruments to undertake particular functions to achieve policymakers' desired results.[26] They also serve to inject an element of realism into policymakers' expectations as to the attainable outputs and outcomes of policies. These selection and application issues are also important to note from the perspective of the *policy analyst*. In particular, they enable the analyst to explain why the implementation process unfolds as it does in any given policy context, and in so doing, furnish policy practitioners with information upon which to base subsequent policy design and implementation.

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[26] It is no coincidence that UK Governments of differing political persuasions have consistently favoured regulatory instruments as the cornerstone of what has been a fragmented and generally piecemeal environmental policy strategy at the macro level. The application of these instruments tends to produce easily measurable results by which to determine policy success or failure in terms of environmental quality.

In the period which has elapsed since the research for this thesis was undertaken both the regulatory and distributive policy settings examined have undergone significant administrative restructuring. Scotland's River Purification Authorities have been replaced by the Scottish Environment Protection Agency and the Special Grants Environmental Programme has been incorporated into The Scottish Rural Partnership Fund. However, the perennial issue of the extent to which policy implementation can be moulded from the top-down or from the bottom-up indicates that these new administrative structures will continue to provide a fruitful area of study; both for academics and policy practitioners wishing to better understand the dynamics of implementing of public policy in general and environmental policy in particular.

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APPENDICES

Appendix 1: Methodology

The data upon which the empirical analysis contained in this thesis is based was collected through a combination of semi-structured interviews with key policy actors in relation to each case-study policy and analysis of other primary data sources. This appendix explains the methodology used with regard to each of the case-study settings in more detail.

The Regulatory Case-Study Setting

One of the seven mainland River Purification Boards was contacted through its General Manager and asked to participate in the research project as a case-study organisation involved in implementing Central Government's environmental policy in Scotland. I explained that the project was to be an independent piece of academic research and what my objectives were in undertaking the study. The RPB agreed to participate and permission was given by the General Manager to approach the agency's professional pollution control staff and its Board to request interviews. In this context, it was agreed that the professional staff and Board Members provide interviews only if they chose to do so. In the event, all of the professional staff and Board Members who were approached freely gave up their time for interview. As with the General Manager, I stressed to each of these interviewees that this was to be an independent piece of academic research and would not be used for any purpose other than to achieve my stated research objectives.

Permission was also given by the General Manager to use internal RPB documentation as a source of data for the study. This documentation included policy statements, annual reports, corporate plans, bi-monthly pollution control reports, pollution incident reports and private correspondence between the RPB and specific dischargers. Permission to use this material was granted on the understanding that all information used in the thesis would be rendered anonymous. A period of time was spent examining data contained within this documentation and this proved invaluable as it provided important pointers as to the areas to be covered within the schedule for the interviews which were subsequently conducted with RPB policy actors. I also attended one of the RPB's Board Meetings to observe how the professional pollution control staff and Board Members interacted in relation to pollution control policy within this forum.

In total, 28 individual policy actors were interviewed in relation to the RPB's implementation of its pollution control policy. Professional staff interviewed included: the General Manager; the Chief Pollution Control Inspector, the Chief Chemist; the Chief Biologist, the RPB's three Senior Pollution Control Inspectors; and, all nine of the RPB's Pollution Control Inspectors. Board Members interviewed included: three Regional Council appointees; two District Council appointees; and, seven Secretary of State appointees.

Interviews with the RPB's professional staff were conducted on-site at either the agency's central headquarters or at each of its Divisional headquarters. Interviews with Board Members were conducted at either the RPB's central headquarters or Board Members places of employment. All interviews were tape-recorded[1] on the understanding that no individual interviewee would be identified by name in the thesis. Accordingly, all of the interviewees cited in the text have been given false names in order to preserve their anonymity. Each interview took approximately an hour to complete. The interviews were semi-structured and focused on the following topics in order to address the objectives of the study: policy actor's role; RPB's pollution control policy objectives; the enforcement process; negotiations with dischargers; discretion of policy actors; senior professional staff's influence on enforcement; the Board's influence on enforcement; evaluating pollution incidents; the consent system; the Common Enforcement Policy; the RPB-discharger relationship; and, prosecution as a tool of enforcement.

The questions asked in relation to each of these topics were phrased in an open ended way in order to enable the interviewees to provide more detailed answers in relation to particular topics. They were also structured in this way in order to avoid the possibility of interviewees providing answers which they felt to be acceptable or answers which they perceived that the interviewer wanted to hear. As such, each of the questions contained in the interview schedule was asked using the same wording and in the same order so as to limit (insofar as possible) the introduction of bias by the interviewer. However, given the open nature of these questions, follow up questions were not asked in a uniform manner. Instead, their phrasing and content were dependent upon the points raised by the particular interviewee in response to the initial questions.

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[1] Consequently, the author has attempted to include verbatim interview extracts within the text of the thesis in each of the case-study chapters. The only alterations to the quotations relate to the grammatical structure of some sentences in order to clarify what is being said by a particular interviewee. However, this has not been done at the expense of changing the meaning of what the interviewee is saying.

Each of the interviews was transcribed upon completion of the interview programme. Following this, the data was transferred into topic-based files (so, for example, all interview responses on the topic of the RPB's pollution control policy objectives or on the topic of prosecution were placed in individual files). The data supplied by each interviewee in relation to the topics cited in the preceding was then analysed. Analysis of comments made by interviewees were supplemented by further analysis of data contained in the documentation cited in the preceding. By analysing interviewee responses in relation to particular topics (in conjunction with these other primary data sources), it was possible to build up a representative picture of the implementation process as it occurred within the case-study setting.

The Distributive Case-Study Setting

The Rural Affairs Division of The Scottish Office was contacted, through the Head of the Division, and asked to participate in the research project as a second case-study organisation which implemented Central Government's environmental policy in Scotland. The Division agreed to participate and permission was given by the Head of the Division to interview the Executive Officer within the Division who was responsible for the administration of the Special Grants Environmental Programme (SGEP). Permission was not given to interview policy actors within consulted Scottish Office Departments. However, I was provided with access to SGEP-related documentation including correspondence between consulted Departments and the Rural Affairs Division, correspondence between the Rural Affairs Division and applicant organisations, and the SGEP Administrator's Card Index System which detailed information concerning organisations' applications for funding. Again, permission to use this data was given on the understanding that the anonymity of policy actors detailed in such documentation be protected. This has been done in the text of the thesis by removing the names of consulted Departments contained in cited Minute extracts and by removing the names of SGEP applicant organisations cited in the text of these Minutes.

10 voluntary environmental organisations which were in receipt of SGEP funding in 1994/95 were contacted and asked to participate in the study.[2] Each agreed to participate and semi-structured interviews were conducted with representatives of each of these

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[2] 8 of the 10 organisations were in receipt of strategic funding through the SGEP.

organisations. These representatives held either senior management (Director level) or senior administrative positions within their particular organisations and were responsible for dealing with SGEP- related matters on behalf of their organisations. Each of the organisations representatives were assured that any information provided would not be used for any purpose other than to fulfil the research objectives of the study.

The 1994 interview with the Executive Officer responsible for the administration of the SGEP was conducted at the Rural Affairs Division in Edinburgh. Each of the 1994 interviews with the representatives of SGEP-funded organisations was conducted either at the organisations' headquarters or (in one instance) in an Edinburgh restaurant. As with the process of data collection through interview within the regulatory case-study setting, all SGEP-related interviews were tape-recorded on the understanding that no individual interviewee would be identified by name in the thesis. Accordingly, all of the interviewees cited in the text within the context of the case-study distributive policy have either been given false names (in the case of the Rural Affairs Division's Executive Officer) or had their organisations or names rendered anonymous.

The interview conducted with the Executive Officer in 1994 was semi-structured and took approximately two hours to complete. The interview focused on the following topics in order to address the objectives of the study: the Executive Officer's role in the implementation process; the objectives of the distributive policy; the input of consulted Scottish Office Departments to the grant allocation process; the recalibration of the SGEP following the 1992 review; and, the process of monitoring SGEP-funded organisations progress towards grant-related targets. This data was then analysed in conjunction with data contained in documentation including Minutes to the Rural Affairs Division written by policy actors within consulted Scottish Office Departments during the course of allocating SGEP funds and the Card Index System used by the Executive Officer in the grant allocation process.

The interviews conducted with representatives of the 10 SGEP-funded voluntary environmental organisations in 1994 were also semi-structured and focused on the following topics in order to address the objectives of the study: the objectives of the policy; the process of constructing applications for SGEP funding; relations with the Scottish Office Environment Department and other consulted Scottish Office Departments; and, the impact of the recalibration of the SGEP following the 1992 review. Each of these

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interviews took approximately an hour to complete. Each of the tape-recorded interviews was subsequently transcribed and the data supplied by each interviewee was divided into topic based files and analysed. By analysing interviewee responses in relation to particular topics it was possible to build up a picture of the implementation process as it occurred within the distributive case-study setting from the perspective of SGEP-funded organisations.

As was the case with the questions posed to policy actors within the regulatory case-study policy setting, the questions asked in interview to both the Executive Officer and the representatives of SGEP-funded voluntary environmental organisations were open-ended. Again, this was in order to enable these interviewees to provide more detailed answers to questions regarding particular topics than would be possible using closed interview questions. Within the context of the interviews conducted with SGEP-funded organisations questions were asked using uniform phrasing and in the same order. This was for the reasons outlined in the preceding regarding the introduction of bias into the interview process. As with the interviews conducted for the regulatory case-study, the phrasing and content of follow-up questions was dependent upon interviewees' responses to these initial questions.

In addition to the above sources of data, I was also given permission by the Central Research Unit of The Scottish Office to use data collected during the 1992 review of The Scottish Office Environment Department's contribution towards the voluntary environmental sector. I was involved (along with 2 other research assistants) in the data collection undertaken for the Report which was produced for The Scottish Office Environment Department as a result of the review (McCulloch, et. al., 1993a). In particular, I undertook on-site interviews with the Head of the Rural Affairs Division and the Executive Officer responsible for the administration of the Programme, and with this actor's predecessor in that role. In addition, I also interviewed 20 of the 43-SGEP funded organisations in 1992 and had access to the transcripts of all other interviews with SGEP-funded organisations conducted in 1992 as part of the review. Access was also granted to the transcript of a 'round table' discussion, chaired by myself, in which representatives of 7 SGEP-funded organisations participated as part of the 1992 review. Having access to the data collected in the course of conducting the 1992 review proved very useful. This was because it provided an insight into the longitudinal element of implementation which requires to be considered in analysing the implementation process. It also proved useful in

giving pointers as to the types of questions which should be included in the interview schedules for the interviews undertaken with the SGEP Administrator and SGEP-funded organisations in 1994.

Appendix 2: Letter from RPB's General Manager to Regional Council's Director of Water Services - 21st May 1993.

Dear Mr

COPA 1974
Surface Water Sewer Discharge Priority - Priorities for Action

I refer to meeting held on 12 May 1993 which was attended by members of your department when the above subject was discussed.

As you know, the Board has identified the areas where the discharge of surface water from industrial areas required the most urgent action in that there are problems of chronic pollution, albeit from sporadic discharges by many separate companies on any one industrial estate. It is acknowledged that you have increased the numbers of your trade effluent control staff recently and that significant headway has already been made by your Department in some areas. With this in mind, I enclose a list of the Surface water sewers on the RPB's Priority list with provisional dates set against them when the current problems of chronic pollution should be eliminated and the frequency of severe pollution incidents much reduced. It is agreed that those improvements are only likely to be achieved through the process of vists to all premises on the industrial estates identified, making inspections, recommending remedial measures and educating management on the effects of current practice. Whilst a process of education will take time to effect improvements, I firmly believe that the Council's resolve to prosecute offenders should be underlined and hopefully this will ensure that changes in working practices on redrainage works are given sufficient priority by the discharger.

In addition to your own efforts, I believe there to be further scope for greater co-operation between our two authorities in undertaking prosecutions where illegal discharges have been made to a surface water sewer and resulting in pollution of controlled waters. I am disappointed to learn that the record of successful prosecutions has been poor. I have gained the impression that this may, in part be due to delays arising in your own Legal Services Department. In addition, I aware of difficulties in effecting remedial measures where the Council's Property Services Department are involoved. Problems in (named locations) are examples where it appears that difficulties could have been avoided or resolved more quickly. If you feel that my presence at a meeting with the Directors of other involved departments of the Regional Council would help to underline the importance which the Board accords to these issues I would be happy to co-operate.

