

Piers Benn | Josie Appleton | Robert Adam | Paul Iddon | Catherine McBride

FIVE
CRITICAL
ESSAYS
ON
*OVER-*REGULATION

CRITICAL SUBJECTS

Five Critical Essays on Over-Regulation

FIVE CRITICAL ESSAYS will explore the general discussions affecting, *inter alia*, design, architecture, culture and politics. The ideological premise of the journal is to facilitate a critical engagement with ideas, and to interrogate established topics objectively. Taking a leaf out of EP Thompson's review of *New Society*, the 1960s cultural review magazine, we aim to offer 'hospitality to a dissenting view (as) evidence that the closure of our democratic traditions is not yet complete.' Our purpose is to re-open civic debate.

FIVE CRITICAL ESSAYS will introduce a theme for each issue and recruit five writers to comment freely and openly on the subjects to generate space for a conversation and further enquiry. The conclusion of each journal will not necessarily mean a resolution. Indeed, it is intended that there will be five robust views on display and that their interventions will be a spark to further discussion.

FIVE CRITICAL ESSAYS will be an agora where genuine interpretations are proposed and where arguments that will hopefully advance the understanding of the subject are confidently proposed. We aim to provide a nuanced perspective on a variety of issues, whether exploring ethical dilemmas, interrogating contemporary arguments or challenging well-established orthodoxies.

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on Over-Regulation

Authors

Austin Williams
(Editor)
Paul Iddon,
Josie Appleton,
Piers Benn,
Catherine McBride,
Robert Adam,
Patrik Schumacher

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Foreword

Austin Williams

During a meeting of UK Parliament's Planning and Infrastructure Bill Committee, former special advisor at No.10 Downing Street, Sam Richards spoke of the government's regulatory overreach. 'The planning application for a 3.3-mile railway line between Bristol and Portishead', he said, 'is 80,000 pages long, with more than 1,000 pages dedicated to bats.' The Planning Application for the Lower Thames crossing, he continued, 'has cost more than a quarter of a million pounds'.¹

There's a gazillion other examples. The consultation and pre-application report for the Sizewell C nuclear plant ran to 740 pages. The Grenfell Inquiry (officially) took four years, and its main findings stretched to 1,700 pages across seven volumes. The Environmental Statement (ES) accompanying the High-Speed Rail Bill comprised approximately 46,000 pages across five volumes.² It was prepared over a 22-month period and involved hundreds of engineers, environmental specialists and legal experts.

These extortionate costs and reams of paperwork are hardly news to those who have been stuck in the netherworld of infrastructure, development and planning bureaucracy over recent years and witnessed the rise of paper trails and form-filling, box-ticking and hurdle-jumping.

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Standard procedures

It's not just planning matters; it's also embedded deep in the heart of public sector functions. There has emerged an enormous regulatory framework of training and extraneous activities before you can pursue the core purpose. For example, regardless of what you teach, it's a daily

routine for university lecturers to be mandated to undergo spurious regulatory training in random topics like life-skills or wellbeing, recycling or disability access. One university recently insisted that staff attend ‘culturally-responsive personal tutor training’.

It’s worth noting that conversations about education are few and far between in academia; replaced with words like ‘skillsets’ and ‘benchmarking’. In the health sector, it has been revealed that the Care Quality Commission’s own regulatory procedures have been found to be ‘duplicative and unrealistic’,³ which has simply encouraged the regulator to tighten up its regulations. In post-Brexit Britain the UK government bottled the chance to quash 19,000 EU regulations, but instead created 35 percent more civil servants in 2025 than there were in 2016. In a technocratic world, expect the preferred answer to be more technocrats.

This also impacts the private sector. The paperless office wasn’t just about saving trees; it was about reducing bureaucracy. Unfortunately, given the amount of feedback forms manufactured to ensure compliance with compliance targets, bureaucracy seems to be more firmly entrenched than ever. Nowadays, HR forms are accompanied with training programmes that normalise the encroachment of regulatory powers into everyday life. It is ironic indeed, that outsourcing responsibility to regulatory codes of conduct is seen by many as a way of legitimising our own agency. There is a growing bandwagon of special pleading on this subject by architects, for example, who demand regulatory recognition as a way of ringfencing their role and signalling their elevated status. Earning respect, proving your worth, or simply doing a good job can be circumvented by a regulatory intervention, it seems.

There is an apocryphal story of a factory manager in the Soviet Union who was given a production target of 1,000 shoes. He met the target unconcerned that they were all for the left foot. The targets were met with useless products, but meeting the target *was* the target. It is hard to understand the kind of mindset that gives rise to blind compliance – oblivious to the reality – until you realise that we are all obliged to work to official regulatory targets. Monitoring, recording, studying the gender pay gap, for instance, has become an industry in itself regardless of the fact that the Equal Pay Act has been in force for 50 years. The production of self-critical reports that admit to personal and professional failings in gender parity means that businesses can virtue-signal their awareness and promise to do better. Written into the Employment Rights Act 2025, UK employers will soon need to create menopause action plans that relate to both ‘peri-menopause and post-menopause’ and include setting up menopause

support groups that invite colleagues ‘not experiencing menopause to attend’.

The Architects Registration Board (ARB) pledges, with characteristic pomposity, to be the ‘leader in regulatory innovation’ that addresses global warming. Its twin regulator, the Royal Institute of British Architects (RIBA) wants certain functions to be the regulated preserve of architects only. The Adam Smith Institute claims that the Social Value Act ensures that companies must compete on ‘tackling economic inequality, fighting climate change, equal opportunity and well-being rather than simply value for money.’ The government is now launching the Regulatory Innovation Office to help coordinate across the many thousands of regulatory organisations in the UK.

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Freedom from regulation

Whether it is for fear of prosecution, litigation, or any other blameworthy consequences, if it can be shown that you have followed the correct procedure, the regulated person at least feels absolved of responsibility. Indeed, office HR processes often seem to exist predominantly to provide formal justificatory cover for professional decisions and consequent actions. Professional judgement is thus usurped by an online form. Whether anyone actually reads these documents is another question entirely. Filling in the form is enough. A Quality Assurance certificate on your wall tells the world that there is no need to ask any further questions: you are regulatorily compliant, and that’s all that matters.

Nightclub bouncers – now classified as ‘Door Supervisors’ – need Security Industry Authority licences; nurses need to have university degrees and be registered with the Nursing and Midwifery Council before practising, a youth worker has to be regulated by the Education Workforce Council and to have passed an enhanced Disclosure and Barring Service (DBS) check. Waste managers are registered by the Environment Agency and can qualify for membership of the Chartered Institution of Waste Management. There is a vast world of regulatory oversight. Without regulation you may have intrinsic worth, but the new regulatory environment demands proof of extrinsic value.

As a result, regulations extend beyond the workplace into everyday life. We all know that some regulations are important: that we drive on the left in the UK, for example. But when Oxford Street proposed, 20 years

ago, that there should be a ‘fast-lane’ drawn on the pavement to regulate fast and slower pedestrians. The scheme was quietly dropped. In those dim distant days, it seems that people were able to recognise and reject mayoral over-reach and be able to navigate public space for themselves without official oversight. In 2025, however, ‘Mind the Grab’ markings were introduced on Oxford Street to designate where pedestrians should walk so that they might avoid phone snatchers. The straightforward policing duty to arrest phone thieves is now seen as absurdly ambitious; so, all that is left is to regulate the potentially thieved.

That same year, 2025, a collection of nine UK mayors announced that so-called ‘junk food’ adverts would not be allowed on public transport. It was a campaign fronted by Jamie Oliver, the chef whose restaurant chain became insolvent owing £80 million, and making a thousand workers redundant.⁴ It seems that the desire to interfere in commuters’ eating habits – to ban advertisements for legal products – proved too compelling. Do as I say, don’t do as I do.

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There is no alternative?

