DESIGN THINKING FOR REGULATORY POLICY, PART II

By Jordan Max

IN PART I, I gave an overview of design thinking's origins and methods, and discussed its increasing use in the private sector. This part will focus on how design thinking can be applied to the public sector–and by extension to PEO–and why we chose to pilot the use of design thinking through our practitioner-centred research project.

APPLICATIONS TO THE PUBLIC SECTOR

Outside the private sector, design thinking has been used successfully by hospitals, schools and not-for-profit organizations. In the last decade, the UK and Danish governments have applied design thinking principles to improve and streamline government services to citizens, and develop policies that achieve public objectives. But how can it be applied to monopolistic regulatory bodies that issue and administer professional licences? What modifications to its methods or expectations are required? How, specifically, can we use it for regulatory policy development at PEO?

THE FIRST WAVE–PUBLIC SECTOR OPERATIONS

In the operational realm, design thinking approaches have been used to create "one-stop shopping" platforms, such as ServiceOntario's amalgamation of the health card registry and driver's licence and vehicle permit services. ServiceOntario's overhaul of the Ontario government website (www.gov.on.ca) is another example of reorienting access to government services to align with the needs of user groups (families, businesses, visitors, etc.) rather than the government's organizational structure. PEO's website was redesigned from the perspective of applicants, licence holders and engineering interns, volunteers, and students and the public, based on online data analytics of searches and clicks. Numerous other Ontario government design thinking training initiatives are also under way, and its methods and approaches are now a hallmark of government service implementation plans.

THE SECOND WAVE–GOVERNMENT POLICY MAKING

Operations are one thing, but policies are another–in particular where they are based on static legislation or programs. In addition, governments are increasingly recognizing the need to better integrate and coordinate policy solutions across different ministries and agencies, and to partner with municipalities and community organizations. One example of this is the recently announced direction to address chronic homelessness. Research into this issue provided a deeper understanding of the types of people who are chronically homeless (mentally ill, recently discharged from correctional services, victims of family violence, etc.), and aims to redesign support systems around them rather than trying to fit people into the current systems. While the task force did not explicitly use design thinking, the process mirrored design thinking processes and methods.

THE THIRD WAVE–PROFESSION REGULATORY BODIES

Like government, profession regulatory bodies are essentially monopolies, issuing licences to a captive market of those who need one to practise legally. While the skeptic may argue there is no need or incentive for regulatory bodies to innovate since they are not subject to competition, I would argue there are several valid reasons to do so.

For starters, everything can be improved. The still-unfolding digital revolution at least requires mobile and rapid access to regulatory services and information for applicants, licence holders and the public. In an age when almost all private and public services can be accessed and processed online, this is now a reasonable customer expectation.

Second, to be an effective regulator, PEO must be certain that its policies and processes are effective and efficient. Regulated professions are built on and around legislation, regulations, rules, procedures, guidelines, standards and programs to achieve certain public interest protections. As a core function, regulators are tasked with attempting to control certain practitioner behaviours in regard to clients and the broader public (end users). We typically regulate by trying to promote or mandate positive practitioner actions, such as maintaining competent practice, or by trying to avoid or stop negative practitioner actions, such as professional misconduct or ethics violations. Professionals make judgment calls daily in their practice, juggling a variety of factors and influences. We have to know what and why we need to regulate different practitioner activities to ensure regulation is in sync with changes in the engineering sector and professional engineering practice.

In reality, profession regulators know very little about what motivates, guides or frustrates practitioners to improve their professional behaviours. Consequently, they also know little about the impact, if any, of regulatory instruments and communication on those behaviours.

A recent literature review on health professions by the UK's Professional Standards Authority notes:

> "...the most notable finding to emerge from this review is the shortage of systematic knowledge on the main research question... how does professional regulation affect the behaviour of those subject to regulation? We also need to understand more fully, of course, the circumstances that support the ongoing resilience of the vast majority of professionals."

The answer lies in qualitative, not quantitative, research. By redesigning our regulatory model from the inside out, centred on the practitioner-client relationship core, we'll be able to form a more complete picture of how practitioners respond to regulatory instruments and how those instruments impact public safety.