The Board will consider the matter of pollution from industrial estate surface water sewers at their next meeting at the beginning of July. I must produce my report for dispatch before Friday 25th June and I shall be grateful if you will consider the enclosed table giving a provisional timetable for improvements and advise me before that date of your view as to whether you feel it is reasonable to expect that the chronic pollution will be under control by the dates given. In addition, I would appreciate your efforts to arrange a meeting with the Director of Legal Services and Property to discuss ways of co-operating to improve the current situation.

Yours etc

General Manager

Appendix 3: List of Regional Council Surface Water Sewers on RPB's Priority List

Priority	Pollution incident frequency	Amenity value	Deadline date	Reasons for date
1	high	high	1/4/94	Large industrial estate requiring time to carry out extensive investigations, first identified by the Board as priority in 1991
2	high	high	1/4/94	Large industrial estate requiring time to carry out extensive investigations, first identified by the Board as priority in 1991
3	high	low initially	1/8/93	Formal samples taken in May 1992 were submitted to the Procurator Fiscal: Trade Effluent Section had already carried out detailed investigations.

Priority	Pollution incident frequency	Amenity value	Deadline date	Reasons for date
4	low	high	1/8/93	First identifed by the Board as a priority in 1991. Formal samples taken in May 92. Council had therefore had time for bringing about improvement.
5	low	high	1/8/93	Formal samples taken in May 92 and submitted to Procurator Fiscal. Trade Effluent Section had already undertaken investigation and area diverted to foul sewer.
6	moderate	moderate	1/8/93	Fairly small industrial estate with problem areas well known. The only one of the two industrial estates in B division on the Priority List

Priority	Pollution incident frequency	Amenity value	Deadline date	Reasons for date
7	high	low initially	1/4/94	Two outlets, but problem areas already fairly well known.
8	high	moderate	1/4/94	Although in fairly compact area, large number of visits required and time given to allow this.
9	moderate	high	1/4/94	Although in fairly compact area large number of visits required and time given to allow this.
10	moderate	medium	1/4/94	Although a fairly compact area, large number of visits required and time given to allow this.
11	moderate	high	1/8/93	Fairly small industrial estate and the only one identified in division. Has caused problems for some time.

Priority	Pollution incident frequency	Amenity value	Deadline date	Reasons for date
12	low	high	1/8/93	Only industrial estate identified in division. Most problem areas already known to Trade Effluent section.
13	low	high	1/8/93	Small industrial estate so could be inspected in a short time-scale.
14	moderate	moderate	1/1/94	Fairly small industrial estate but some additional time given to allow completion of some higher priority areas.
15	low	high	1/1/94	Most of the problem areas have been identified. Sewage cross-connections from non-industrial area require improvement.
16	moderate	high	1/8/93	Small industrial area and only estate in division.

Appendix 4: Letter from Regional Council's Director of Water Services to RPB's General Manager (14/6/93).

Dear

I refer to your letter of 21st May 1993 regarding the above and the action you describe to reduce chronic pollution and the incidence of severe pollutions of surface water sewers is already under way. The attached list gives details of progress to date with comments.

It is extremely difficult to estimate time-scales for the work involved but I would intend that the deadlines will be achieved with the exception of industrial estate A which will be finished by the end of this year.

I would confirm my understanding of your requirements, which is, that for each of the areas specified, any chronic pollutions have been eliminated and all companies visited by the dates indicated. I also confirm my intention to initiate prosecution of any company or individual who appears to cause pollution of a water-course.

I trust this response will enable you to report to your Board regarding this matter.

Yours sincerely,

Director of Water Services.

Appendix 5: Comments of Director of Water Services Regarding Regional Council Surface Water Sewers on RPB's Priority List

Priority	Progress to date & comments
1	Apart from dealing with pollution incidents investigations have not commenced. It is intended that this will be the next priority area for the completion of work at road A
2	All premisies visited during May 1993. Questionnaires have been competed by the companies and processing underway. RPB deadline should be achieved.
3	Sites already visited. A lot of progress has been made on this estate although there is still intermittent pollution. Chronic pollution has apparently ceased. The survey is almost complete.
4	This deadline is unlikely to be met due to the large number of companies to be visited. However, survey work is underway and it is hoped to complete before 1994.
5	The main source of pollution has been identified and the company involved is having a drainage survey completed. Problems from site X have stopped. However, poilution continues mean-time, although there have been significant improvements to the quality. A check of possible pollution from residential areas is to be carried out. Work should be completed on, or shortly after, the deadline.
6	This survey is mostly in hand. The only pollution now is a yellow dye, the source of which is to be investigated in the week commencing 14th June 93

Priority	Progress to date & comments
7	The bulk of the work has been completed.
8	The source of sewage fungus is being traced. A major oil pollution source has been identified and action to stop the pollution being taken by the company.
9	Sewage fungus is thought to be from the X cooling plant.
10	Deadline should be met.
11	It is considered that the main source of pollution has been identified and action is being taken to confirm this.
12	Most sites visited and sources identified. Chronic pollution has probabely stopped and deadline should be met.
3	Deadline should be met but are to give this low priority since no chronic pollution and quality generally satisfactory.
14	Deadline should be met.
15	Domestic cross connections to the surface water are being investigated.
16	Main companies have been visited and advice given on pollution prevention.

Appendix 6: Background to the Scottish Levels of Service System

THE AIMS OF THE BOARD AND ORGANISATIONAL PERFORMANCE

A BACKGROUND TO THE SLS SYSTEM

1. It is vital that an organisation have clear and explicit aims and that these be translated into quantified and time-bounded objectives. There must also be measures of performance which describe how well the organisation is doing in relation to the objectives and, whenever possible, indicate the cost of achieving the performance described.

2. In a regulatory body fulfilling a wide range of service functions the simple system described above is extremely difficult to establish, there is no single self-evident output which can be measured and to which costs (inputs) can be ascribed. Nevertheless the Board have been working towards such a system since 1985, contributing to and supporting the work of the joint SDD/SRPBA Performances and Purposes Working Group (PPWG) and publishing annually the levels of service achieved in respect of the intermediate and final output measures recommended. This has been of value in the allocation of resources and planning of budgets.

3. The PPWG system is based on 17 objectives from which 35 level of service indicators (SLS) were derived, but this number was reduced to 26 in 1992 (see below). It was originally intended (First Report of PPWG, SDD 1986) to use the SLS figures together with costs to produce performance indicators for most of the activities described. This proved impracticable and PPWG (Final Report of PPWG, SDD 1990) resolved that costs be ascribed to broad areas described by purpose. Whilst this is relatively insensitive for management purposes it is useful in measuring true allocation of resources and therefore in planning for the future.

4. A detailed description of objectives and levels of service has been published in previous Annual Reports and need not be repeated here. It is important however to report results in terms of levels of service, in particular actual provision as compared with plan. Results for the key SLS which measure Board performance are given in Part VII of this report. Other SLS are activity measures mainly governed by sampling strategy, the subsequent sampling plan, special investigations and hydrological requirements. These activities are essential to achieve and measure the key performance indicators. Plans and achievement of these activities are recorded in the Board's Annual Plan and reports of the PPWG. Their influence is on the staff and resources necessary to achieve planned progress on the key performance indicators reported here in Part VII.

SLS No.	Description
1	River quality - the length (km) In each of 4 classes
3	Estuarine quality - the area (km²) In each of 4 classes
4	Coastal water quality - the coastline length (km) In each of 4 classes
6	The number of Local Authority sewage discharges complying with consent conditions
7	The domestic population for which sewage discharges comply with consent
8	The number of trade effluent discharges complying with consent conditions
9	The number of stations sampled/ Inspected for water quality with at least planned frequency
9A	The number of Inspections/ samples achieved for water quality
10	The number of discharges (Trade and Sewage) sampled/Inspected with at least the planned frequency
10A	The number of samples/Inspections of discharges (Trade and Sewage) achieved
11	The number of chemical determinations required by the Board's plan which meet standards of quality control
12	The number of chemical determinations required by the Board's plan carried out within quality standards
12A	SLS 12 expressed as analytical units
13	The number of biological samples required by the Board's plan
13A	SLS 13 Expressed as analytical units
14	The number of applications for consent (new discharges)
16	The number of existing consents revieweo
17	The number of Planning and Development Consultations dealt with In writing
18	The number of agricultural grant aid applications referred to the Board and dealt with In writing
20	The Design and construction of new primary gauging stations
21	The number of mean daily flows (to BS 3680) from stations In primary network
22	The number of rainfall stations submitting data to meteorological office
23	The area and length of watercourses covered by control orders for water abstractions for spray Irrigation

24   The area (km^2) covered by the Board's flood warning scheme

25   The number of pollution complaints investigated and receiving a response within set time limits

26   The number of pollution events investigated and cleared

Appendix 7: Copy of Inspectorate SLS Return Form

<u>INSPECTORATE SLS RETURN</u>

AME .... WEEK NO ....w/c..

	REFER SLS	M	T	W	T	F	W/E	TOT
AMPLING number of quarter hour units used		—	—	—	—	—	—	—
ımber of freshwater samples (to plan)	9A	—	—	—	—	—	—	—
ımber of saltwater samples (to plan)_____	9A	—	—	—	—	—	—	—
ımber of controlled water samples (unplanned)_____	9C	—	—	—	—	—	—	—
ımber of special survey samples (to plan)_____	9A	—	—	—	—	—	—	—
ımber of trade effluent samples (to plan)_____	10A	—	—	—	—	—	—	—
ımber of sewage effluent samples (to plan)_____	10A	—	—	—	—	—	—	—
ımber of miscellaneous point source sample visits (unplanned)_____	10C	—	—	—	—	—	—	—
ımber of miscellaneous diffuse source sample visits (unplanned)_____	10C	—	—	—	—	—	—	—
ISPECTIONS number of quarter hour units used		—	—	—	—	—	—	—
ımber of water quality inspections (to plan)_____	9A	—	—	—	—	—	—	—
ımber of water quality inspections (unplanned)_____	9C	—	—	—	—	—	—	—
ımber of trade effluent inspections (to plan)_____	10A	—	—	—	—	—	—	—
ımber of sewage effluent inspections (to plan)_____	10A	—	—	—	—	—	—	—
ımber of miscellaneous point source inspections on Farm unplanned)_____	10C	—	—	—	—	—	—	—
ımber of miscellaneous diffuse source inspections on Farm unplanned)_____	10C	—	—	—	—	—	—	—
ımber of DAFS grant farm inspections_____	18A	—	—	—	—	—	—	—
ımber of Farm Regulation inspections (to plan)_____	18B	—	—	—	—	—	—	—
ımber of Farm Regulation inspections (unplanned)_____	18B	—	—	—	—	—	—	—
ONSENTS number of quarter hour units used		—	—	—	—	—	—	—
ımber of applicatons actually processed_____	14	—	—	—	—	—	—	—
ımber of consent reviews undertaken_____	16	—	—	—	—	—	—	—
LANNING & DEVELOPMENT number of quarter hour units used		—	—	—	—	—	—	—
ımber dealt with in writing								
local authority (as defined)_____	17	—	—	—	—	—	—	—
other applications (eg Forestry Commission, Tip licences etc)_____	17	—	—	—	—	—	—	—
OLLUTIONS number of quarter hour units used		—	—	—	—	—	—	—
ımber of complaints responded to in less than 24 hours_____	25	—	—	—	—	—	—	—
ımber of complaints responded to in 24 - 48 hours_____	25	—	—	—	—	—	—	—
ımber of complaints responded to greater than 48 hours_____	25	—	—	—	—	—	—	—
ımber of pollution events cleared_____	26	—	—	—	—	—	—	—
CTION ADMINISTRATION number of quarter hour units used		—	—	—	—	—	—	—
OARD ADMINISTRATION number of quarter hour units used		—	—	—	—	—	—	—
ANUAL LEAVE, Public Holidays, TIL, F/Leave, Sick Leave etc. ımber of quarter hour units used		—	—	—	—	—	—	—
		—	—	—	—	—	—	—
RAINING number of quarter hour units used		—	—	—	—	—	—	—
ıurse Title_____								
ONTRACT WORK number of quarter hour units used		—	—	—	—	—	—	—
escription / Details_____								
THER SPECIFIC TASKS number of quarter hour units used		—	—	—	—	—	—	—
escription / Details_____ SLS ( )								
OARD PROMOTIONS number of quarter hour units used		—	—	—	—	—	—	—

Appendix 8: Enforcement Policy Document

FOR OFFENCES UNDER SECTIONS 31 AND 32 OF COPA

INTRODUCTION

1. The basic statutory role of the Board is to promote the cleanliness of the rivers and other inland and tidal waters and to conserve as far as is practicable the water resources of its area.