There is sense that anyone opposed to increasing regulation is automatically a right-wing, free-marketeer. That kind of retort demonstrates how far the acceptance of regulatory codes of conduct has become normalised. Anyone who disapproves of intrusive regulation is frowned upon as dangerously libertarian. Without doubt, there needs to be a bit more nuance in our conversations that address the runaway, regulatory, conformist nature of policy making and civil engagement.

In the course of regulating social interactions, the concept of freedom itself has become compromised. The Office for Students says that speech is ‘within the law’ if it is not prohibited by law. Sounds logical, except that there is a huge list of laws prohibiting free speech, free assembly and free movement. There is an even greater list of informal speech codes and regulatory guidelines that may not have the authority of legal statute but that still impose a chilling effect on everyday social relations.

It is now difficult to imagine a world that doesn’t fall back on patrician regulation as the means of validating our actions. Political managerialists imply that there is little alternative but to follow their direction. Professionals increasingly demand regulatory codes of conduct to root out bad apples. As economist, Liam Halligan points out, the CBI is now an

‘anti-competitive institution because it is all about big businesses laddling regulation onto the situation so that small guys can’t come through and take them on.’⁵

Reading Josie Appleton’s essays, I was struck by how entrenched a sense of regulatory paternalism had spread because I felt myself instinctively wanting to find fault with her examples: Surely we need to stop buskers playing loud music in public places; ban Christian street preachers who offend Muslim passers-by; prohibit dogs on the beach, etc. But do we actually need to hide behind more regulation, more laws, more sentencing, or do we need to accept the free expression of others and to speak out when we disagree? Why not tell the noisy neighbour to pipe down rather than call the council’s anti-social noise officer?

We seem to have been desensitised into thinking that the world is a dangerous and confusing place and that we need rules and regulations to make sense of it all. We often call them ‘regulatory guardrails’, as if they are stabilisers on a child’s bike. In reality, don’t we need to reclaim adult authority and reassert our agency?

I could go on – quite possibly over several thousand pages – but you get the picture. In the spirit of Robert Adams’ concern in his chapter on the insidious power of society’s regulatory gatekeepers, Lord Skidelsky has said ‘We must be as vigilant against the lawmaker as we are against the lawbreaker.’⁶ Those who regulate may not have our best interests at heart.

Austin Williams series editor, *Five Critical Essays*

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A Professional Odyssey

Paul Iddon

We tend to imagine regulation as a stabilising force: a framework designed to keep systems functioning and to protect the public from failure. Much of the time, it does exactly that. But there are moments when regulatory structures continue to operate while the assumptions beneath them quietly begin to erode. At such moments, the rules still exist, the institutions still function, and compliance continues as before – yet the system itself begins to feel strangely misaligned with the reality it is meant to govern.

Homer captured this kind of dilemma nearly three thousand years ago. Sailing home from Troy, Odysseus must navigate a narrow strait between two mortal dangers: Scylla, a rock-dwelling monster that snatches sailors from passing ships, and Charybdis, a vast whirlpool capable of swallowing an entire vessel whole. The choice is unavoidable. One route guarantees partial loss; the other risks total destruction. Even divine advice offers no simple solution. Leadership, in that moment, ceases to be a matter of following instructions and becomes an act of judgement.

For architects, the figure of Odysseus has an additional resonance. In Greek mythology he is not simply a warrior but a strategist – the hero associated with cunning intelligence, design, and invention. It is Odysseus, after all, who conceives the Trojan Horse: not a weapon in the conventional sense, but a constructed object whose spatial deception alters the course of the war. Renaissance architectural theorists were well aware of this lineage. Figures such as Leon Battista Alberti saw architecture as a discipline of judgement, ingenuity, and practical wisdom rather than mere construction. In that sense the Odyssean tradition sits surprisingly close to architectural thinking itself: the capacity to navigate constraints, reconcile competing forces and produce a solution that is as strategic as it is physical.

Modern regulatory systems occasionally find themselves in similar straits. Architecture in the United Kingdom may now be approaching such a moment, as long-standing assumptions about professional authority, responsibility and public protection begin to shift under the pressure of new legislative frameworks.

Professional regulation relies as much on shared expectations as on statutes. In most professions, senior figures maintain their formal registration not simply because they are required to do so, but because it has historically been understood as the normal condition of professional practice. The register represents continuity, legitimacy and belonging within the profession.

Yet the stability of such systems depends on habits that are rarely questioned. When those habits begin to shift – even subtly – it can signal a deeper structural tension.

Within architecture there are signs that the long-standing alignment between professional identity and statutory registration may be weakening. This does not amount to rebellion or organised resistance. Rather, it reflects a growing sense that the institutional landscape surrounding the profession has changed in ways that the traditional regulatory framework may not fully capture.

Moments like this rarely produce immediate upheaval. Instead, they reveal something more fundamental: institutional arrangements that once appeared permanent are often the product of a particular historical settlement. When the conditions that created that settlement begin to change, the institutions built upon it may start to feel increasingly strained.

The pressures reshaping professional regulation rarely emerge from within professions alone. They are more often the consequence of broader societal shifts. In recent decades, governments across many sectors have expanded regulatory frameworks in response to complex risks, technological change and, most powerfully, public failures that demand political action.

The built environment provides a clear example of this dynamic. Catastrophic events expose weaknesses in systems of oversight and accountability. In their aftermath, governments face an unavoidable imperative: to ensure that similar failures cannot occur again. The response is frequently a significant expansion of regulation.

Such expansions are rarely misguided in intent. They are attempts to restore public trust and establish clearer lines of responsibility within complex industries. Yet large regulatory interventions inevitably produce second-order effects. As new rules are introduced, the relationships

between existing professional roles, institutions and legal responsibilities begin to shift.

Architecture now finds itself operating within one of the most substantial regulatory transformations the construction industry has seen for decades.

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Title and function

One of the defining characteristics of architectural regulation in the United Kingdom is that it operates primarily through the protection of professional title. The law restricts those who may call themselves an ‘architect’, and a statutory register exists to enforce that restriction. This model reflects a long-standing tradition in professional regulation: rather than regulating every activity associated with a profession, the law protects a recognised title and allows the profession itself to define the scope of practice associated with it.

For much of the twentieth century, this approach aligned reasonably well with the realities of architectural practice. Architects occupied a relatively central position in the design and coordination of buildings, and the professional title corresponded broadly to the responsibilities the public associated with the role.

However, the contemporary construction industry is no longer organised in the same way. Design and delivery now involve a wide range of specialised disciplines: engineers, fire consultants, façade specialists, design managers, project managers and contractors, each contributing expertise to different aspects of the built environment. At the same time, modern regulatory frameworks increasingly focus on demonstrable competence within specific roles rather than membership of a single profession. Responsibility is distributed across systems rather than concentrated in one professional figure.

This creates an interesting tension. A regulatory model centred on protecting a single professional title sits somewhat uneasily within an industry that now operates through multidisciplinary competence frameworks. The issue is not that the architectural profession has lost its importance. Rather, the institutional logic surrounding professional authority has begun to change.

Systemic realignment

Recent legislative developments in the United Kingdom illustrate this shift particularly clearly. The Building Safety Act introduces a regime that places strong emphasis on clearly defined responsibilities across multiple dutyholder roles. Competence, accountability and traceability are embedded into the regulatory structure in ways that extend well beyond any one professional group.

This approach reflects a broader regulatory philosophy: complex systems require systemic oversight rather than reliance on a single profession acting as guarantor of safety.

Such frameworks do not necessarily diminish the importance of architects. Architects remain central participants in the design and delivery of buildings. But the legal architecture of responsibility has changed. The regulatory system is now oriented towards the competence of multiple actors within the built environment rather than towards the authority of any single professional title.

When this happens, the relationship between traditional professional regulation and the wider regulatory landscape inevitably becomes more complicated. The paradox is that regulation can simultaneously expand and yet weaken the institutional position of particular professions within the system it seeks to stabilise.

History suggests that governments confronted with such tensions rarely attempt to resolve them simply by intensifying regulation around a single professional group. Instead, they often move towards broader frameworks that integrate multiple professions under a shared regulatory logic.