PRACTITIONER-CENTRED RESEARCH PROJECT

Working with PEO's Professional Standards Committee, our professional affairs unit develops and updates professional practice bulletins, guidelines and standards (placed in Regulation 260/08), and its practice advisors answer, on average, 600 questions from licence holders and the public each year concerning these tools. But we know little about how effective the tools are in changing or improving licence holder practice. It became clear to us that we do not have enough relevant information and insight into how and why our licence holders practise.

We, therefore, want to focus on and better understand our licence holders working for Certificate of Authorization companies, by asking questions about their daily work experience, challenges, frustrations and barriers; their responsibilities (for what and to whom); their opportunities for growth and development; their responsibilities to other regulatory bodies; their motivations and influences; what has changed in their practice over the past five to 10 years; and why, when and how they interact with PEO's professional affairs unit. These are not questions that can be answered by quantitative data; they require qualitative research.

Our practitioner-centred research project (PCR) (see *Engineering Dimensions*, November/December 2015, p. 25) will use interviews and surveys of our practitioners in their workplaces. We plan to share the insights and findings from this in future *Engineering Dimensions* articles. The final phase of the project will use those findings and insights to redesign our professional affairs instruments and services for greater effectiveness, and to provide mechanisms that will ensure they continue to be effective.

WHAT'S NEXT?

Cynics and realists alike will point out that there is no shortage of methodologies and theories du jour propagated by academics, business consultants and think tanks every year. After all, if everyone used the same method, how would consultants make any money?

In part I, I identified some of the advantages and disadvantages of using design thinking in general, most of which could conceivably apply to PEO. However, we have taken the use of design thinking beyond the private sector and the operational realms, into the public sector and policy realm, applying it to profession regulation. In this area, PEO is boldly going where none have gone before. I can't stress enough that this is a pilot project to test the method and see how it works for PEO.

Design thinking is targeted at understanding users, with one significant caveat. Adopting a user-centric orientation, starting with practitioners, provides us a different vantage point, and there is always a risk in self-regulation of the needs of practitioners overwhelming public interest needs. To prevent this, we must be wary of focusing solely on practitioners. This suggests that in future we'll need to similarly research the needs and perspectives of other stakeholders–engineering services clients, the government (PEO's oversight) and the public (workers and end users of public and private facilities and infrastructure)–to get a holistic view of public interest.

In terms of policy, we could examine elements of the act or regulations, or bylaws, or such components as licensing requirements, adjudicative processes or penalties. By taking a user-centric approach to regulatory policy, we could attempt to understand to whom each section of legislation applies (users), the intended policy intents or outcomes (user behaviours) and the mechanisms (processes or drivers) used to achieve those outcomes. This requires an honest, objective challenge of underlying assumptions and a willingness to make the necessary adaptive changes. Understanding other users as stakeholders will help PEO identify potential impacts and alternative approaches and mechanisms, which is another key component of the required evidence-based policy development for legislative or regulation change.

While it may be premature to plan the next project, it's not unreasonable to contemplate how design thinking approaches might be applied to PEO's regulatory policies and operations to identify alternative business models, drive incremental or wholesale change, or discover alternatives to regulations that achieve the same policy intents or outcomes. Design thinking might also be applied to core operations for aspects of applications and renewals, complaints or enforcement, based on the feedback and insights from the individuals most directly affected. Beyond that, design thinking methods might be applied to strategic planning, communications and stakeholder engagement products and practices.

In the meantime, we are looking forward to this exciting project as a learning opportunity. As always, I welcome your comments and questions via email at jmax@peo.on.ca. In particular, I would like to hear from you if you have participated in or used design thinking in your engineering practice, and what your experience was. For those curious to know more, I've listed some books and website resources to explore. The right side of your brain will thank you. Σ

FURTHER READING

- Open policy making toolkit, https://www.gov.uk/guidance/open-policy-making-toolkit (tools, case studies)
- MindLab, mind-lab.dk/en/ (tools, case studies)
- DIY Toolkit, http://diytoolkit.org/ (Nesta) (tools)
- Government of Australia Public Sector Innovation Toolkit, http://innovation.govspace.gov.au/

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