2. The two principal offences relating to water pollution in Scotland are contained in the Control of Pollution Act 1974 (COPA) as amended by Schedule 23 of the Water Act 1989. These are:-

    (a) Under Section 31(1) it is an offence for any person to cause or knowingly permit any poisonous, noxious or polluting matter to enter any controlled waters, and

    (b) Under Section 32(1) it is an offence if any person causes or knowingly permits any trade or sewage effluent or any other matter to be discharged to any controlled waters unless the discharge is made with the consent of, and in accordance with any conditions imposed by, the Board.

3. In exercising its duty, the general approach of the Board is that of persuasion and education with the emphasis on pollution prevention. Cases will be referred to the Procurator Fiscal only when it is considered that there has been a failure to take the requisite degree of care or to exercise due diligence.

4. It is recognised that all offences under Sections 31 and 32 of COPA can be referred to Procurator Fiscal for action but not all offences merit such action. To refer all cases for possible proceedings would be to waste court time and would in any case be unreasonable in many instances.

5. The enforcement policy outlined below and adopted by the Board, on 8 January 1993, is based on recommendations by the Association of Directors and River Inspectors of Scotland to ensure a common approach throughout Scotland.

6. The aims of the Enforcement Policy are:-

    (a) To improve water quality

    (b) To attain optimum consent compliance in as short a timescale as practicable.

    (c) To promote an approach consistent with other River Purification Authorities (RPAs) in Scotland

    (d) To achieve an even-handed treatment of offenders

    (e) To improve public awareness of RPA enforcement procedures

GUIDELINES FOR ENFORCEMENT PROGRAMME

SECTION 31 OFFENCES AND ENFORCEMENT PROGRAMME

7.   Offences under Section 31(1) of COPA of causing or knowingly permitting poisonous, noxious or polluting matter to enter controlled waters are dealt with as follows.

MINOR INCIDENTS

8.   Minor incidents are those which do not cause any breach of the appropriate environmental quality standards in the receiving water. In such cases, a verbal warning may be given at the time of investigation followed by a letter, enclosing analytical results, where samples are taken, seeking confirmation of remedial action. For a repeated incident in this category a more strongly worded letter will be issued making reference to the possibility of formal action being taken. A case may be reported to the Procurator Fiscal where it appears that the discharger has not exercised a reasonable degree of care, skill or foresight.

SERIOUS INCIDENTS

9.   Serious incidents are those which cause a breach of <u>any</u> appropriate environmental quality standard in the receiving water. All such cases should be reported to the Procurator Fiscal unless the exemptions provided for by statute apply or there are other mitigating circumstances which are totally outwith the control of the discharger.

SECTION 32 OFFENCES AND ENFORCEMENT PROGRAMMES

10.   Offences under Section 32(1) of COPA of causing or knowingly permitting any trade or sewage effluent or any other matter to be discharged to any controlled waters unless the discharge is:-

        (a)   made with the consent of the Board and
        (b)   in accordance with the conditions imposed by the Board, or
        (c)   otherwise exempt by statute are dealt with as follows:-

UNCONSENTED DISCHARGES

11.   Unconsented discharges cannot be allowed to persist outwith the law. Where such a discharge exists the Board will request the party responsible to terminate the discharge or apply for consent under Section 34(1) of COPA. Should the discharger <u>fail</u> to do so then consent will be imposed by an instrument served in accordance with Section 34(3).

12.   In addition to the above, reference to the Procurator Fiscal will be made if considered appropriate.

CONSENTED DISCHARGES

13.   The Board routinely samples all significant trade and sewage discharges to determine compliance with consent conditions, and monitor the impact of the discharges on the receiving waters. Sampling and monitoring plans are reviewed annually and may be inspected at the offices of the Board. Enforcement samples, which are additional to the routine sampling and monitoring plan, are initiated as a result of non-compliance of routine discharge samples.

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14. Whilst the Board aims to achieve maximum compliance it is recognised that in certain instances consent conditions may not be achievable due to occasional or consistent overloading of the treatment plant or breakdown in plant performance. Where the Board is satisfied that immediate remedial action is not attainable then a planned and committed programme of remedial action will normally be formally agreed with the discharger. The Board will, however, ensure that the effluent receives the maximum treatment in the intervening period. In some instances this may involve the imposition of interim consent conditions. Any interim consent conditions will be subject to the Enforcement Programme and failure to meet the agreed remedial programme is likely to result in the Board's staff taking corroborated samples with a view to referring the matter to the Procurator Fiscal.

15. In any reference of a case to the Procurator Fiscal corroborative samples and evidence are required. Similarly there will be allowance for analytical and sampling error in assessing any results offered in evidence.

MARGINAL CONSENT EXCEEDENCE

16. Marginal consent failure is where exceedence of any maximum limit set in the consent, and the impact of the discharge on the appropriate environment quality standards in the receiving water, are not significant. Any single marginal consent failure is undesirable and marginal failure of more than 25% of samples cannot be tolerated and may result in legal action.

17. The Board will alert the discharger, as soon as possible, of any marginal consent failure. The discharger should determine the cause of the failure and where required, undertake remedial action, reporting the action taken to the Board; by letter, within 10 days of receipt of notification of failure. Marginal consent failure can result in enforcement sampling.

SERIOUS CONSENT EXCEEDENCE

18. Serious consent failure is where:-

    (a)   any exceedence of a maximum limit set in the consent results in a breach of the appropriate environmental quality standard in the receiving water, or
    (b)   exceedence of any maximum limit set in the consent is greater than 100% irrespective of the impact of the discharge on the appropriate environmental quality standards in the receiving water.

19. The Board will inform the discharger immediately of any serious consent failure. The failure will be confirmed in writing. The discharger should report to the Board, within 24 hours of first being notified, the remedial action being taken. This notification should be confirmed in writing. Serious consent failure is likely to result in enforcement sampling (including formal samples).

20. Where exceedence of any consent limit results in a serious breach of the appropriate environmental quality standard in the receiving water then formal samples will be collected by the Board as soon as practicable and, unless any exemption provided by statute applies, the matter referred to the Procurator Fiscal.

21. Notwithstanding the recommended procedures outlined in these guidelines the Board, in complying with its statutory duty to maintain and improve water quality, will take account of all the relevant circumstances when considering legal action for offences under the Control of Pollution Act 1974.

GLOSSARY OF TERMS

River Purification Authorities (RPAs) in Scotland are the seven River Purification Boards and the three Islands Councils as river purification authorities.

Controlled Waters are defined in Section 30A of COPA as amended by Schedule 23 of the Water Act 1989. Controlled waters are all inland waters (rivers , watercourses, lochs and ponds), groundwaters, coastal waters and relevant territorial waters (waters extending 3 miles seawards).

Pollution as defined in EC Directive 76/464/EEC is "the discharge by man, directly or indirectly, of substances or energy into the aquatic environment, the results of which are such as to cause hazards to human health, harm to living resources and to aquatic ecosystems, damage to amenities or interference with other legitimate uses of water".

Consent to discharge trade or sewage effluent or any other matter to controlled water is required under Section 32 of COPA. Section 34 provides for the Board to include conditions with respect to the nature, origin, composition, temperature, volume and rate and period of discharge. The Board may set numeric limits on the concentration or load of any substance and on the flow of the effluent.

CONSENT COMPLIANCE - A discharge complies with the Board's consent when it meets all the conditions (numeric and descriptive) set in the consent.

SATISFACTORY DISCHARGE PERFORMANCE - The Board's numeric consent conditions are invariably set as absolute units. Qualitative consent conditions in Scotland, however, are generally strict and consequently if 75% of samples of discharges taken over a 12 month rolling period are within consent limits and any exceedence is marginal then the discharge can be deemed satisfactory.

ENVIRONMENTAL QUALITY STANDARD (EQS). The Board specifies, taking account of relative national and international obligations, the maximum acceptable concentrations of substances in controlled waters in order to protect these waters for designated uses.

SERIOUS INCIDENTS CAUSING A BREACH OF ANY ENVIRONMENTAL QUALITY STANDARD. A few examples of the effects of such incidents are:-

      (a)   causes fish mortalities
      (b)   adverse interference with an abstraction for industry, public supply, stock watering etc
      (c)   adverse affect on SSSI, nature reserve, or other areas of high amenity value (bathing
          beach, public park, golf course, etc)

ENFORCEMENT AND CORROBORATED SAMPLING. This will inevitably cause unplanned work for the Board's staff and the additional costs of the sampling and analysis will be passed on to the discharger. These costs will be recovered by invoicing the responsible party.

Appendix 9:
Example of Content of Bi-Monthly Pollution Control Report

Bi-Monthly Pollution Control Report - 22/10/93 - 8/12/93

Division 1

295 effluent discharge and environmental inspections were carried out during the reporting period.
Written comments were given on 91 planning applications.
19 consent applications were processed.

Division 2

157 effluent discharge and environmental inspections were carried out during the reporting period.
Written comments were given on 78 planning applications.
32 consent applications were processed.

Division 3

379 effluent discharge and environmental inspections were carried out during the reporting period.
Written comments were given on 90 planning applications.
50 consent applications were processed.

Pollution Investigations

Division 1

Farm effluent. Catastrophic failure of pump due to gas pressure. Incident considered to have been the result of unforeseen circumstances and consequently further action is not considered appropriate.

Consented Discharges

Knackery A: Routine inspection of effluent dispersal system serving premises found that 2 soakaways failed resulting in direct discharge of effluent to the water-course. Subsequently, a meeting was held with the company and a consultant at which they presented a number of proposals designed to remedy the situation.

Essentially, these proposals are for all of the uncontaminated surface water which hydraulically overloads the treatment systems and soakaways to be separated from the foul waste-water and discharged directly to the water-course by early in the new year. Thereafter, it is expected that the treatment plant will produce a much higher quality of effluent.

Appendix 10: RPA Cost Recovery Schemes

CHARGES FOR DISCHARGES

A COST RECOVERY SCHEME

Since 1975, the River Purification Boards have endeavoured to protect and improve the water quality of the rivers in their catchment area, while at the same time supporting economic development. By setting and strictly enforcing reasonable conditions for discharges, considerable success has been achieved. 97% of the length of Scotland's fresh-waters are now of high quality Class I status.

Up until now, a Board's costs of improving water quality have been borne by the general public through local government, rates and community charge. This will continue to be the case for many of a board's activities, such as flood warning, water resource measurement, and national and European monitoring programmes. However, where a board's work is the direct result of a polluting discharge, the costs are now recovered from the discharger. The main advantage of the system is the removal of the financial burden from the general public where costs are identifiably linked to a particular discharge. Dischargers will also see the true environmental monitoring cost of their activities.

THE LAW

The Control of Pollution Act 1974, Section 53 (amended by Schedule 23 of the Water Act 1989), empowers river purification authorities in Scotland to make a scheme for charging for work they do in granting and controlling consents to discharge. This provision has now been utilised so that in common with England and Wales, companies and individuals who discharge effluent directly to waters or land will have to pay the river purification authorities costs related to their discharges.

The Scottish River Purification Boards Association has prepared model schemes which have been adopted by all seven river purification boards in Scotland plus the three islands councils. The schemes, which were subject to approval and modification by the Secretary of State, were variously implemented from 1st January 1992.

There are important safeguards embodied in the act and in the schemes to ensure fair treatment of all dischargers.