This pattern can be observed in a variety of sectors. Aviation safety, financial services and healthcare have all experienced periods in which fragmented professional oversight gave way to more systemic regulatory structures. These frameworks typically emphasise competence, transparency and accountability across the entire system rather than relying on the authority of individual professions.

The built environment may be moving in a similar direction. As regulatory expectations expand, the distinction between professions becomes less important than the demonstrable competence of those performing particular functions. If that trajectory continues, traditional models of professional regulation may gradually become components of a wider regulatory ecosystem rather than the primary organising principle.

It is also important to recognise the institutional limits of regulatory bodies themselves. Regulators are not designed to represent the

professions they oversee. Their statutory role is to protect the public interest by ensuring that minimum standards are met.

This distinction is fundamental. Regulators enforce compliance; they do not cultivate professional identity, culture or aspiration. Those functions typically belong to professional institutions, educational systems and the broader communities that form around professional practice.

When regulatory frameworks expand and become more system-oriented, this division of roles becomes even clearer. The regulator's responsibility is to ensure safety and accountability. The task of sustaining the meaning and value of a profession lies elsewhere. Confusing these roles can lead to misplaced expectations. A regulator cannot provide the cultural centre of gravity that professions sometimes seek from it.

Another feature of professional regulation is that its public visibility is often limited. Outside specialist circles, most people are only dimly aware of the institutional structures that govern professions. What they recognise instead are the professions themselves.

This distinction matters because public trust tends to attach to long-standing professional identities rather than to the regulatory bodies that oversee them. Professional institutions often accumulate cultural authority over decades or centuries, while regulatory structures may change more rapidly in response to political or legislative shifts.

The resulting landscape can appear confusing from within the profession but relatively stable from the outside. The public continues to recognise familiar professional categories even as the regulatory frameworks surrounding those categories evolve. For architecture, this raises an interesting question: what elements of professional authority are truly dependent on statutory regulation, and which derive from deeper cultural and institutional foundations?

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Returning to Ithaca

The Odyssey ends not with triumph but with dislocation. When Odysseus finally returns to Ithaca, he finds that the world he left has changed. The institutions that once defined his place in society have weakened, impostors have taken advantage of the vacuum, and the familiar order no longer recognises him immediately. The journey home requires not simply reclaiming authority but navigating a transformed landscape.

Professional regulation occasionally produces similar moments. The frameworks that once provided stability may continue to exist, yet the

environment around them has shifted. Roles change, responsibilities move and institutions evolve in response to new realities.

Architecture today may be entering such a period. The question is not whether regulation will continue – it certainly will – but whether the traditional alignment between professional title, responsibility and authority will remain unchanged. Like Odysseus steering between Scylla and Charybdis, professions sometimes reach points where no route is entirely safe. The old maps remain in circulation, but they no longer guarantee safe passage.

What ultimately matters in such moments is not simply compliance with established rules, but the capacity for judgement: the ability of professions, institutions and regulators alike to navigate a changing system without losing sight of the public interest they exist to serve.

If the built environment is indeed entering a new regulatory era, the challenge will not be choosing between regulation and deregulation. It will be learning how professional authority, public protection and systemic responsibility can coexist within a framework that no longer resembles the one that shaped the profession in the past.

The journey forward may be uncertain. But uncertainty, as Homer understood long ago, is often the moment when judgement becomes most necessary. In that sense the challenge facing the profession may be less about choosing between monsters than about rediscovering the quieter, Odyssean art of navigating systems whose rules alone can no longer guarantee safe passage.

Paul Iddon, owner-director, Agency PSI Ltd, and vice-president, Manchester Society of Architects

Free Association in Public Space

Josie Appleton

One of the striking things about public space nowadays, is the way in which it is marked out with boxes: areas are cordoned off, each assigned to a specific use. In many parts of London there are lines marking out official busking spots, and they must have booked in advance and sometimes the busker must have a busking licence. If you want to put up a political stall, you often have to book one of the council's 'event spaces' and fill in forms and generally pay fees in advance. In some London parks there is a roped off area for dog walkers, and a dog-free playground for children. The playground has no dogs and no smoking, the dog area is unpleasant, and you would not want to take your child in it: too bad if you have a dog and a child and cigarette.

So often, public space is regimented space, divided up according to its function – you do this here, that there, or not at all. Some parks or nature reserves have constant switching between dogs on and off leads, and you have to regulate your conduct, taking the dog on and off the lead as you move through a space.

When I see these cordoned off areas, I always think of the urbanist Jane Jacobs and her view that mixed-use sidewalks were the 'vital organs' of public urban life.¹ It was on sidewalks that different people doing different things took account of one another, and adjusted what they were doing in an intricate 'ballet': the kids playing ball had to be aware of the stall holder and the office worker rushing to the kerb for a taxi, the students on the way to school dropped their candy wrappers which Jane Jacobs picked up while she was putting out her bin. The sidewalk was a place where people met, crossed paths, watched one another, stepping back to give space and stepping in to give assistance when necessary.

This was a space that was genuinely public: people were free to use it as they pleased, in negotiation with other members of the public. The culture

of an urban area – the question of how a space was used, and by whom, and what the rules were – depended on individual freedom (what individuals wanted to do) and their ‘many, many little public...contacts’ with other people. These free actions and interactions are the basis of civilised urban life – people learning how to behave towards one another, and trusting others, as well as bringing about urban security through an ‘almost unconscious network of voluntary controls and standards’.

I think we are on the verge of losing this idea of public space, and indeed of public life. The ‘public’ now seems to be something that is brought about by and constituted through official action, and particularly the use of state coercive powers. It is council officials and police who must decide who can do what, and where; they divide up the public and public space into boxes for separate ‘activities’ and specify the conditions for each activity. You can walk dogs on the beach but only between these hours or these months, or in this part of the beach.

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A ticket to ride

The powers they use to do this have very telling names: Public Spaces Protection Order, or a Community Protection Notice. Under these headings, the public or community is not a free or spontaneous phenomenon but something that is constituted through official ‘protection’: the public needs protection to come into being, to be nice or civilised. People, it seems, need protection from one another. According to today’s policies, a public space is only civilised or pleasant to the extent that it is protected or regulated; to the extent that there are zones and bans, enforced by patrolling officers with penalty notices in their pockets.

Public space is not available for people to use as they please – with the busker rubbing up against the preacher, the skateboarder, the man feeding pigeons, the kids playing ball games, and the political campaigner with their leaflets and petitions – but is choreographed from above, with council officials demanding that they be consulted before anyone does anything. That’s the nature of the shift: from the spontaneous ‘ballet’ of members of the public, to a leaden state choreography.

This means that public spaces no longer get their quality from the public – from what different people want to do, and their interactions with one another – but from what particular council officials think people should be

allowed to do. It is possible for areas with lots of dog walkers to get lots of dog bans because there is a particular councillor who dislikes dogs.

One 82-year-old was fined for ‘riding his bike in a prohibited area’² through the centre of Grimsby, something he had been doing his whole life – and which was clearly publicly acceptable – but which council officials had decided was now unacceptable. It is true that some councils are relatively liberal and don’t have any particular rules, while others fill every public space with long lists of prohibitions, from bans on covering your face, to shouting, to ball games or picking up stones or climbing trees. In these places, you enter a public space defined not by its qualities but by the long list of prohibitions at the entrance, often displayed with signposts of stick people urinating, spitting or swearing.

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Everyday non-crimes

Public space or public land becomes ‘council land’, a state private property which the council can control or curate as it sees fit. When I submitted an FOI request to councils about their policy on political stalls, many came back with a statement that this was ‘not allowed on council land’ – by which they did not mean the council car-park or buildings, but the main market square. They seemed to assume that they had an automatic right to prohibit or specify the conditions for citizens to engage their fellow citizens in a public space, and that they had a free hand in this, and could make extremely precise specifications to establish the desirable form of conduct. Woking Council had a spreadsheet of all the different public areas, specifying where you could leaflet or charity collect, and how many times in one month or week – and it decided to reserve the use of the two main squares for the council and its partners.

