Dr David Halpern, What Works National Adviser and Chief Executive, Behavioural Insights Team—Written evidence (LEG0028)

Summary

- Legislation should be based on the best possible evidence, including exploration of whether there is a better non-legislative approach. There is more scope for asking- and answering - ‘is the best course of action’?
- We have made great progress in improving the use of evidence in policy and practice, through specific initiatives like What Works, and showing in practice how this can work in the Behavioural Insights Team. The UK is increasingly seen as a world leader with respect to the practical empiricism of the What Works approach (and Behavioural Insights).
- However, we could do more to ensure incentives in the system are stacked towards evidence use, for example welcoming rather criticising departments and Ministers when well-constructed evaluations demonstrate something is not working. We should also encourage and welcome Departments and Ministers openly acknowledging areas of uncertainty in our knowledge (and laying down the challenge for the wider research community to help plug these gaps).
- There are major opportunities to extend the What Works approach utilising administrative data, subject to public and political comfort levels, and innovation and evaluation funding.
- Central to a more empirical approaches is the exploitation of natural and deliberate variation in policy design. This is itself premised on policymakers having the requisite skills in methods, hence current efforts to strengthen these through the new capabilities framework for the policy profession, to build a better pipeline of evidence on what works.
- Legislation can support this approach if it allows – or even encourages – testing of variations in its application.

Detail

Rise of experimental Government

1. The idea of evidence-based or evidence-informed policy is not new. Many organisations inside and outside of government have for years been pushing the use of high quality evidence to inform policy and practice.

2. Recent years have seen a massive expansion in the sources of accessible useable evidence available to policymakers and practitioners and the use of experimental methods to help develop and implement policy and practice.

3. At the heart of this shift is the ‘What Works’ movement. The idea is simple: driving better spending by putting clear evidence into the hands of public service professionals and commissioners. This includes: evidence generation and synthesis; translation of evidence into accessible forms, such as summary ‘toolkits’ and guides; and supporting adoption, through increasing the ‘absorptive capacity’ of professionals and policymakers to tell the difference between good and bad evidence.
4. At the core of the What Works movement are seven (and growing) independent What Works Centres. NICE is the oldest and best known, providing guidance on the efficacy of medical treatments. The rest were all created over the last five years, covering education, crime, local economic growth, and broader cross-cutting themes like early intervention, wellbeing and better ageing. More centres are planned, such as one currently being commissioned by the Department for Education on children at risk (with a strong focus on social work and protection).

5. The movement goes beyond external evidence centres to build in an increasing drive towards a broader ‘What Works’ approach. As well as supporting the What Works Centres, the Cabinet Office team lead work to do policy in a fundamentally different way by enabling civil servants to deliberately test variations in approach, robustly evaluating, and identifying areas where ministers can cut things that don’t work. The Cabinet Office also supports the newly created ‘trial advisory panel’.

6. The work has been well received by civil servants, academics, and practitioners. It has also been recognised internationally, with many individual governments and organisations (eg OECD) keen to explore how the approach can support better decision-making.

7. Evidence-based approaches are not only well-received but they are delivering. The What Works Centres are being used to drive more impactful spending. Recent examples include:

   - Roll out of Body Worn Cameras by police following a What Works Crime Reduction Randomised Control Trial that showed ⅓ reduction in allegations against police; fewer complaints: and, 92% of London residents also felt it improved police accountability;
   - Drawing directly on the What Works Early Intervention Foundation report on the damaging impact of inter-parental conflict on children’s mental health and long-term life outcomes, the DWP have announced plans to commission £15m worth of evidence-based targeted support for families of the most disadvantaged children. This forms part of a bigger programme of work being developed on relationship support over the life-time of the Parliament.

8. The value of the What Works network is not just borne out in on off results. The institutions are changing the face of professions. For example, the Education Endowment Foundation, was set up to provide advice to headteachers on effective ways to spend the £2bn of Pupil Premium and other discretionary spend. It is a genuinely world class institution with more than 127 large scale trials conducted since 2011 involving more than 7,500 schools (almost 1 in 3 schools) and a toolkit that is used by over 60% of headteachers.

9. Beyond the specific evidence centres, other organisations are building up the evidence base. To give an example in the same educational context, Behavioural Insights Team has recently run some of the largest trials ever run in Further Education Colleges, showing that small shifts in practice (rather than big legislative changes) can potentially have a big impact. Examples include findings that regular text messages designed to encourage learners to keep going increased attendance by 20 percent and pass rates by 12
per cent, and the ‘Study Support’ trial, in which learners nominate two people to help them, increased College attendance by 11 per cent.

10. This progress has been made on the basis of **pull rather than push** methods - evidence is put into the hands of decision makers and they can choose whether to use it or not. This is intentional - decision makers are in a far better position to understand the complexities of their operating environment and evidence with universal relevance is rare. Moreover, evidence is only one element of the decision making process - effective evidence-informed policy sets evidence complementary to values rather than in conflict.