1.   The charge is on a cost-recovery basis only. There is no element of profit involved.

2.   The costs are identifiable and attributable to the work of granting consents and monitoring consented discharges.

3.   There is no undue preference or discrimination in fixing charges.

THE SCHEMES

There are two schemes, each having been the subject of consultation with the organisations and institutions representing those most affected by them. One covering the initial application for consent under section 31(3), 32 or 49 of the Act and the other an annual charge for monitoring of a discharge throughout its life.

1. Application Charges - these are split into two rates. A standard rate of £350 per application for consent or revision of consent, with a reduced rate of £50 for surface water or small cooling water discharges (less than 10m³ per day), and sewage effluent from up to 4 houses (or a population of 15 people). The majority of applications and revisions are at the lower rate.

    This charge takes into account the specialist work and administrative effort involved in investigating, determining and recording consent applications and revisions.

    Applications may be advertised in accordance with section 36 of the Act. These costs are recoverable in addition to the Application Charge. In cases where a Board has to obtain further information there may be an additional charge. This is subject to prior agreement.

2. Annual Charges - each year a Board produces a sampling plan, describing the frequency and type of sampling or inspection planned for each location, and the range of analysis to be carried out on samples. This plan is freely available for inspection at the Board's headquarters. The plan is decided on purely environmental grounds, not financial, and takes account of the size and type of discharge, and the sensitivity of receiving waters. Only those discharges which require monitoring attract charges. This means that the vast majority of surface water and small sewage effluent discharges do not incur a charge.

The Annual Charge is composed of three elements:-

(a) Attendance Charge - for each visit to take a sample or inspect a discharge or monitoring site a standard attendance charge is made. This takes in the officer's time and travel expenses, and the cost of reporting on the visit. The attendance charge is averaged so that those discharges which are distant from a Board's headquarters, and thus incur more travelling and time costs, are not disadvantaged.

(b) Compliance Monitoring Charge - this is the cost of analysing chemical and physical characteristics of the effluent being discharged. It is calculated from a unit cost, and reflects the difficulty and length of time taken in analysing each determinand. The compliance monitoring charge applies where the determinand has been specifically limited in the consent conditions, as the purpose of the analysis is to determine compliance with those conditions. Others may be monitored and charged subject to prior agreement.

(c) Environmental Monitoring Charge - this is the cost of assessing the impact of the discharge on the receiving water. It involves not just chemical quality but the health of the living creatures and plants in the river, and on occasion means taking a measurement of the amount of water in the river. It is sometimes necessary to assess the quality of the upstream environment to see clearly the difference due to the discharge. Each freshwater environmental sample attracts a separate attendance charge.

    The position with tidal waters is obviously a little different. The effects of discharges on estuarine and coastal waters needs to be monitored and the costs apportioned to the dischargers. For this purpose the estuarine waters of a Board's area have been defined, and in each area the monitoring costs are apportioned fairly to each discharge on the basis of consent conditions and the significance of the actual discharge. Beach bacteriological surveys are also carried out through the summer to measure bathing water quality and these costs are directly attributable to relevant coastal sewage discharges.

Environmental monitoring charges are only made when monitoring is done because of a discharge, ie. if the discharge were to cease a Board would no longer take that action. Where two or more discharges have a similar impact on the same stretch of river the scheme makes provision for environmental monitoring costs to be shared between them.

Enforcement - the Boards have established enforcement policies which have been successfully applied for a number of years, and a copy of these is available on request. When a sample fails to meet consent requirements, a letter is sent to the discharger and another sample is taken shortly thereafter. This process is repeated resulting eventually in court action if insufficient remedial action is taken. Although this activity is outwith the sampling plan it is chargeable. The charges are confined to sampling and analytical costs. No legal expenses are charged.

PAYMENT

For applications, payment must accompany the application form before it is processed. For the annual charge, payment is due in advance on the basis of the planned action, but arrangements may be made to split the cost over the year in quarterly instalments.

A copy of the Schemes can be obtained on application to the Board's offices whose address will be found at the beginning of this report.

Appendix 11:
Extract of Letter from General Manager of Case-Study RPB to Mr Anderson

I am concerned that you do not appear to accept the serious nature of the situation and the (agency) has several options open to it. These include: -

1) Initiate proceedings for contravention of Section 31 of the Control of Pollution Act 1974 (causing a discharge of a posionous, noxious or polluting substance viz oil). On conviction this carries a maximum penalty of a fine of £20,000.

2) Initiate proceedings under Section 32 of the Control of Pollution Act 1974 (making a discharge to a watercourse without the prior consent of the agency). This also carries a maximum fine of £20,000.

3) Service of a notice under the provisions of the Control of Pollution (Sillage, Slurry and Agricultural Fuel Oil) (Scotland) regulations 1991, to require the construction of catchpits around the oil tanks at the premises. Failure to comply with such a notice removes the current exemptions the facility enjoys and if oil is stored in violation of the regulations then a maximum fine of £20,000 can be levied on conviction.

4) Initatiate proceedings for obstruction of the agency's officers under Section 92(6) of the above act. Or for threatening behaviour with regards to your threats of violence to my staff on the 4th of September 1993.

I should make clear that any or all of the above courses of action are possibilities at this stage and the decision to proceed will be made by the Members of the Board in the light of all the information avaliable to them. In this regard, you are invited to provide an explanation to the incident and to set out the measures you propose to take to ensure there is no repetition of the pollution. You may wish to take legal advice before replying, but in any event, your reply should be made avaliable to me by Monday 11th October 1993.

I can advise you that the analysis of the samples of oil from the watercourse and from your tank confirm they are mutually similar. As you know, earlier samples were taken to allow the agency staff to differentiate between the various tanks located at your premises. Further visits will be made to your farm in exercise of the agency's right of entry onto any land or premises (Section 91 of the Control of Pollution Act) and I shall be obliged if you will further confirm that my staff will not be threatened or abused in any way in future.

Finally, as you know, when the pollutions were first reported to the agency on Saturday 28th August, the Water Services Department of the Regional Council were alerted to the possibility of the water intake becoming contaminated. They reacted by installing oil absorbant booms at a point where the ditch from the farm joins the watercourse. The Regional Council wants to cover the costs of deploying those, which undoubtedly mitigated the effects of the discharge, and I would be obliged if you would advise as to whether you are willing to make such recompense. You may find that your insurance will provide for this and this is worthy of further investigation.

I await your reply.

Yours faithfully

Special Grants (Environmental) Programme
Core and Project Funded Organisations. (1987/88 - 1992/93).

ORGAN.	1987/88 Core	1988/89 Core	1989/90 Core	1990/91 Core	Proj	1991/92 Core	Proj	1992/93 Core	Proj	TOTALS Core	Proj
ACTAC	10K	10K	12.5K	--	--	--	--	--	--	32.5K	--
C.S.Count.T	5K	9.9K	12.5K	12K	--	--	--	--	--	39.4K	--
SCVO	6K	6.3K	1.5K	--	--	--	--	--	--	13.8K	--
Cen.Env.In	--	--	--	--	--	--	4K	--	--	--	4K
Keep Scot.B	--	--	--	--	--	--	1.5K	--	--	--	1.5K

Source: Scottish Office Documentation.

Special Grants (Environmental) Programme
Core and Project Funded Organisations. (1987/88 - 1992/93)

ORGAN.	1987/88 Core	1988/89 Core	1989/90 Core	1990/91 Core	Proj	1991/92 Core	Proj	1992/93 Core	Proj	TOTALS Core	Proj
SWC.LINK	7.5K	7.5K	12K	10K		9.5K		9K		55.5K	
SWT	15K	30K	30K	25K	--	23K	5K	21K	5K	144K	10K
S.Build.P.T	7K	7K	3.5K	3.5K	--	7K	--	6.3K	--	34.3K	--
Sustrans	--	--	--	--	--	--	--	10K	5K	10K	5K
S.Assoc.Ag	--	--	--	--	--	--	3K	--	--	--	3K
Touchstone	--	--	--	--	--	--	4.75	2K	5K	2K	9.75
Venture S.	--	--	--	--	--	2.165	--	2K	--	4.165	--
Water.Leith	--	--	--	6K	--	5K	--	5K	5K	16K	5K
W.Galloway	--	--	--	--	--	1.275	--	1.35K	--	2.625	--
Woodland.T	5K	5K	5K	5K	--	4.5K	0.5K	4K	--	28.5K	0.5K
Age Concern	--	--	--	--	--	--	--	--	3.225	--	3.225
LEEP	--	--	--	--	--	--	3K	--	3.55K	--	6.55K
Skye Forum	--	--	--	--	--	--	--	--	3.75K	--	3.75K
Slide W.	--	--	--	--	--	--	--	--	0.9K	--	0.9K

Source: Scottish Office Documentation.

Special Grants (Environmental) Programme
Core and Project Funded Organisations. (1987/88 - 1992/93).

ORGAN.	1987/88 Core	1988/89 Core	1989/90 Core	1990/91 Core	Proj	1991/92 Core	Proj	1992/93 Core	Proj	TOTALS Core	Proj
APRS	5K	5K	2.5K	2.5K	--	2.25K	--	2K	--	19.25K	--
Ayr Arc H.T	--	--	--	--	--	--	--	5K	--	5K	--
Buchan C.G.	5K	5K	2.5K	2.5K	--	2.25K	--	2K	--	19.25K	--
Centre Hu E	--	--	--	4K	--	5K	--	6.5K	--	15.5K	--
Cl.Scot.Arc	9K	9K	9K	8K	--	13K	2K	13.5K	3K	61.5K	5K
CSV	--	--	--	7.5K	--	7K	--	6.5K	3.7K	21K	3.7K
Env Centre	5K	5.7K	10K	6K	--	5.25K	2K	4.5K	--	36.45K	2K
FoE (Scot)	--	--	--	--	--	13.8K	--	12K	5K	25.8K	5K
Garden Hs S	--	--	--	--	--	--	--	4.5K	--	4.5K	--
Habitat Sco	--	--	--	--	--	--	--	3K	--	3K	--
Heartland R	--	--	--	--	--	--	1.5K	2K	--	2K	1.5K
Heritage ET	--	--	--	--	--	--	--	1.5K	--	1.5K	--
Highland Fm	--	--	--	10K	--	9K	--	11K	--	30K	--
Jonh Muir T	--	--	3K	5K	--	4.5K	--	4K	--	16.5K	--
Locus Bread	--	--	--	2K	--	1.75K	--	2.5K	--	6.25K	--

Source: Scottish Office Documentation.

Special Grants (Environmental) Programme
Core and Project Funded Organisations. (1987/88 - 1992/93).

ORGAN.	1987/88 Core	1988/89 Core	1989/90 Core	1990/91 Core	Proj	1991/92 Core	Proj	1992/93 Core	Proj	TOTALS Core	Proj
Reclaimers	.	--	--	--	--	--	--	1K	-	1K	-
N.S.Clean A	--	--	--	--	--	3.86K	--	3.5K	-	7.36K	-
Royal Zoo.S	--	5.75K	5.75K	4K	-	3.5K	-	3K	-	22K	-
Rural Forum	7.5K	--	--	--	--	15K	-	14K	--	36.5K	-
RSPB	5K	10K	12.5K	11K	-	10K	-	9K	-	57.5K	-
SCPT	15K	30K	36K	30K	5.032K	27.75K	-	25K	-	163.75	5.032
S.E.Des.Ass	--	--	--	4K	-	2K	--	1.4K	-	7.4K	-
SEEC	15K	15K	15K	12K	-	27.15K	--	24K	1.151	--	--
S.Env News	-	--	--	--	--	--	--	2K	-	2K	-
S.F.Sch.Arc	6K	2.4K	1.5K	1.5K	-	--	--	3K	-	14.4K	-
S.F.Stud.As	10K	10K	10K	8K	-	7.5K	-	3K	-	48.5K	-
S.H.Build.T	7K	13.7K	13K	11K	-	5K	--	11.7K	--	61.4K	-
S.N.Woods.C	--	7.75K	7.75K	6K	-	6.25K	2.46K	5.5K	5.5K	33.25K	7.96
S.Rs of Way	5K	5K	2.5K	2.5K	-	5K	-	7K	-	27K	-
S. Scenic T	--	--	--	2K	-	2K	-	1.75K	--	5.75K	-

Source: Scottish Office Documentation.