Not only is the true meaning of the ‘public’ disappearing, but indeed that true meaning has become overtly stigmatised and often criminalised. If you look at many of the new crimes of ‘anti-social behaviour’, many of these are just a matter of doing something without council permission or without the requisite licence. Any unlicensed or free activity is seen as potential ‘anti-social behaviour’. There is a crime of busking without permission in some London boroughs, and in other areas a crime of leafletting without permission or putting up a political stall without permission. Perversely, it is the very freedom or spontaneity of someone’s actions

(the basis for genuinely public life) that is seen as ‘anti-social’. This is why the strangest things are targeted as ‘anti-social behaviour’, including busking (which is specifically designed to be social and please people, otherwise you don’t get paid), and also political campaigning (which is specifically designed to connect with people, otherwise you don’t get signatures or supporters).

This has transformed in a generation. Twenty years ago, you could go to pretty much any town or city and put up a temporary political stall to campaign for your chosen cause. Today, I found that 92 per cent of councils would not allow people to put up a political stall without permission; some banned it outright (saying that political activity had no place in their town), others require that you fill in long forms, pay fees of up to £500 a day, and submit your leaflets to be vetted beforehand to ensure that they do not cause ‘offence’. These prohibitions often go against spontaneous public culture. The city of Leicester has a long tradition of people putting up political and religious stalls, and on a Saturday the centre would be full of banners and socialist tracts and choral singing. But the council has stamped on this informal public culture, banning anyone from displaying banners or flags or putting up stalls or using amplification without permission. (The prohibition of amplification – which is increasingly common – is in effect a ban on anyone from talking to, or playing music for, a public audience).

Where activities are not explicitly banned, councils are often creating a generic power for officials to stop you doing whatever you are doing. Public Spaces Protection Orders criminalise anyone refusing to obey an official instruction mandating that you cease your activity: officers in many areas have the power to order you to stop drinking (and to confiscate your alcohol), to order you to stop swimming, or riding a bicycle, or playing music, or using amplification, or to order you to put your dog on a lead. Generally, there are few or no conditions for when they may give you this instruction: it is something that can be given out at their pleasure.

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Removal companies

Perhaps most worryingly, dozens of councils have given their officers powers to order you to leave a public space or the town centre, for anywhere between 6 and 48 hours. They can specify the route you must take home

and the size of the area you must leave. There are often no protections to ensure that you still have access to your place of work, or essential services, or local shops. After you have been given one of these orders, it is a crime for you to re-enter the public space, and you can be fined or prosecuted.

In 2023, Doncaster Council's City Centre Engagement Officers issued 504 orders to people to leave the city centre, issuing these orders if they believed that a person was 'likely to cause annoyance' to any other person. The council officer could specify when the person must leave (immediately/15 mins/1 hour) and the length of time for which they were excluded, as well as the area from which they were excluded. Therefore, an officer you meet on a pavement has the power to remove you from that pavement, with the freedom to specify the nature and length of your removal. The pettiest official has the power, at any time remove us from a public space, which means that we have only a provisional right to be in it. We remain in a public space only at official discretion. Thousands of people have been fined or convicted for nothing more than being found in their town centre after they had been told to leave.

These dispersal orders are the death of public space, and indeed of the public: we have no right to be in a public space, and no right to be part of the public. The 'public' is constituted through official regulation and we are part of it only at their discretion.

Yet this is no route to civility or public order, or indeed pleasantness or enjoyment. Nobody is happy or elevated in their roped off zones, and these petty council officials are often loathed and treated warily. The times that a city comes to life is when you see something unexpected – a busker on a busy junction, where busking is not allowed but where the (amplified) music rises over the roar of the traffic and introduces something pleasant – when a dog runs up to someone and the owner follows for a chat, or a child's ball strays and is kicked back by people having a picnic. There are also little lessons in civility, when you freely modify your actions because you realise that something is not acceptable in that area, or that you are annoying someone or getting in their way. This is still what makes towns and cities enjoyable places to be, and this spontaneous informal public life continues under the radar, however squashed and attacked from all sides it may be. We, the public, must organise in its defence.

Josie Appleton, director, Campaign for Freedom in Everyday Life

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The Social Contract

Piers Benn

If laws, regulations and morality have anything in common, it is that they often prohibit us from doing what we want to do. Laws and regulations, backed up by transparent and effective sanctions, try to prevent us from harming or being a nuisance to others. Moral norms, while not literally forcing us into obedience, concern what is obligatory, permissible or forbidden. Such norms are supposed to be grounded in objectively binding reasons for action, whatever our beliefs or desires concerning the matter at hand.

These constraints would feel less of a burden if we were better people. Plato, in *The Republic*,¹ argues that the morally good individual possesses a soul in internal harmony, with its three parts – reason, spirit and appetite – working together under the rule of reason. This person experiences no inner conflict between the demands of reason and those of spirit or appetite. Aristotle² says something similar about the virtuous – as opposed to the merely self-controlled – man: he always wants to act virtuously, since he has been trained since childhood to be repelled by anything else.

Plato and Aristotle knew that few people were close to being perfectly virtuous, so a political order was needed to enforce the rule of reason and to enable individual virtue to flourish. Plato's ideal state or 'Republic' was to be governed by philosopher-rulers, who would ensure that the three parts of the state – the rulers, the military and the producers – would work in mutual harmony under the rule of reason, represented by the rulers. In this way, the structure of the just state mirrored that of the just soul.

Unfortunately, anti-social impulses are hardly rare among humans, and the more vicious we are, the less we try to regulate these impulses for ourselves. We could, of course, live in a world where nothing else regulates them either, with no enforceable laws or governing authorities. This would be a 'state of nature'.

Leviathan's Job Book

Writing after the violent mayhem of the English Civil War of the 1640s, which resembled that kind of unregulated state of nature, Thomas Hobbes warned that in this dismal situation:

*'...there would be no place for industry, because the fruit thereof is uncertain; and consequently no culture of the earth; no navigation, nor use of the commodities that may be imported by sea; no commodious building; no instruments of moving, and removing, such things as require much force; no knowledge of the face of the earth, no account of time; no arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short.'*³

Without manna from heaven, these dire conditions largely arise from violent competition for scarce resources. The natural world is not made for our convenience. Even people who can seize resources by force must be on their guard against others with roughly equal power. Because most people's primary concern is for themselves and those close to them, we cannot rely on others' goodwill. Hence, there is constant instability, competition, fear and violence. In short, no one flourishes in the state of nature.

The escape route that Hobbes proposes from this 'constant state of war, of one with all' is an early attempt to formulate a social contract theory of political obligation. We must work together but can do this only if agreements and co-operation are enforced. Hence, Hobbes proposes a 'Leviathan', or single sovereign body, which would have absolute power to enforce agreements. In a state of nature, he says, it is in each person's interest to behave egoistically, given that everyone else is doing the same. But in that state, individual gains are small and fragile. We are individually much better off if we are ruled by an irremovable sovereign body with absolute power. This body enforces our interests against those who would harm them, and having the interests of others enforced against us is a price that any reasonable person would be willing to pay.

A familiar objection to social contract theories like Hobbes' is that there never was, historically, any such contract. Why should anyone be bound by a merely hypothetical contract that they never entered? The point, however, is that there are certain social rules whose general observance benefits everybody. We might dispute the details, but we all benefit from there being some such rules. Ideally, they would not need enforcement, but we all know that they often do.

Natural rights

A more serious problem with Hobbes' theory concerns the absolute power he gives to the sovereign body. The justification for this power is that it would operate impartially, protecting the interests of all. But what if it doesn't? What would stop the Hobbesian sovereign power from becoming an irremovable bully, acting only in its own interest? This would not arise if God had appointed the sovereign to enforce divine law, and the sovereign knew and obeyed that law. That was the medieval justification of monarchy, endorsed by Thomas Aquinas. Hobbes rejected this idea, not because he didn't believe in God, but because he knew both the woeful record of rulers who supposedly ruled by divine right, and the irresolvable controversies about God's will. But it isn't clear how Hobbes' solution could work in practice.

Perhaps the rival social contract theory of John Locke does better. He does not think the state of nature entails a war of each against all, but government is still needed:

'To understand political power aright, and derive it from its original, we must consider what estate all men are naturally in, and that is, a state of perfect freedom to order their actions, and dispose of their possessions and persons as they think fit, within the bounds of the law of Nature, without asking leave or depending upon the will of any other man'.⁴

This 'law of Nature' (or natural law) which exists above and apart from man-made laws, declares that '...being all equal and independent, no one ought to harm another in his life, health, liberty or possessions...'. Here, Locke differs from Hobbes, who does not admit any obligations to others in the state of nature. Locke's 'law of Nature' is based on natural rights, which are rights not to be harmed by others in the ways he mentions. The essential role of government is to protect these basic natural rights. Moreover, for Locke, unlike for Hobbes, government must have the consent of the governed. If the government repeatedly violates the citizens' rights, then the citizens have a natural right of rebellion.

Many scholars highlight the disagreement between Hobbes and Locke about what life would be like in a state of nature. Hobbes leans towards psychological egoism, the view that all human motivation is self-interested. Locke thinks that many people would respect the rights of others without being forced to. But both theories explain how state power can be justified, given that there are always people who do not care about others.

It is in everyone's interest to be subject to impartially enforced laws and regulations. This idea also captures the contemporary social contract theory of morality in general, which is that 'morality consists in the set of rules, governing behaviour, that rational people will accept, on the condition that others accept them as well.'⁵ Everyone is far better off in a world where everyone behaves morally than in a world where no one does, and the state's enforcement of basic rules against acts like murder and theft is meant to protect us all.

However, the Lockean idea of natural rights complicates the picture, and this applies to many contemporary disputes about the competing rights of state and individual. Rights entail absolute – or nearly absolute – restrictions on what may be done to individuals. They do not, for example, sit easily with the utilitarian enthusiasm for optimising the net welfare of mankind.

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Do No Harm

Locke's ideas have been revived in libertarian political philosophy, especially during the last few decades. For example, libertarians say that I have a natural right to keep my legally acquired wealth, whether I worked for it, inherited it, or won the lottery. The state therefore has no right to take it from me, except perhaps for certain narrow purposes such as to maintain an army or police force. If the state wants to give my wealth to the poor, whereas I want to use it to build a lavish home in Monte Carlo, I should be free to do as I wish. Even if I ought, morally speaking, to give my wealth away, I should never be forced to.

This mirrors the intuitively attractive idea that my moral obligation not to harm others is greater than my obligation to help them. A life devoted to helping strangers would allow less room for me to live my own life, with its private relationships and commitments. Further, the obligation to help, once admitted, would be open to incremental creep. Hence, for the Lockean, the state must protect my liberty, even if I use it selfishly. This is the general sentiment that underlies objections to 'over-regulation', such as were voiced, for example, during the Covid pandemic.

Nevertheless, the counterarguments are familiar. If it is good for me to live my life as I see fit, it must be good for everyone else to do the same. Why, then, can't the state limit my freedom, to enhance the freedom of others? The Lockean will agree that I must not impede the freedom of

others but will balk at being made to enhance it. Yet, clearly, poverty and ill-health impede the exercise of freedom, and if the state is permitted to enforce obligations of non-maleficence, as Hobbes and Locke agreed, then we need to know why it may not also enforce beneficence towards the unfortunate.

Many arguments will be had, too, about the boundary between harming and merely not helping. If a pharmaceutical company downplays the side-effects of a medicine, is it acting harmfully, or merely failing to help consumers? What about a betting company that aggressively markets itself to relatively poor customers?

The libertarian case is stronger when it comes to paternalism – overriding people’s wishes, for their own (supposed) good. We are usually willing to act paternalistically towards people who lack autonomy – most obviously small children – but it is far harder to justify paternalistic coercion of adults who have enough autonomy to make their own decisions, however misguided. This is partly because the best judge of what is in a person’s interests is usually that person himself. But since this is not always true, a more powerful case against paternalism, whether enacted by individual or the state, is needed. This is that the liberty to live a self-chosen life has intrinsic value, whereas paternalistic actors are prone to overreach and arrogance. Locke no doubt saw this when he declared liberty a natural right.

These philosophical disputes are well-rehearsed and have clear applications to many present-day controversies about laws and regulations. What they point to is a clash of ethical perspectives – the ‘impartial’ perspective that stresses the overall social good, and the ‘partial’ one that emphasises the subjective point of view of the individual with one life to lead. But if the way these disputes have unfolded tells us anything, it is to be suspicious of any grand theory that will resolve this clash. Liberty has an independent, intrinsic value – it is the foundation for a meaningful life – but that does not make it an absolute value. Just as morality is messy, with plural and incommensurable values, so a wise political system will reflect this when deciding when and how to limit freedom. Ideologues of all stripes will be impatient with this but is the price we must pay, if we are to engage in honest and thorough reflection.

Dr Piers Benn lecturer in philosophical ethics, Fordham London;
and author, ‘Intellectual Freedom and the Culture Wars’

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Enforced compliance

Catherine McBride

Regulations are generally essential to the operation of a large modern society. We don't have time for trial and error to see what products work as described, which investment companies are honest, and which plumbers know how to correctly install a gas boiler. Knowing that the Government, an industry body, or an official regulator has ensured that products are safe and installers are trained gives us all a great deal of peace of mind.

However, regulations are not without cost: there are enforcement and compliance costs. The cost of enforcing regulations falls on the taxpayer, while the cost of compliance falls on companies, which will be passed on to the consumer if the market allows. Most large companies, technically those with more than 250 employees, will have a compliance department to ensure that the company follows all appropriate regulations. But for small companies, those with less than 50 employees, micro-companies, those with less than 10 employees, and sole traders, having a dedicated compliance department is an expensive luxury or financially impossible. Compliance increases their costs, reduces their time for paid work and reduces their profits. Compliance departments are Cost Centres after all.

This kind of disproportionate cost on small and micro companies and sole traders prevents new market entrants and reduces market competition, and sometimes even prevents innovation and new industries – see the EU's lack of technology firms as an example.

The Government's Regulatory Policy Committee's Independent Verification Body (IVB) report published in 2023¹ admitted that the cost of regulation to UK business had increased by £9.9 billion in 2022 and that the total cost increase for the parliament, starting in December 2019 was £14.3 billion. However, the Growth Commission claimed that since 2015, the cost of regulations was ten times this amount at £134 billion, equivalent to 6% of GDP.²

One can only imagine what the cost of regulations must be under the current government, but we will probably never know as the IVB report was withdrawn in early 2026 and is no longer government policy. However, the cost will be high because although regulation is a cost burden on businesses, U-turns on regulation, however bad the original regulation, double the cost for the businesses that had started the process of complying with the original regulation.

Starmer's Labour government has made over a dozen major U-turns since entering office. I am not opposed to this process. In the long run, the economy is much better off reversing bad regulations, but for individual companies this creates a massive short-term compliance cost and reversal cost. This is often why some companies prefer to live with bad regulation and discourage the Government from reversing it. However, it seems that the government's new employment regulations will cost the economy £38 billion, and I suspect most companies would welcome a U-turn.

But for most of us, as uninformed consumers, regulations that enforce product safety are worth paying for. However, modern regulations are often imposed for ideological or political reasons – and for the vast majority of the population who are just trying to pay their bills – these are not worth paying for.

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Ideological Regulations

In 2023, the EU introduced Regulations (EU) 2024/1781, which stipulated that a product's supply chain must be free from deforestation. This put a massive burden on small farmers in developing nations and tropical countries, as well as on SME EU importers, who were often unable to certify that their products came from undeforested land. This was especially true in tropical countries where farmers must constantly clear jungle regrowth (a definition of 'deforesting' in the EU's eyes) if they are to plant another crop on their land.