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Appendix 13: Research Brief of 1992 Review of SOEnvD's Contribution to the Voluntary Environmental Sector (As Regards the SGEP)

Aims

6. The 4 principal aims of the review are :-

    6.1 to consider, in the light of current Government policy objectives for the environment and for the voluntary sector, how Government resources may best be deployed in support of the voluntary environmental sector in Scotland

    6.2 to assess the effectiveness of work undertaken with Scottish Office financial support through the Special Grants (Environmental) Programme and through UK2000 Scotland

    6.3 more specifically, to assess the operation of the Special Grants (Environmental) Programme in its policy and administration

    6.4 to make recommendations for the future of these Programmes.

These strategic aims are translated into a series of more tightly focussed objectives in Paras 7 to 9 below.

Objectives

7. The Review should examine the relationship between the Special Grants Programme and UK2000 Scotland and other direct and indirect funding to the voluntary environmental sector (through, for example, the Central Scotland Woodlands initiative). In particular it should seek -

    - to identify any overlaps and gaps in relation to public sector environmental policy priorities

    - to assess the topic areas and issues where the voluntary sector makes its most (and least) effective contribution and

    - to discuss how funding from available sources meets the needs as perceived by the voluntary bodies themselves and also by the wider community (as established through site interviews) and to consider the availability of alternative sources of funding.

Relevant experience from the rest of the UK, including the original in-house review of the Special Grants Programme conducted in 1989, reviews in this area by The Department of the Environment and The Welsh Office, and other work as appropriate, should be drawn on.

8. On the Special Grants Programme Review the following issues should be addressed :-

    - the achievements of the programme aims to date, both in relation to each of the activities listed in Annex 1 below, and to broader Government objectives in funding the voluntary environmental sector as set out in the White Paper. Core funding and project funding should be considered separately.

    - the balance of the programme, past and present, in terms of sectoral interests and between core funding and project funding.

    - the extent to which project funding has been successful in delivering both a short term aim and a longer term objective (as recommended by the HO Efficiency Scrutiny) and the likely benefits arising from the increase in project funding to cover new educational grants proposed from 1993 onwards.

    - the effectiveness of core funding as a pump priming mechanism.

    - the need for systematic monitoring and evaluation of their activities and achievements by the organisations themselves.

    - Departmental practices in operating and monitoring the programme and its outputs.

9. The final objectives of the work will be to draw up recommendations for the future direction of the Special Grants (Environmental) Programme policy and administration (including detailed proposals on project evaluation and performance measurement); and to make recommendations for the nature and balance of work carried out by the Special Grants Programme and by UK2000 Scotland which will ensure that the most comprehensive, efficient and complete coverage of

Appendix 14: Publications Resulting from the Research Project

RESTRUCTURING POLLUTION CONTROL POLICY IN SCOTLAND
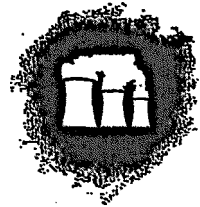
Calum Macleod, The Robert Gordon University, Aberdeen, UK

In April 1996 the disjointed administrative landscape of environmental regulation in Scotland was transformed by the creation of a single Scottish Environment Protection Agency (SEPA) to replace the fragmented administrative arrangements which had previously existed. A similar reorganization was undertaken in England and Wales with the creation of the Environment Protection Agency. Drawing on research conducted within one of Scotland's seven mainland River Purification Boards (RPBs) before administrative reorganization, the implementation of water pollution control policy in Scotland is examined. It is illustrated that in the period before their demise, RPBs had began to discard the features of pragmatism, flexibility and informality which had traditionally characterized the UK approach to pollution control and were instead in the process of developing a more formalized policy style. It is shown that the trend towards an increasingly formalized approach to the implementation of pollution control policy is set to continue within SEPA.

INTRODUCTION

Pollution control policy in the UK has a long history stretching back to the creation of the Alkali Inspectorate in 1863 (Rhodes, 1981). In the past, a key feature of this system of pollution control was its fragmented institutional structure involving a number of different organizations regulating pollution of the environmental media of air, water and land on an individual and mutually exclusive basis. Nevertheless, these separate organizations were united in sharing a distinct regulatory style based on informality, pragmatism, a close working relationship between regulators and dischargers and the limited use of prosecution as an enforcement tool (Vogel, 1986). However, as this paper illustrates, recent policy developments at both the domestic and EU level have begun to transform the traditional approach to pollution control in Scotland.

The creation of a single Scottish Environment Protection Agency (SEPA), along with broadly similar arrangements for England and Wales, is the most high profile illustration of the increasingly significant influence which EU environmental legislation is exerting on regulatory environmental policy in the UK. Many of the environmental policy initiatives emanating from the EU are informed by concerns regarding regulatory standardization and consistency of implementation among Member States. Environmental Directives such as the forthcoming Integrated Pollution Prevention and Control Directive, which had its second reading in the European Parliament in May 1996, indicate the continuing drive for policy harmonization at the European level. These EU-led concerns have significant implications for the evolution of environmental policy at Member State level. The integrated approach to environmental regulation, which forthcoming EU legislation is set to demand of

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Member States, may compel some countries to remodel both their regulatory institutions and their regulatory style. The Scottish experience of realigning pollution control policy, discussed in this paper, provides a useful case study of the trend towards an increasingly formalized approach to pollution control which seems likely to continue among EU Member States as the millennium approaches.

REGULATING WATER POLLUTION IN SCOTLAND

Before the creation of SEPA, seven mainland River Purification Boards (RPBs; Clyde, Forth, Highland, North East, Solway, Tay and Tweed) were responsible for conserving and, where necessary, improving the environmental quality of inland water courses and controlled coastal waters in Scotland. Environmental protection in this respect was also the responsibility of the three Islands Councils of Shetland, Orkney and the Western Isles, which acted as River Purification Authorities. As Non-Departmental Public Bodies or 'quangos', RPBs came under the sponsorship of the Scottish Office Environment Department and were ultimately accountable to the Secretary of State for Scotland.

Within the sphere of environmental regulation which RPBs inhabited, enforcement of the law and the implementation of pollution control policy were inextricably, if not altogether clearly, linked. Although statute provided RPBs with specific powers to undertake their pollution control function, the role of the law in relation to the implementation of water pollution control policy was limited. (The Control of Pollution Act 1974, as amended by the Water Act 1989, which provided RPBs with their main statutory powers regarding pollution control, details the principal offences in relation to water pollution in Scotland. These offences relate to dischargers' violations of consent conditions set by RPBs as regards permissible pollution levels and also to unconsented discharges of pollution.) In the absence of uniform national emission standards, RPBs set their own Environmental Quality Standards specifying what they judged to be maximum acceptable concentrations of polluting substances in controlled waters to protect these waters for designated uses, including public supply and abstraction for industry. These standards were, in turn, designed to meet specific Environmental Quality Objectives set by individual RPBs for water courses which came within their jurisdiction.

In implementing the locally determined Environmental Quality Standards which framed their strategies for pollution control, RPBs traditionally

avoided a confrontational approach to regulation in favour of maintaining consensus between themselves and members of the discharging community (Hawkins, 1984). In practice, this involved limiting the part played by the formal legal process in ensuring that the discharging community did not go beyond the boundaries of acceptable levels of pollution set by the RPBs. The formal tools of pollution control, such as the taking of enforcement samples which could be used as evidence in preparing cases for prosecution and the submission of reports to Procurator Fiscals to initiate prosecutions, therefore tended to be used infrequently. Staff within the case study RPB identified a variety of factors which help to explain why this should be so.

In the first instance, there was a widely held view among representatives of the case study RPB that the fundamental aim of the organization was to educate dischargers in how to prevent pollution occurring in the first place rather than to retrospectively impose sanctions on dischargers who committed offences. The RPB's general manager emphasized this point in outlining his organization's approach to pollution control.

> First of all, our job is pollution prevention and, as I see it anyway, enforcement is a tool. When I say enforcement, I mean prosecution ..... When people talk about enforcement they generally think about taking people to court. We've always seen that as a last resort and in some cases almost as an admission of failure because it means that pollution has occurred ..... I don't think that most [RPBs] see themselves as particularly arms of the law in the sense that if we catch any infringement of the law we're out there to make sure that the person reaches court. I think its fair to say that there are many, many technical infringements of the law each year that we choose not to report to the Procurator Fiscal (Interview, 12 June 1994).

The view that the RPB's pollution control function revolved around the education of dischargers to prevent pollution was also shared by Pollution Control Inspectors, the RPB staff who came into closest contact with dischargers. As one Inspector observed

> The key is to get on with people, for a grumpy farmer on December the 24th to understand why you're there. This relates obviously to any discharger, and for him to say 'Fair enough, this lad's got a good case, I'll do it'. Because if you prosecute

somebody and they don't understand why, they'll (offend) again. *So the art is to convert people to the ways of pollution control.* (Emphasis added; Interview, 7 October 1994).

A further factor which guided the RPB towards a co-operative approach to enforcement was a deeply held conviction among its staff that confrontation with dischargers did not lead to improved results, either in terms of consent compliance or in deterring pollution incidents. One Pollution Control Inspector expressed the view of many of her colleagues, stating

If you can get a company to co-operate with you and do all the clean-up that's required, you're perhaps defeating the purpose if you're prosecuting them, because another company could say, 'They spent £20,000, they cleaned up their oil, the River Board still took them to court. If we're going to get taken to court why should we bother cleaning it up?' (Interview, 19 October 1994).

In a similarly pragmatic vein, the RPB was also reluctant to bring the legislation to the fore in its interactions with dischargers as the organization perceived it to be an ineffective tool of pollution control. To some extent, this perception reflected the fact that the law in relation to environmental protection had traditionally offered little by way of sanction which RPBs could use. Until comparatively recently the maximum fine was £2000, although penalties in the region of £200 were the norm. Although the passing of the Environmental Protection Act in *1990* had led to the maximum fine being increased to £20,000, average fines tended to be significantly lower. Consequently, and in keeping with its fellow RPBs, the case study organization tended to avoid using the legislation as a method of sanction as to do so was to risk exposing its weaknesses in this respect. Such exposure could, in turn, lead to a serious undermining of the RPB's authority in its dealings with dischargers.

The case study RPB was also dissuaded from putting forward cases for prosecution because its staff perceived that the Procurator Fiscals responsible for presenting the case for the prosecution and the Sheriffs who sit in judgement of such cases lacked an awareness of the environmental damage caused by pollution and failed to take pollution offences sufficiently seriously. As the RPB's general manager observed

(Procurator Fiscals) see causing minor incidents of pollution, where you don't

get a big fish kill or lots of commercial damage, as being low on their priorities given all the other things that they have to take into court. All the theft, murder, rape and everything else. This kind of offence they see as pretty minor. Its like getting drunk in charge of a horse or something like that. That sort of scale of things. Its a bit of a joke. Their breaking the law, but ..... (Interview, 12 June 1994).

Consequently, the RPB frequently had to rely on the potentially high-risk strategy of bluff in its interactions with dischargers. To this end, Pollution Control Inspectors would slip phrases such as 'could be fined up to £20,000' or 'may recommend referral to the Procurator Fiscal' into their conversations and correspondence with dischargers, while being acutely aware that these more confrontational courses of action were unlikely to be carried out.

Nevertheless, there were circumstances when the RPB would pursue a more confrontational approach to the implementation of pollution control policy, most commonly when negotiations between regulator and discharger had irretrievably broken down or if pollution incidents were of an exceptionally serious nature. A key factor in determining whether to use the formal *tools of* sanction related to whether the RPB attributed or withheld moral blame in relation to consent violations or in the case of unconsented, and usually 'one-off', pollution incidents. Clearly identifiable examples of gross negligence on the part of a discharger led the RPB to adopt a more confrontational approach to enforcement. In such circumstances, the agency was more likely to resort to the formal legal process involving the taking of enforcement samples with a view to initiating a prosecution. However, in the absence of such clearcut circumstances, the apportioning of blame for a violation depended mainly on the discharger's actions in the wake of a pollution offence. In this respect, factors such as the RPB's perception of a discharger's attempts to apply appropriate remedial action to minimize environmental damage caused by a pollution incident, along with the latter's attitude towards the offence, had a significant influence in determining whether formal legal action was pursued. As the general manager explained

If (dischargers) inform us immediately and we get experts out there and dealing with incidents, then very often its possible to minimize the effects on the river and that's our prime concern. We can advise them who to contact, how to sort *the problem out*

and it diminishes the environmental impact. Therefore, we take that very much into account when we're looking at a case afterwards. If someone tries to hide it and cover it up, and the damage to the receiving water is greater, then we're not at all sympathetic (Interview, 12 June 1994).

Armed with legislation in which it placed little faith as a tool of enforcement, the case study RPB consequently measured the success of its pollution control policy in terms of 'getting something done' (Barrett and Fudge, 1981), by maintaining and, where possible, improving water quality within its jurisdiction. In this respect, the characteristics of pragmatism, flexibility, informality, decentralization and administrative discretion largely dominated the implementation process. However, in the aftermath of SEPA assuming responsibility for pollution control in Scotland, there are signs that these characteristics will increasingly be replaced by a more formal approach to regulation.

INTEGRATING POLLUTION CONTROL POLICY

In January 1992 the UK Government published a consultation paper entitled *Improving Scotland's Environment: the Way Forward* (Scottish Office, 1992). The paper outlined the structure for a single body, SEPA, encompassing the staff, functions and responsibilities of the RPBs, Her Majesty's Industrial Pollution Inspectorate for Scotland, the Hazardous Waste Inspectorate, and the District and Islands Councils with regard to waste regulation and specific air pollution controls. The UK Government envisaged SEPA as marking a departure from the 'disjointed incrementalism' (Lindblom, 1959) which has traditionally characterized regulatory environmental policy in Scotland. This was to be achieved by integrating the process of regulation to account for the adverse impacts of pollution on all three environmental media of air, water and land instead of considering each medium in isolation. The agency was also promoted by the UK Government as offering an antidote to problems inherent to a fragmented institutional structure by providing a single point of contact for industry, thereby ending confusion on the latter's part regarding which regulatory agency to approach when applying for licences to discharge under the Government's system of Integrated Pollution Control (IPC) (IPC was introduced as the centrepiece of the 1990 Environmental Protection Act; it was designed to enable regulators to account for the environmental impact of certain industrial processes on air, land

and water when setting consent conditions for licences to discharge pollution.) Finally, SEPA was designed to eliminate the difficulties caused by administrative overlap or potential conflict between different regulatory agencies.

Following a period of inter-departmental dispute within Whitehall, caused by disagreement between the Department of the Environment and the Ministry of Agriculture, Fisheries and Food about the division of the English and Welsh Environment Protection Agency's functions (The Economist, 1991), the proposals for reform on both sides of the border were shelved by the UK Government for 18 months. However, the introduction of a unified Environmental Agencies Bill, announced in the Queen's Speech in November 1994, revived the proposals for reform and SEPA was finally established in April 1996.

SEPA is intended to deliver 'well managed integrated environmental protection as a contribution to the Government's goal of sustainable development' (Scottish Office, 1994: 3). A key question relates to whether, in its efforts to integrate policy implementation, the new agency will lead to a more formal and centralized approach to pollution control than was evident in the regulatory system it replaced. This appears likely, with the seeds of formalization having already been sown in the RPB component of the fragmented regulatory system which SEPA inherited..

In an attempt to make RPBs more accountable in relation to a variety of their functions, the Scottish Office devised a policy initiative called Scottish Levels of Service (SLS) in 1985 (Scottish Development Department, 1990). The introduction of SLS intended to provide quantifiable measures of the RPB's execution of 26 separate objectives. These included the length of rivers in any one of the four categories which RPBs used to classify the environmental quality of particular waterways, the time taken to process consent applications to discharge effluent and the number of trade effluent discharges complying with consent conditions (Case Study RPB Annual Report, 1992–3).

The introduction of SLS was a significant initiative in terms of providing the Scottish Office with performance indicators within the devolved policy setting of the RPB system. However, a potentially more important indication of the future direction of pollution control policy in Scotland relates to the adoption of a Common Enforcement Policy (CEP) by all seven of Scotland's RPBs in the period leading up to their dismantling. This policy development constituted a marked departure from the traditionally individualized approach to enforcement, based on local environmental and economic conditions, which RPBs had previously tended to pursue. Since

1993, instead of each RPB exercising its own discretion in deciding whether to use the formal tools of regulation, all RPBs followed a uniform procedure in determining the circumstances under which enforcement samples were to be taken. This, in turn, had important repercussions for the process of pollution control as it made the regulator–discharger relationship more distant than it had been previously. As a Senior Pollution Control Inspector within the case study RPB observed

> I think (the CEP) formalized (the process). The main thing that has happened is that before, when it came to getting improved consent compliance, there was often too close a relationship with the discharger in that bits of advice here and there had been given ... There was a change of emphasis where we stood back more and said, 'Look, we're not going to say what we think the problem here is. You get it sorted out and we'll give you a time limit' (Interview, 22 September 1994).

Reflecting on the increasingly formalized approach which the CEP introduced, one Pollution Control Inspector commented

> In the past, if a discharge was continually outwith consent when we took our routine samples, if it was only a minor infringement, we'd just ignore it ... Now, this enforcement policy is in black and white and there's no room for manoeuvre really. If its a 100% failure, its an immediate resample with all the involved costs of that, which are not cheap (Interview, 11 October 1994).

The costs of enforcement samples ranged from £100 to £1000 depending on the type of scientific analysis required. Such samples were paid for by the discharger.

Among the objectives which the UK Government outlined in presenting the case for administrative change (Scottish Office 1992) were two identified by Szanton (1981) as common justifications for reorganization. These were the objectives of improving programme effectiveness and enhancing policy integration. Each of these objectives suggests that the trend towards formalization in the implementation of pollution control policy evident in the RPB system is likely to continue within the new agency. In particular, there is a need to establish co-ordinating procedures which will enable staff, who have come to SEPA with contrasting areas of expertise and from differing organizational

cultures, to work together effectively to achieve the new organization's policy objectives. This is especially important in relation to the implementation of the system of IPC involving the granting of licences to discharge which account for the environmental impact on water, air and land. To this end, a more 'top-down' (Sabatier, 1986) approach to policy, incorporating increased proceduralization and guidance for lower level staff, would enable SEPA to achieve a uniformity of approach by co-ordinating and harmonizing activity within the new agency.

The influence of EU environmental legislation on national environmental policy is also playing an increasingly important part in reducing the flexibility, informality and discretion which have historically characterized the regulatory process. Buller et al. (1993: 191) have suggested that

> The tradition of voluntary regulation and of negotiation, which has prevailed throughout the long history of British environmental policy .... is giving way to a more formal regulation whose origin is clearly that of the European Community.

Such a trend was evident within the RPB system in relation to the implementation of the Nitrates Directive and the Urban Waste Water Treatment (UWWT) Directive. Although the broad parameters of domestic environmental legislation have traditionally enabled regulatory agencies to exercise considerable discretion and, by extension, independence, in policy implementation, EU legislation is generally much more detailed in terms of the provisions contained within its instruments. The Nitrates Directive provides a good example of the more specific approach adopted in EU environmental law. This Directive contains particular classifications by which to determine whether or not a waterway should be categorized as polluted in relation to the concentration of nitrates to be found within it. Therefore, instead of devising their own locally based standards, RPBs had to evaluate whether waters were polluted with nitrates by using the criteria contained within the EU legislation. They then had to advise the Secretary of State for Scotland whether particular waters should be classified as nitrate sensitive zones.

The UWWT Directive also removed some of the discretion exercised by RPBs in implementing policy directed towards consideration of local circumstances. Before the Directive's introduction, RPBs set targets for any improvement work required to upgrade sewage treatment facilities through negotiation with the regional local authorities responsible for maintaining these facilities.

EUROPEAN ENVIRONMENT

Such an approach allowed RPBs to exercise a degree of discretion in extending timetables for improvement if they felt local circumstances warranted such action. However, the UWWT Directive eliminated this discretion by stipulating that a prescribed timetable had to be followed for the provision of treatment facilities for domestic sewage effluent and particular industrial wastes.

CONCLUSIONS

Pollution control policy in Scotland is currently in a period of transition. The creation of SEPA is intended to improve policy integration within the regulatory element of the environmental strategy which the UK Government claims to be implementing (Department of the Environment, 1988, 1990, 1994) to contribute to the overall goal of sustainable development (World Commission on Environment and Development, 1987). The trend towards formalization of the policy implementation process, evident in the RPB system, appears likely to continue within the new agency. Internally, SEPA must effectively co-ordinate the integrated approach to pollution control which the organization is intended to implement. It seems likely that senior management within the agency will build on the legacy of the RPBs Common Enforcement Policy to structure the policy process from the 'top-down' to ensure uniformity of approach among lower level staff within the organizational hierarchy throughout Scotland. Externally, the increasingly influential role of EU legislation in shaping domestic regulatory policy is set to steadily reduce the element of discretion which traditionally enabled environmental regulators in Scotland to account for local circumstances when controlling pollution. As regulatory environmental policy continues to evolve, at both the European and domestic level, the challenge facing SEPA will be how to reconcile the philosophy of consensus with the demands of an increasingly formalized regulatory process.

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BIOGRAPHY

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IMPLEMENTING POLLUTION CONTROL POLICY IN SCOTLAND: PRESENT TRENDS, FUTURE PROSPECTS

Calum Macleod

INTRODUCTION

In April 1996 the administrative landscape of environmental regulation in Scotland was transformed by the creation of a single Scottish Environment Protection Agency (SEPA), consisting of a central headquarters and three regional divisions (North, East and West), to replace the fragmented institutional arrangements that previously existed. Before the creation of SEPA, the implementation of pollution control policy had traditionally been the preserve of a number of different organisations which administered protection of the environmental media of air, water and land on an individual and mutually exclusive basis. Despite this institutional demarcation, these organisations shared a broadly common approach to regulatory enforcement which was founded on informality, pragmatism, a close working relationship between regulators and dischargers and minimal use of prosecution as a tool of enforcement (Vogel 1986).

This article draws on research conducted, before reorganisation, within one of Scotland's seven mainland River Purification Boards, to assess the organisation's implementation of its water pollution control policy. Factors which influenced the River Purification Board in its approach to regulatory enforcement are analysed and the future direction of pollution control policy within SEPA is discussed. The article illustrates that the characteristics of

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pragmatism and flexibility which have long featured in the pollution control policy process are gradually being discarded, and argues that pollution control policy is set to become increasingly formalised within the new agency.

INSTITUTIONAL STRUCTURE PRIOR TO REORGANISATION

Along with River Purification Boards, a number of other organisations were responsible for environmental regulation in Scotland before SEPA was established. These were: Her Majesty's Industrial Pollution Inspectorate for Scotland (HMIPI); District and Islands local authorities; and the Hazardous Waste Inspectorate. HMIPI's key responsibilities included pollution control services with regard to industrial emissions, air pollution control, radioactive waste management and the control of radioactive substances (Scottish Development Department 1990). Through the activities of their Environmental Health Departments, District and Islands Councils undertook the functions of preparing waste disposal plans, licensing of sites and plant for disposal of controlled waste and registration of carriers of controlled waste. The Hazardous Waste Inspectorate, although more of an advisory than a regulatory body, examined the management of hazardous waste, advised waste disposal authorities regarding their execution of their duties under part one of the Control of Pollution Act 1974, and made 'recommendations with the object of ensuring that standards of operation, site licensing and enforcement are both adequate to protect health and the environment, and also equitable and consistent across the country' (Scottish Office Environment Department 1991, p.5).

Responsibility for protecting the environmental quality of inland watercourses and controlled coastal waters lay with the mainland River Purification Boards (Clyde, Forth, Highland, North East, Solway, Tay, and Tweed), which together made up the largest organisational element of the fragmented administrative system. Regulatory control in this context was also the responsibility of the three Islands Councils of Shetland, Orkney and the Western Isles, which acted as River Purification Authorities. As Non-Departmental Public Bodies, or 'Quangos', River Purification Boards came under the sponsorship of the Scottish Office Environment Department. Their main statutory responsibility consisted of promoting the cleanliness of rivers, other inland waters and tidal waters, and the conservation of water resources. This function was supplemented by specific statutory duties including: monitoring pollution in controlled waters, ensuring that specified water quality objectives were achieved, consenting to discharges of trade and sewage effluent, and maintaining registers of consents for public inspection.