The non-deforestation rule is a good example of a process-driven regulation rather than an outcomes-based regulation, as it was clearly made by European bureaucrats who assume all farms resemble European farmland that was deforested thousands of years ago and where forest regrowth happens very slowly, if at all. However, after causing a global panic and after many small businesses had wasted time and money complying with the original rule, in December 2025, the EU amended its 'no deforestation' regulation to recognise that 'the increasing number and complexity of

rules is limiting room for manoeuvre'.³ What has been the point of this regulation? It hadn't made the coffee beans safer or more delicious, it was just a green, ideological regulation to make EU bureaucrats feel smug.

But the EU is not the world's only producer of ideological and political regulations. The UK is very good at this as well. My current *bête noire* is the UK's ideological Procurement Policy Note (PPN) 06/21 that lays down rules that anyone tendering for government contracts must submit extensive Net Zero Carbon Reduction Plans. This is slowing UK growth, and ensuring that the country is run by large (often useless) fulfilment companies.

It requires all applications for UK government contracts worth more than £5 million (this includes VAT, so the contract need only be for £4.167 million) to submit a 'Carbon Reduction Plan' before they can apply for the contract. Applicants must report their Greenhouse Gas emissions, set out their specific carbon reduction measures, commit to reaching Net Zero by 2050, and follow the government's technical standards for 'tackling climate change and supporting clean growth'.⁴ All of this must be submitted before the company can be considered for a government contract. This applies to all contracts, whether the contract is to build a highway, fill in some pot-holes, house and feed illegal migrants, build a new accounting system or supply defence equipment.

Think of how mad this is: You can't build a road without diesel-powered machinery, cement, bitumen, steel rebar, gravel, and hardcore. Bitumen is a by-product of oil distillation, steel is made with coal, and cement releases CO² when it is converted from limestone with industrial heat by burning gas or coal. The whole process of road building is emission-intensive but vital to our economy, and if done correctly, the road will last for many years before requiring more carbon-intensive repairs.

Accommodation for migrants and refugees requires steel, bricks, glass and cement, all of which are made using coal and gas, albeit many years ago when the hotel was built. But there is now a programme to use new housing for immigrants, and house construction remains an emission-intensive but vital industry. The people are fed with produce created using fertiliser – also made using gas – as well as diesel-powered farm machinery. The food is then transported and processed using diesel and electric-powered machinery. Again, an emission-intensive process. No outsourcing company is going to house immigrants in a low-carbon-emission tent and refuse to feed them to meet a fictional carbon-reduction target? So, what are outsourcing companies claiming in their Carbon Reduction Plans to be awarded these contracts?

Sustainable warfare

As for UK defence contractors – where to start. Not only is most defence equipment made with either steel or aluminium – production of both requires coal, gas and electricity – but all ammunition requires petroleum-derived substances such as ether, alcohol, acetone, toluene (the second T in TNT), ammonia, formaldehyde and polymers for ‘plastic’ explosives. Shell casings and cartridges are made with polymers. Epoxy resins are used for bonding and sealing. Petroleum-based lubricants are used in the production of ammunition and armaments. Carbon fibres are made from petrochemicals, as is Nylon for parachutes and Kevlar for body armour and helmets. Jet fuel is basically kerosene with good marketing, while tanks run on diesel and Navy vessels mainly run on marine diesel. Hydrocarbons are structurally indispensable to the defence industry. And anyone who has watched any recent war footage will know that the end result of defence equipment produces even more GHG emissions as buildings, oil wells and LNG terminals burn. The mind boggles at what on earth UK defence contractors are putting into their ‘Carbon Reduction Plans’ in order to be considered to supply the country with defence equipment – perhaps they are forcing their employees to ride bicycles to work.

Surely, we should be more concerned with a company’s ability to fulfil a contract than with its ability to comply with ideological regulations and to fill out box-ticking forms about ESG, EDI, and now Carbon Reduction Plans.

The cost of producing these reports will also discourage SMEs from even applying to fix potholes, let alone supply more complex services or equipment. This reduces market participation and competition for services, eventually leading to oligopolistic pricing. But I have no doubt that the UK’s large fulfilment companies have no trouble filling in these forms, even if they are less impressive at supplying the desired service. We can only assume that Capita’s carbon footprint is heroically small.

While some regulation is important and necessary, too much regulation is expensive, counterproductive and often stifles competition and innovation. The EU is a good example: They openly brag about being a regulatory superpower. They used regulations to block imports and protect their industries from international competition. But this has led the EU to miss out on new industries that require innovative ideas because those innovations are against current EU regulations, or entrepreneurs, innovators and investors all fear that their inventions could be against EU laws in the future. How can anyone

innovate or even start a company under EU civil law, where everything is forbidden unless expressly approved?

Another new rule

Even Europhile, Mario Draghi has published a report about how over-regulation has stifled the EU's economy. The annual cost of EU-style regulation is around €39 billion.⁵ I have written elsewhere about the 25,000 Regulations and Directives issued by the EU since we left, most of which the UK has managed to avoid. These laws are in addition to any regulations that individual EU member countries may have imposed on their own populations to address their domestic issues.

Although the UK is in a better position than the EU, we have to be careful not to follow its lead. The Government's plans for 'dynamic alignment' with EU food, farming and animal welfare regulations, which is calculated to cost the UK £15 billion annually. Why would any government do this? If the desired result is safe food, we should not worry about how this is achieved as long as it is achieved. And 'safe food' does not mean obeying EU Sanitary and Phytosanitary (SPS) regulations. The EU does not have a monopoly on the provision of safe food; if it did, malnutrition in non-EU populations would not be rapidly decreasing, as it is thanks to the development of higher-yielding crops and the use of (hydrocarbon-based) fertilisers. Development of both would be contrary to current EU eco-technology and green regulations.

The UK exports very little food. At best, our exports could increase by £1 billion if we get a good season without winter floods or spring droughts. Instead, the UK is a major importer of food from the EU and the rest of the world. We don't need to dynamically align with EU SPS regulations to import their products. We just have to make sure their products meet our regulations.

Every time someone says: "the government should do something about this", they have potentially created not just another regulation but also potentially another government department or quango that must enforce the regulation and another cost for businesses who must comply with it, and another cost for taxpayers and consumers who end up paying for it. Before you know it, prices and taxes have increased and we all have another set of rules to follow.

The only way to limit regulation to truly important issues that must be done collectively by the central government, such as ensuring the safety and security of our water, food, pharmaceuticals, streets, speed limits,

defence and border controls, is for all of us to take better care of ourselves. The UK needs more ‘caveat emptor’ and fewer repayments for people who thought the nice man providing their car loan was doing it for free. Of course, they weren’t. And it is time that the Financial Conduct Authority et al reminded people that there is no such thing as a free lunch, rather than force companies to repay these loan charges.⁶

We need to be careful not to have too many regulations, and the regulations we do have need to be evaluated by their outcomes, not a box-ticking process for ideological ends.

Catherine McBride OBE, economist and Senior Fellow, The Centre for Brexit Policy

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Contingency Planning

Robert Adam

A regulator is like a gatekeeper on a road where there's no other way to get round. The gatekeeper eventually gets to realise that more and more can be asked of you before letting you through. These gatekeepers are often frustrated by the power they don't have, and so there's always the temptation to over-reach. The applicant is a hostage to the decision-maker. Controllers like to control.

Rules and regulations are undoubtedly conceived and implemented with the best of intentions. They always state that they exist for admirable ends and however ill-conceived or impractical the application, a cohort of supporters will scream 'loss of quality' or 'lowering standards' at anyone suggesting those rules be relaxed or dropped.

A recent move to relax the 'nutrient neutrality' regulations is an example. Nutrient neutrality requires developers to offset any additional nutrients – mainly nitrates and phosphates from wastewater, sewage and runoff – that occurs in the process of building and using a property.

It's an EU regulation brought in (almost exactly a year before Brexit) and taken up with enthusiasm by 'Natural England' in 2020, after we'd left. It's a regulation that's been holding back much-needed housing ever since. It has an environmental purpose but was aimed at the wrong target: the real problem isn't housing, it's agriculture. A proposal to relax a regulation that the government never asked for in the first place was greeted with something close to hysteria about betrayal, environmental destruction and perfidy.