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To enable them to undertake their statutory responsibilities, River Purification Boards were armed with a variety of powers derived mainly, but not exclusively, from the Control of Pollution Act 1974, as amended by Schedule 23 of the Water Act 1989. These included: power to take samples of water or effluent, power to undertake surveys and to gauge and keep records of flow or volume of bodies of water and rainfall, power to obtain information necessary to carry out their duties, power to control abstractions for irrigation purposes, and power to operate flood warning schemes (The Scottish Office 1992, p.22).

IMPLEMENTING POLLUTION CONTROL POLICY WITHIN THE RIVER PURIFICATION BOARD SYSTEM

Regulatory agencies responsible for enforcing legislation can adopt one of two broad approaches. On the one hand they can pursue a confrontational approach to enforcement. In these circumstances, agencies implement enforcement strategies whereby sanctions are applied to those who contravene the legislation in order to exert punishment for the violation of rules and the causing of harm. In its most extreme form, a confrontational approach to enforcement involves invoking sanctions against any technical infringement of regulations. It presupposes intent on the part of offenders to contravene regulations, and attaches moral blame to offenders for such contraventions. Alternatively, regulatory agencies may adopt an approach to enforcement based upon achieving consensus between themselves and dischargers, aspects of whose behaviour they are responsible for regulating. Within this context, enforcement involves securing the co-operation of target groups in order to uphold legislation and 'seeks to prevent a harm rather than punish an evil. Its conception of enforcement centres upon the attainment of the broad aims of legislation rather than on sanctioning its breach' (Hawkins 1984, p.4).

Within the confines of the River Purification Board system, enforcement of environmental legislation and the implementation of pollution control policy were inextricably, if not altogether clearly, linked. River Purification Boards derived their legitimacy largely from statute. The Control of Pollution Act, as amended by the Water Act 1989, which provided River Purification Boards with their main statutory powers regarding pollution control, details the principal offences in relation to water pollution in Scotland. Under Section 31(1) of the Control of Pollution Act, it is an offence for any person to cause or knowingly permit any poisonous, noxious or polluting matter to enter any controlled waters. Under Section 32(1), it is an offence if any person causes or knowingly permits any trade or sewage effluent or any other matter to be

discharged to any controlled waters unless the discharges were made with the consent of the appropriate regulatory agency. Upon conviction of either of these offences, dischargers can face punitive sanctions in the form of a fine of up to £20,000.

However, in spite of its significance in providing River Purification Boards with specific powers to undertake their pollution control function, the position occupied by statute in relation to the implementation of water pollution control policy was essentially a withdrawn one. The absence of uniform national emission standards, enshrined in legislation, dictated that responsibility for devising emission standards was delegated by Government to River Purification Boards themselves. This was done via the setting of Environmental Quality Standards which specified what particular River Purification Boards judged to be the maximum acceptable concentrations of substances in controlled waters in order to protect these waters for designated uses such as public supply and abstraction for industry. Such standards were, in turn, designed to meet specific Environmental Quality Objectives set by each River Purification Board for water-courses which came within its jurisdiction.

The main mechanism by which River Purification Boards ensured that their Environmental Quality Objectives were met was through use of a *consent* system. This mechanism involved emitters being granted licences to discharge effluent in accordance with consent conditions stipulated by the local River Purification Board. Securing Environmental Quality Objectives also involved accounting for discharges of pollution which occurred outwith the consent system. Therefore, a second mechanism of the implementation process was that of *incident management*. These pollutions tended to be 'one-off', isolated incidents as opposed to pollutions which continued over a period of time. The third element of the process of regulatory oversight through which the River Purification Boards implemented their pollution control policy was that of *pollution prevention*. This involved River Purification Boards attempting to educate dischargers as to what constituted good practice in relation to pollution prevention. To this end, River Purification Boards published and distributed 'codes of good practice' in relation to a variety of activities with a potential to pollute, such as, for example, agricultural activity.

In seeking to implement the locally determined Environmental Quality Standards which underpinned their strategies for pollution control, River Purification Boards traditionally eschewed a policy based upon confrontation with dischargers in favour of a consensus-orientated approach. In practice, this involved limiting the role played by the formal legal process in ensuring

that members of the discharging community remained within boundaries set by the regulatory agencies. Tools such as enforcement samples, which could be used as evidence in preparing cases for prosecution, and the submission of reports to Procurator Fiscals to initiate prosecutions, therefore tended to be used sparingly. At first sight this 'enforcement gap' (in terms of applying the formal mechanisms of the legal process) might seem to represent something of an anomaly given that River Purification Boards operated within a legislative framework based on the principle of strict liability (Ball and Bell 1994, p.103) which freed them of the obligation to provide proof of dischargers negligence in relation to pollution offences. However, personnel within the case-study River Purification Board highlighted a number of factors which help to explain why they adopted a mainly co-operative approach to enforcement.

In the first instance, there was a wide-spread view among representatives of this River Purification Board that one of the organisation's main functions was that of educating dischargers as to how to prevent pollution occurring in the first place rather than retrospectively bringing sanctions to bear on dischargers who committed offences. The River Purification Board's General Manager illustrated the point when he outlined his organisation's approach to pollution control:

> First of all, our job is pollution prevention and, as I see it anyway, enforcement is a tool. When I say enforcement, I mean prosecution. ... When people talk about enforcement they generally think about taking people to court. We've always seen that as a last resort and in some cases almost as an admission of failure because it means that pollution has occurred. ... I don't think that most [River Purification Boards] see themselves as particularly arms of the law in the sense that, if we catch any infringement of the law, we're out there to make sure that the person reaches court. I think it's fair to say that there are many, many technical infringements of the law each year that we choose not to report to the Procurator Fiscal.
> (Interview, 12 June 1994)

The view that the River Purification Board's pollution control function revolved around the education of dischargers so as to prevent pollution was also shared by Pollution Control Inspectors. As one Inspector said:

> The key is to get on with people, for a grumpy farmer on December the 24th to understand why you're there. This relates obviously to any discharger, and for him to say 'Fair enough, this lad's got a good case, I'll

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do it'. Because if you prosecute somebody and they don't understand why, they'll [offend] again. *So the art is to convert people to the ways of pollution control.*
(My emphasis, Interview, 7 October 1994)

As previously noted, the provisions contained within the Control of Pollution Act provide a clear explanation as to what constitutes a pollution offence and the powers of sanction available to regulatory agencies. Nevertheless, within the realm of water pollution control in Scotland, enforcement of the legislation traditionally exhibited a degree of in-built flexibility. Within the context of the case-study River Purification Board, the exercise of this flexibility in enforcement was inter-twined with the agency's apportioning, or with-holding, of moral blame to dischargers in relation to consent violations or in the case of 'one-off' pollution incidents. Examples of clearly identifiable gross negligence on the part of a discharger would lead the River Purification Board to adopt a more confrontational approach to enforcement. In such circumstances, the agency was more likely to resort to the paraphernalia of the formal legal process. However, in the absence of such clear-cut circumstances, the apportioning of blame for a violation depended largely upon the actions of the discharger in the aftermath of a pollution offence. In this respect, the River Purification Board's perception of a discharger's attempts to instigate appropriate remedial action, along with the latter's attitude towards the offence, had a significant bearing on whether the formal legal process was pursued. As the General Manager explained:

> If [dischargers] inform us immediately and we get experts out there and dealing with incidents then very often it's possible to minimise the effects on the river and that's our prime concern. We can advise them who to contact, how to sort the problem out and it diminishes the environmental impact. Therefore we take that very much into account when we're looking at a case afterwards. If someone tries to hide it and cover it up and the damage to the receiving water is greater, then we're not at all sympathetic.
> (Interview, 12 June 1994)

A further factor which influenced the organisation's preference for a co-operative approach to enforcement was a widespread conviction among River Purification Board staff that confrontation with dischargers did not yield improved results, either in terms of consent compliance or in deterring pollution incidents. One Pollution Control Inspector articulated the view of many of her colleagues, stating:

If you can get a company to co-operate with you and do all the clean-up that's required you're perhaps defeating the purpose if you're prosecuting them, because another company could say, 'They spent £20,000, they cleaned up their oil, the River Board still took them to court. If we're going to get taken to court why should we bother cleaning it up?'
(Interview, 19 October 1994)

In an equally pragmatic vein, the River Purification Board was also reluctant to bring the law to the fore in its interactions with dischargers as the organisation perceived it to be a tool of only limited effective application. In part, *this perception was a reflection of the fact that the legislation had* historically offered little by way of sanction which River Purification Boards could use. Until comparatively recently, the maximum fine was £2000, although penalties in the region of £200 were rather more common. The maximum fine was increased to £20,000 following the passing of the Environmental Protection Act 1990. However, average fines tended to be substantially lower. As a result, and in common with its fellow River Purification Boards, the organisation studied here tended where possible to *avoid using the legislation as a method of sanction because to do so ran the* risk of exposing its weaknesses in this respect. Such exposure could, in turn, result in a serious undermining of the River Purification Board's authority in its dealings with dischargers.

The case-study River Purification Board was also *dissuaded from putting* forward cases for prosecution because its personnel perceived there to be a lack of expertise in environmental issues, on the part of both the Procurator Fiscals responsible for presenting the case for the prosecution, and also on the part of Sheriffs who sit in judgement of such cases. Consequently, the organisation was occasionally *compelled to rely on the potentially high-risk* strategy of bluff. To this end, its Pollution Control Inspectors would embroider their conversations and correspondence with dischargers with phrases such as 'could be fined up to £20,000', or 'may recommend referral to the Procurator Fiscal'. In reality, the River Purification Board was acutely aware that the *former was highly unlikely and that the latter would usually* only occur when negotiations between regulator and discharger had irretrievably broken down, or if pollution incidents were of an exceptionally serious nature, involving, for example, the death of fish in an affected river.

Against the backdrop of a *legislative system in which it placed little faith,* coupled with a scepticism regarding the effectiveness of sanctions as an enforcement strategy per se, River Purification Boards' implementation of pollution control policy can in retrospect be viewed to have been an exercise in the art of the possible. In seeking to achieve the broad aims of the

legislation, River Purification Boards pursued a pollution control strategy based on performance - that is, 'getting something done' (Barrett and Fudge 1981) - which took the form of maintaining and, where possible, improving water quality. Within this strategy, the components of flexibility, pragmatism and informality traditionally dominated the implementation process. Nevertheless, there is evidence to suggest that these components were gradually being eroded as River Purification Board personnel prepared to take their places within the new, unified, administrative structure.

THE EMERGENCE OF SEPA

In 1990, the Government published a white paper on the environment entitled **This Common Inheritance: Britain's Environmental Strategy.** The white paper was designed to display the 'green' credentials of Margaret Thatcher's administration following her efforts to claim the environmental agenda as her party's own in the late 1980s (McCormick 1991). During the summer of 1990, at a time when new environmental regulatory agencies had recently been created in England and Wales, further regulatory reorganisation to unify separate agencies did not feature on that agenda, as the white paper made clear:

> The Government has concluded that the case for such an amalgamation is insufficient to outweigh the disadvantages of further administrative upheaval at just the time when the new organisations are getting into their stride. It does not therefore propose to alter the present functions of the existing regulatory bodies for the time being (DoE 1990, p.232).

By July 1991 however, John Major, newly installed as Prime Minister, had announced the Government's intention to transform the institutional arrangements for regulating pollution, both in Scotland and in England and Wales. A number of factors had conspired to bring about the Government's U-turn on administrative reform. In the first instance, there was a gathering consensus among the political parties, industry and environmental pressure groups that a more integrated approach to environmental protection was required. Secondly, the new system of Integrated Pollution Control, heralded as the *most important feature of the Environment Protection Bill* (DoE 1990, p.139), had contributed to the drive for a more unified approach. Integrated Pollution Control had been advocated by the Government as an innovative template for its European neighbours to copy. Having adopted such a system of pollution control the next logical step was to instil the unified administrative arrangements required to implement it effectively. Thirdly, John Major, keen to project his Government as innovative and forward-

looking, was searching for a 'big idea'. Against a background of wide-scale agreement regarding the need for greater institutional integration in environmental policy, environmental protection agencies offered an attractive and comparatively uncontentious way of building on the Government's efforts to make the environmental agenda its own.

Publication in January 1992 of a consultation paper entitled **Improving Scotland's Environment: The Way Forward** (The Scottish Office 1992) added substance to the Government's initial proposals within the Scottish context. In the paper, the Government outlined the case for a single Scottish Environment Protection Agency encompassing the staff, functions and responsibilities of the River Purification Boards/Authorities, Her Majesty's Industrial Pollution Inspectorate for Scotland, the Hazardous Waste Inspectorate, and the District and Islands Councils with regard to waste regulation and specific air pollution controls. The consultation document envisaged SEPA adopting a strategic and proactive approach to the curbing and prevention of pollution from whatever source. Government also viewed the proposed agency as offering an antidote for problems inherent in a fragmented administrative structure by providing a single point of contact for industry to avoid confusion on the latter's part, as well as eliminating difficulties caused by overlap or potential conflict between different regulatory agencies.

The proposals contained within **Improving Scotland's Environment: The Way Forward** were greeted with mixed responses. While many interested parties supported the concept of an integrated approach to environmental protection, a number of concerns were voiced in relation to the role which the new agency would adopt in practice. Predominant among these was a concern that one of the traditional corner-stones of environmental protection in Scotland, namely its local dimension in terms of shaping both policy and accountability, would be diminished within the new national structure. This view was expressed by River Purification Boards, which pointed to the clean bill of health which the Scottish Office had given the River Purification Board structure as recently as 1990 with the publication of its **First Policy Review Of The River Purification Boards**. Such concern was also shared by the Convention of Scottish Local Authorities, which perceived SEPA to be the latest instalment of a continuing Government agenda to remove local authority powers (COSLA 1992, p.1).

Another concern revolved around the approach which SEPA would take in implementing pollution control policy. In its response to the Government's consultation document, the Confederation of British Industry Scotland, while welcoming the 'one-door' approach which SEPA would provide for industry,

stressed that 'important informal contacts must continue as an integral part of the good working relationships which currently exist between regulators and operators' (CBI Scotland 1992, p.3). Among environmental groups there was scepticism as to how environmental and economic considerations would be balanced within the new agency (Macleod and McCulloch 1994).

There was also concern expressed by a variety of environmental Non-Governmental Organisations regarding the extent to which SEPA would be able to provide completely integrated environmental protection. The Royal Society for the Protection of Birds, in its response to the consultation paper, argued that the Government's proposals did not take sufficient account of Scotland's conservation needs, stating, 'In practice the proposals will mean a pollution control agency rather than a truly integrated environmental protection agency' (RSPB 1992, p.1).

As a result of a period of inter-departmental dispute within Whitehall, caused by disagreement between the Department of the Environment and the Ministry of Agriculture, Fisheries and Food as to the division of the English and Welsh Environment Protection Agency's functions (The Economist 14 September 1991), the proposals for reform on both sides of the border were shelved by the Government for eighteen months. However, following the introduction of a unified Environmental Agencies Bill, announced in the Queen's speech in November 1994, the proposals for reform were revived, and SEPA was finally established in April 1996.

It is, as yet, too soon after the establishment of SEPA to examine the validity of some of the criticisms which were aimed at the Government's original proposals. However, a number of observations can be made at this juncture. The creation of SEPA Regional Boards containing representatives of a wide variety of interested parties ranging from industry to conservation (closely modelled on the River Purification Boards Board Member structure) suggests that local considerations continue to be of importance in administering environmental protection within the new structure. The extent to which this remains the case will partly be determined by the relationship between the Regional Boards and SEPA's central administrative structure, encompassing Head Office and the agency's main Board.

SEPA is currently in the process of developing a cost-benefit analysis approach to balancing environmental and economic considerations in the pursuit of its objectives. Once the approach is fully operational, it will have a crucial impact in shaping the conditions of consents to discharge which the agency awards. According to Alasdair Paton, SEPA's Chief Executive, 'Cost-benefit considerations will be built into every aspect of our work. Industry

can be confident that a consent is not only environmentally-friendly, but that it is properly costed and balanced' (Scottish Water Spring 1996). Both industry and environmental organisations await the full introduction of cost-benefit analysis with more than a little interest.

Environmental Non-Governmental Organisations which expressed anxiety regarding SEPA's exact remit may argue that their concerns were well founded. In England and Wales, the Environment Agency is legally required by statute to protect and enhance the environment. In contrast, SEPA's statutory role in this respect requires only that the agency account for the desirability of enhancing the natural heritage of Scotland.

FORMALISING THE POLICY PROCESS

SEPA is envisaged by the Government as delivering 'well managed integrated environmental protection as a contribution to the Government's goal of sustainable development' (SEPA, Draft Management Statement 1994, p.3). The approach which SEPA adopts in implementing regulatory policy will become clearer once it has emerged from the period of jostling for position which seems certain to ensue among the parties amalgamated by the Government's administrative reorganisation. A key issue relates to whether, in its efforts to integrate policy implementation, the new agency will usher in a more formalised approach to pollution control than that evident in the regulatory system it replaced.

In this respect, major policy developments in the River Purification Board system may herald the shape of implementation styles to come. Much to the chagrin of more experienced pollution control inspectors, the Scottish Office introduced a policy initiative entitled Scottish Levels of Service during the 1980s (Scottish Development Department 1990). These are essentially performance indicators, and their introduction was motivated by a desire on the part of the Scottish Office to develop quantifiable measures of River Purification Boards' execution of a variety of objectives. Examples of Scottish Levels of Service included the length of rivers in any one of the four categories which River Purification Boards used to classify the environmental quality of particular waterways. Other objectives related to issues such as the time taken to process consent applications to discharge effluent.

The introduction of Scottish Levels of Service was a significant development in terms of providing the Scottish Office with measures of accountability within a traditionally devolved implementation setting. However, a

potentially more profound initiative, in terms of determining the future development of policy within SEPA, was the adoption of a Common Enforcement Policy by all seven of Scotland's River Purification Boards in the period leading up to their demise. This innovation represented a marked departure from the traditionally individualised approach to enforcement, based upon local environmental and economic conditions, which River Purification Boards had previously tended to pursue. Since 1993, instead of each River Purification Board using its own discretion in deciding if and when to use formal tools of regulation, all River Purification Boards followed a common procedure in determining circumstances under which enforcement samples were to be taken. This, in turn, had important repercussions for the nature of the regulator-discharger relationship. As a Senior Pollution Control Inspector within the case-study River Purification Board observed:

> I think [the Common Enforcement Policy] formalised [the process]. The main thing that has happened is that before, when it came to getting improved consent compliance, there was often too close a relationship with the discharger in that bits of advice here and there had been given. ...There was a change of emphasis where we stood back more and said, 'Look, we're not going to say what we think the problem here is. You get it sorted out and we'll give you a time limit'.
> (Interview, 22 September 1994)

Reflecting on the increasingly formalised approach which the Common Enforcement Policy introduced, one Pollution Control Inspector commented:

> In the past, if a discharge was continually outwith consent when we took our routine samples, if it was only a minor infringement, we'd just ignore it. ... Now, this enforcement policy is in black and white and there's no room for manoeuvre really. If it's a 100% failure, it's an immediate resample with all the involved costs of that, which are not cheap.
> (Interview, 11 October 1994)

Among the objectives which the Government outlined in presenting the case for administrative change (Scottish Office 1992) were two identified by Szanton (1981) as common justifications for reorganisation. These were the objectives of improving programme effectiveness and enhancing policy integration. Each of these objectives suggest that the trend towards formalisation in the implementation of pollution control policy, evident in the River Purification Board system, is likely to continue within the new agency. In particular, there is a need to establish co-ordinating procedures which will

enable staff who have come to SEPA, with contrasting areas of expertise and from differing organisational cultures, to work together effectively in order to achieve the new organisation's policy objectives. This is particularly important in relation to the implementation of the system of Integrated Pollution Control which involves the granting of licences to discharge which account for the environmental impact upon water, air and land. A more 'top-down' (Sabatier 1986) approach to policy, incorporating increased proceduralisation and guidance for lower level staff, would enable SEPA to achieve uniformity of approach while also serving as a device to co-ordinate and harmonise activity within the new, multi-skilled agency.

The impact of European Union environmental legislation on national environmental policy is also playing an increasingly significant role in *reducing the flexibility, informality and discretion, which have* historically characterised the regulatory process. Buller et al (1993) have argued that:

> The tradition of voluntary regulation and of negotiation, which has
> prevailed throughout the long history of British environmental policy ...
> is giving way to a more formal regulation whose origin is clearly that of
> the European Community.
> (p.191)

Examples of this trend were to be found within the River Purification Board system in relation to the implementation of both the Nitrates Directive and the Urban Waste Water Treatment Directive. The broad parameters of domestic environmental legislation enabled River Purification Boards to exercise considerable discretion, and by extension, independence, in policy implementation. In contrast, European Union legislation is generally much more specific regarding the provisions contained within its instruments. The Nitrates Directive, for example, contains classifications by which to determine whether or not a waterway should be classified as polluted in *relation to the concentration of nitrates to be found within it.* Consequently, rather than devising their own locally based standards, River Purification Boards had to evaluate whether waters were polluted by nitrates by using the criteria contained within the European Union legislation and then advise the *Secretary of State for Scotland* as to whether, under the terms of the directive, particular waters should be classified as vulnerable zones. The Urban Waste Water Treatment Directive also removed an element of the discretion employed by River Purification Boards in implementing policy which was directed towards accounting for local circumstances. Before the introduction of the Directive, River Purification Boards were able to set targets for any improvement work required to up-grade sewage treatment facilities through negotiation with the Regional local authorities which were

responsible for maintaining these facilities. Such an approach enabled the River Purification Boards to exercise some flexibility in extending time-tables for improvement if they felt local circumstances warranted such action. However, the Urban Waste Water Treatment Directive removed these agencies' discretion in this respect by stipulating that a prescribed time-table must be followed for the provision of treatment facilities for domestic sewage effluent and particular industrial wastes.

CONCLUSION

Pollution control policy in Scotland is currently in something of a state of flux. In the short term, it is unlikely that the emergence of SEPA will lead to a markedly more confrontational approach to pollution control than was the case with the various regulatory bodies which preceded it. As much was confirmed by Alasdair Paton in a press interview published at the time when the agency was coming into operation. Echoing the broad philosophy which had for over a century unified a succession of disparate regulatory agencies in Scotland, SEPA's Chief Executive stated:

> The way to the future is through education about how to protect the
> environment. Regulation is only one aspect of protecting the
> environment. If we are making a prosecution then there has been a
> pollution incident, the damage has been done and, in a real sense, we
> have already failed.
> (The Scotsman 26 March 1996)

The prospects of greater reliance on the formal sanctions of legislation are further limited by the fact that no new powers have been added to statute. Therefore, as SEPA must operate with the same legislation which many of its predecessor bodies viewed as an ineffective enforcement tool, it seems *unlikely that the formal legal process will play a significantly greater role in* the implementation of pollution control policy in the foreseeable future.

In the period leading up to the dismantling of the River Purification Board structure, the system of regulating water pollution had began to move, almost imperceptibly, from a philosophy based on pragmatic flexibility to a more proceduralised approach to administrative control. The trend towards increasing formalisation in the policy implementation process seems certain to continue in the new agency for two reasons. Internally, SEPA needs to co-ordinate effectively the integrated approach to pollution control which the new agency is designed to implement. One potential strategy for SEPA's senior management team to consider in relation to this objective is that of

building on the Common Enforcement Policy initiative devised by the River Purification Boards. A similar initiative, involving the introduction of procedures and guidelines, would enable senior management to structure the policy process from the 'top-down' and ensure uniformity of approach in implementing pollution control policy throughout Scotland. Externally, the influence of European Union legislation in shaping the domestic regulatory policy process is likely to continue to grow as the drive for European integration steadily reduces the discretionary element which traditionally enabled regulators in Scotland to account for local circumstances in implementing policy. This, in turn, is likely to further reduce the flexibility and informality which characterised the regulatory process in the past.

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