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Galloping regulation

There's no doubt that the right to build needs some controls to ensure that the community is protected against projects that might harm innocent

occupants, neighbours and passers-by. And there's no doubt that people need to be protected against the dangers of bad construction. This is all based on the fundamental right: you can do what you wish with your property provided it doesn't harm others. The concept of 'harm', however, has been continuously stretched

Once you've got through the document jungle and get your planning permission, you have to be granted Building Regulations in order to build it. These concern standards and safety, and so it should be. But standards and safety are always up for exponential growth – standards can always be higher, and you can always be safer. As a result, planning applications always ask for ever more justification.

We want buildings to stand up to the climate and be safe. But, do we want to have the view from our beds blocked, be unable to open low window on the ground floor, or be kept out of a vibrant city centre? These are the outcomes of piecemeal thinking, misguided zeal and the law of unintended consequences.

The substantiation required for planning can be made up by each local authority. For example, a 'Design and Access Statement', introduced in 2006 with the sole purpose of explaining the design, is usually required. The documentation required to go into these Statements has grown over the years. One local authority, saying that it should be 'short and concise', then gives a huge list of subjects to cover. These include past design decisions – something the local authority has on file anyway – and a list of current social objectives such as demonstrating how the design will, 'value and embrace diversity and difference'. How you do that in a building plan is a puzzle, but it will probably take several pages of creative writing. It is not surprising that these 'short and concise' documents are often well over 100-pages long and usually just repeat words like, 'high quality', 'sustainable' and 'character' over and over again. These mean nothing – not least because no-one would condemn their own developments as 'low quality', 'unsustainable' or 'characterless'. But put them in you must.

You can add to this a series of reports on things like noise, smell, newts and so on. These can number up to 30 reports for a single building. Most of these are to answer single-issue commentators, given the right to intervene by the government. They only care about their subject: pavement widths, wildlife, flood risk, tree preservation, and so on. The readers of these reports have no interest in good design, attractive urban spaces, buildability, user-friendliness, etc. Few, if any, even consider the concerns of the other commentators.

But these reports can be majorly influential. Sometimes surprisingly so. For an existing building, you often need a bat survey, for instance.

There used to be a general agreement that survey results would be accepted when they came in, so that you could get on with the application. But that reasonable approach has now gone. Now you can only do a survey when the bats aren't hibernating. So this has created a seven-month window for making planning applications for existing buildings. Planning application dates are based on bat hibernation.

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Quiet please

If you're building in a city centre, where we want people to live, you have to get a noise report. Anyone wanting to live in a vibrant, busy city centre will expect noise. But, in case they complain later (caveat emptor?), the noise report might prevent any residential development. Local councils can issue £5,000 fines to anyone mowing their lawn on Sundays simply because it creates a noise disturbance.¹

We want to have tree-lined streets. This is government policy and just about everyone thinks it's a good idea. Yet one highway authority will not allow any trees where the canopy might overhang the pavement or highway, and there is a hotline number to call if you see one. So, what trees might we use? Pencil cedars? Bonsai?

Even if you are building in a large area, but one with less than 1: 1000 chance that it will flood, you still have to submit a flood-risk report. In somewhere coastal like Poole in Dorset, you have to build two metres in the air in case there is a significant flood sometime in the next one-hundred years. (Did anyone in 1926, have any idea what it would be like now?) In reality, if that kind of event happened, the entire historic centre of Poole, along with the most expensive real estate in Britain, Sandbanks, would be long gone. You would be one of a few survivors living isolated in a house on stilts, getting about by boat among the ruined houses built before the regulation.

Sometimes the reports have the reverse effect to that intended. Many authorities ask for a tree report, even if the trees aren't protected. You can bet that they'll be swiftly protected if you ask for permission to cut them down; so it's hardly surprising that some people fell trees before making an application. As is your right.

The new environmental constraint, Biodiversity Net Gain, might persuade you keep the tree, as you get brownie points for tree cover. But if your development gets credit for increasing the amount of biodiversity on the site, who is going to check? This is a paperwork exercises because

there aren't enough bureaucrats available to check that residents are taking care of them.

Similarly, even if you get permission, there are still lots of opportunities for regulatory interference; called, planning conditions. These have become just another application, complete with their own fee, no target dates and decisions made entirely at the whim of officers. These conditions add stipulations that you have to follow. For example, you might be told that you have to get your lawn planted with wildflowers. If you do not, your planning permission is revoked. But there aren't enough bureaucrats to go around checking. They certainly cannot check that as soon as property is let that there isn't a robot cutting the lawn to within an inch of its life? Even if they did, could they do anything?

The council could insist, in their conditions, that the garden gate be designed and approved. And then, on day one of occupation, the resident can change the gate with no planning permission required. Surely there is no point in putting in conditions for things that can be changed without permission. But that is no impediment to the sugar-rush of official control.

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Standards of behaviour

The regulation of construction standards has moved from protecting the innocent user to telling the user how to behave. Much of this is driven by nanny-state, moral righteousness based on climate change orthodoxies.

You might want to open a window at night to cool the room. But if you open one on the ground floor, you might worry about security. Less cautious clients might not. But the state has decided that not only will you be worried but they'll regulate what you are going to do about it. So, you have to have place big opening windows two metres off the ground. You also have to prove that your house won't overheat in anticipation of a coming Mediterranean climate. But we don't refer to what people actually do with things like shutters in Spain or Greece. Instead, you need to produce a calculation for a simple house with conventional windows that shows what you knew already.

There is a new regulation that says there will be no opening windows below 1.1 metres on upper floors. The reason is that, when it gets as hot as some predict (a few decades from now) we'll open our windows more.

As a result, it is predicted that more people will fall out. So developers are now building in rails across windows to comply with the regulations, and, of course, avoid liability.²

But what's the problem? In the UK, approximately 0.8 percent of all fatal domestic accidents were caused by someone falling out of windows.³ There's no information on how many of those falls were of people intoxicated and trying to rescue their cats, and others committing suicide. Compared with accidents involving kettles or cookers, this is a miniscule concern. But what's the result? We'll end up with housing with odd-shaped windows where you can't look out if you're sitting down or in bed, because the over-cautious window cill is too high. If you're a child, it's worse. If you want to look out, as surely you will, the child might climb on a chair and be more likely to fall out.

Many of these new regulations will alter the appearance of our towns and villages, as a result of regulatory, rather than aesthetic ways of thinking. In some cases, the tree reports, the noise reports and the projected flood reports will have significant unintended consequences.

Finally, if you have made your way through that morass of planning policies, you'll be confronted with legal obligations, such as the Section 106 agreement, that'll mean that you might be waiting for a year or more for the lawyers to respond. As with planning conditions, there's no target date for a decision. So, your site just sits there haemorrhaging capital.

Clearly, we have a sclerotic and understaffed planning system and even though we have a housing shortage, we still pile on more and more regulations and give single-issue organisations an effective veto. Getting planning permission for a housing scheme, on land already allocated, can take three years. The cost of these delays has all but wiped out small builders. Architects have to fit their creative work into the small design space left between more and more restrictive regulations. Our fundamental freedoms over our property are being replaced with instructions on how we should live. We need an urgent review of our regulatory system for new building, and a push for root and branch change.

Robert Adam architect, urban designer, author and academic

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Afterword

Patrik Schumacher

The unmitigated housing crisis gripping Britain is not a failure of markets but the most visible consequence of their suspension. Since the Town and Country Planning Act 1947, development rights in the United Kingdom have been effectively nationalised. What was once a presumption of freedom – the right to build unless expressly prohibited – was inverted into a regime of prohibition unless explicitly licensed. Every act of urban development became illegal unless a political authority granted permission. This single constitutional reversal transformed the built environment from a domain of entrepreneurial initiative and voluntary exchange into an administrative rationing system, with consequences that now touch every household in the country: chronic undersupply of homes and workspaces, extreme price inflation, suppressed productivity, reduced labour mobility, and pervasive political conflict over a resource that markets, left unmolested, would provide in abundance.

The scale of the resulting distortion is extraordinary. In London, the house price-to-earnings ratio has climbed from roughly 4:1 two decades ago to approximately 10:1 today. The mean rent-to-income ratio has risen from one-fifth to one-third over the past 15 years. These figures do not describe a natural scarcity. Construction costs have remained relatively stable in real terms; buildings depreciate and can be renewed. What has exploded is not the cost of building homes, but the cost of the land and regulatory permissions required to build them. In inner London, land now accounts for 70 – 80 percent of the sale price of a new dwelling. In prime central locations, this figure exceeds 80 percent. Housing is expensive because politically rationed land with planning permission is expensive, not because bricks and mortar are costly.

The discretionary State

The engine of this inflation is the discretionary planning system itself. England's regime does not operate by clear, general rules within which developers may act freely. Instead, every significant project must be individually negotiated through a lengthy, opaque, and politically-mediated approval process. Outcomes are uncertain in timing, scale, design requirements, infrastructure obligations, and financial contributions. Local authorities possess wide discretionary powers, and decisions are subject to judicial review, renegotiation, or reversal following changes in political control.

The result is a system in which development rights are not secure, market-based entitlements but politically-allocated privileges – in which the rational response for any landowner or developer is to treat land as an option held under uncertainty rather than a productive asset to be improved as swiftly as possible.

This institutional environment explains the phenomenon routinely denounced as 'land banking'. Critics attribute housing shortages to the speculative hoarding of land by profit-seeking developers. This diagnosis is largely misconceived. In a functioning market, holding undeveloped land generates no income and ties up capital unproductively. Developers face real financing costs, balance-sheet constraints, and investor pressure to generate returns. The incentive under normal conditions is to build, not to wait. What appears externally as banked land is overwhelmingly land awaiting the resolution of regulatory and political risks – sites lacking infrastructure, subject to unresolved planning obligations, or contingent on master-planning frameworks involving multiple public stakeholders. Land banking is not a pathology of capitalism but a pathology of governance. It reflects not too much market freedom, but too little.

Beyond the planning bottleneck, a thicket of prescriptive regulations further strangles housing supply and innovation. Planners impose not only land uses and overall building volumes but also unit mixes – how many studios, one-bedroom, two-bedroom, and three-bedroom flats must be included – along with minimum unit sizes, minimum room sizes, mandatory facilities, maximum glazing ratios, and architectural expression subject to aesthetic approval. The entrepreneur and architect are left with almost nothing to decide. Competition through creative product innovation is effectively blocked. Developers compete not on the quality or ingenuity of their offerings but on their capacity to navigate political negotiations, where insider knowledge of local planners and councillors delivers the decisive edge. Resources are thus diverted from productive building into what public choice economics rightly classifies as rent-seeking.

Prohibition era

The consequences for the lower end of the market are particularly perverse. Currently, studio flats below 38m² are prohibited. Yet smaller units built in earlier eras are rare, hotly desired commodities. Lifting the prohibition would allow an entire new income group – young professionals vital to London’s economy – to enter the market, boosting both unit numbers and affordability. That this obvious liberalisation is resisted by the very politicians who profess concern for lower-income groups reveals the deeper logic at work: state-imposed minimum standards exist partly to protect the legitimacy of subsidised social housing. If freely chosen private-sector solutions produced a viable segment at lower space standards, the political rationale for government-provided housing at generous specifications would be undermined. The affordability system thus stands in the way of the market-driven affordability it claims to pursue.

The so-called ‘affordable housing’ regime – comprising social rent allocations and intermediate products such as shared ownership, imposed on developers through Section 106 obligations – constitutes yet another layer of counterproductive intervention. These obligations function as an opaque, negotiable, in-kind tax on development. They embed fiscal extraction within discretionary planning negotiations, generating uncertainty, legal costs, and systematic bias against building. Every unit of mandated affordable housing raises the price of market-rate units that must cross-subsidise it, tightening the affordability crisis for those who do not qualify for rationed provision. The Mayor of London’s ambition to push affordable quotas toward 50 percent of all new housing makes the arithmetic brutally clear: the higher the mandated subsidy, the more unaffordable the remaining supply becomes. It is an interventionist spiral in which each round of political remedy deepens the malady it purports to cure.

The rental market suffers from a parallel syndrome. Successive governments have layered tenant protections – restrictions on eviction, caps on rent increases, mandatory long tenancy terms – that superficially favour current occupants but systematically discourage investment in rental supply. Landlords exit the sector; planned rental developments are aborted; properties are withdrawn from the market.

The fiscal regime compounds the problem: the removal of full mortgage interest deductibility for buy-to-let investors treats a legitimate business expense as a taxable windfall, penalising the very investment that would expand supply and moderate rents. Meanwhile, rent controls

immobilise tenants in unsuitable properties, preventing the reallocation of housing stock to those who would use it most productively and hampering the labour mobility on which a dynamic economy depends.

Despite near-unanimous opposition to rent controls among economists, politicians persist in proposing them. The best long-term protection for tenants, current and future, lies not in regulatory coercion but in the competitiveness of the market for rental housing. In a free market, landlords compete for tenants as vigorously as tenants compete for apartments. Freedom of contract, not state-imposed tenancy terms, would allow landlords to cater to customers with diverse priorities and circumstances, expanding rather than contracting the range of available options.

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Insiders and Outsiders

The cumulative effect of these overlapping interventions – discretionary planning, land-use zoning, density and height restrictions, prescriptive housing standards, affordable housing mandates, and rental market regulation – is a system of urban over-regulation so comprehensive that it amounts to a form of paralysis. Development that markets would deliver swiftly and adaptively is delayed for years or blocked entirely. Innovation in housing typologies is forbidden. Price signals that would guide resources to their most valued uses are overridden by political allocation. The population is divided into insiders – existing homeowners who receive continuous windfalls from artificial scarcity – and outsiders, particularly the young, who are priced out of ownership and squeezed in a rental market starved of supply.

The libertarian diagnosis is therefore straightforward. Britain's housing crisis is the predictable result of the systematic suspension of property rights, voluntary exchange, and entrepreneurial initiative in the domain where they matter most to people's daily lives. The remedy is equally clear in principle, however difficult it may be politically: restore by-right development within transparent, rules-based codes; replace discretionary permission with automatic approval for projects meeting objective parameters; abolish prescriptive unit mixes and space standards; end on-site affordable housing mandates and replace them with portable, means-tested support; liberalise the rental market by restoring freedom of contract; and replace the opaque planning-gain levies of Section 106 and the Community

Infrastructure Levy with a transparent, rule-based system of land value capture that taxes socially-generated windfalls without penalising the act of building.

None of this implies the absence of rules. It implies the replacement of discretionary, politicised, and opaque rules with general, predictable, and neutral ones. It means planning that specifies what may not be done – genuine nuisance, safety hazards, environmental harm – rather than requiring explicit political approval for every act of construction. It means trusting the competitive market process to discover, through the disciplined interplay of entrepreneurial initiative and consumer choice, the forms of housing and urban development that best serve the needs and aspirations of millions of individuals – rather than entrusting that task to politicians and bureaucrats who lack the knowledge, the incentives, and the accountability to perform it. The housing crisis will not be solved by more intervention. It will be solved by finally allowing capitalism to do what it does in every other sector where it is permitted to operate: deliver abundance, choice, and falling real costs to ordinary people.

Patrik Schumacher principal, Zaha Hadid Architects

The Future Cities Project has been critically exploring issues around the city and society for nearly two decades. From the so-called Urban Renaissance, through the Big Society, Brexit, Covid 19 and the cost of living crisis, we have written books, articles, and organised local, national and international events that have tried to unpick the arguments.

The project of The Future Cities Project is to critique the rise of determinism, instrumentalism, dogmatism and didacticism in urban and city discourse, in practice and in academia.

Our manifesto: mantownhuman – Manifesto: Towards a New Humanism – is available at <https://futurecities.org.uk/mantownhuman2/about-mantownhuman>

Contact: futurecitiesproject@gmail.com

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