11. However we have not been entirely passive in driving the use of evidence, and the Cabinet Office What Works team focuses on how we can **shift the incentives towards evidence** use within the current systems. One example of the ways we are doing this include working with HM Treasury and others to build in questions on efficacy and evaluation alongside a dialogue on efficiency with departments. There is scope to go further here, routinely building in tests of efficacy evidence into the spending process.

12. Transparency in policy making is another key way we can change the incentives in the system. Assessing the evidence built into policy highlights those who use evidence and build in evaluation as best practice and ensures they have cover and support for this approach (as a counterbalance to the risk of criticism if their ideas are not shown to pay off). We supported the Institute for Government ‘**Show your Workings’ framework**, which Sense about Science are currently using to assess departmental transparency on evidence. We welcome efforts from within Government to increase transparency too.

**Going further and faster**

13. The current context raises questions for Government on whether we push harder and faster on evidence and experimental based approaches. The rapid pace of technological change means evolution in policy and practice can often outpace the evidence landscape. This is an opportunity rather than a challenge - Online services offer some of the greatest potential for trials and experimentation. There is currently not enough rigorous testing of our digital proposition, even though examples from the private sector show that the scope for this is enormous.

14. The complex environment and pace of change in themselves provides an **opportunity**. The rise of evidence and experimental approaches depends fundamentally on embracing humility and doubt that we might not know all of the answers. As we enter un-chartered territory, through technology but even more so through the UK’s withdrawal from the EU, this allows for a re-set. We have a chance to fundamentally rethink what is best for UK across many issues and choices, why we have the framework we do and whether there could be a better way of achieving the same objectives. Nowhere can this be seen more starkly than in Defra, where there is an opportunity to reset the policy landscape and ask questions like what would drive a more effective system, and ask fundamental questions like whether subsidies have delivered the market we think works for the UK or would taxes provide more effective incentives. There is a risk we just shift legislation from EU context to the UK context without testing if there are alternative ways to deliver the change we want to see for post-Brexit UK. The more that we can include the power to trial new approaches the better.
15. Traditionally, legislation has been devised by experts according to an educated guess at how people will respond. That guess is not always right, and unexpected and perverse outcomes are frequent. Opportunities are also missed to achieve a policy end without the need for writing new law. We are also arguably neglectful of the importance of drafting legislation that can be directly understood by those who it is supposed to affect. In some areas this may matter greatly, such as consumer law or regulations aimed at business. The complexity of the language may obscure the ultimate intent, and also create a layer of intermediaries and associated costs to help ‘interpret’ what the legislation intended.

16. The experimental approach presents a deep challenge to how we design legislation and what its purpose is. Would it have made a difference if the law or the power had been specified in a different way? Traditionally we think about law as applying as applying at all time and to all people in the jurisdiction, not least for reasons of ‘fairness’. The empirical, literally experimental approach embodies a profoundly different paradigm of thought. Let an experimenter loose in Parliament, and they might urge the deliberate introduction of variations of a law – ideally on a random basis – across geographical areas or populations. Though this might seem unthinkable, softer versions of the approach are possible. One can look at thresholds at where a law bites, to see the impact it has over this boundary (a so-called ‘discontinuity design’). We can allow deliberate variations, within a certain range, that enable experimentation and learning, and rapid adaption in secondary legislation or operational practice. In short, we don’t have to kid ourselves that the legislation is perfect first time, because we have built in mechanisms for variations on it to be tested and refined.

17. Another, related alternative is to seek to adopt forms of rapid experimentation that can be folded into Parliamentary processes and timetables, especially around implementation details that can matter greatly but that legislation is often inattentive too or inadvertently squeezes out subsequent flexibility (for example, right-to-buy legislation literally specifies the forms that are to be used, leaving little room to test whether a simplified or alternative version would encourage take-up). A nice example of real-time experimentation to inform legislation in the USA is the work of Harvard researcher Christiana Roberto on the subject of food labelling. As options were being debated in Congress, she and her team set out to test the options being discussed in real-world contexts, generating results fast enough to feed back directly into the legislation itself (for example, the impact of calorific labelling in restaurant settings turns out to be strongly affected by whether the numbers are put on the left or the right!). We need to reach a position where there is flexibility to build in this kind of nuanced testing of approach to every policy choice. Some departments and ministers have gone further and faster than others to build in powers of experimentation, but the role of the Lords in providing the right challenge but also the right vision of how policy could and should operate are clearly critical here.

18. The assumption that policy makers and Government are best placed to face this challenge alone is misguided. Public engagement with policy and legislation could address some of the disengagement and feeling that the system has not delivered which was clearly signalled by the referendum. And, quite simply, it can drive better policy. We can learn from examples like the Victoria Health deliberation forum on obesity. The initiative brought together a sample of the public with experts, policymakers, community groups and industry to learn and deliberate – and resulted in 20 citizen led ‘asks’ of government, industry and civil society. Closer to home, the UK’s Red Tape Challenge incorporated a
lighter touch version of this, but at a larger scale, exposing large volumes of existing regulation to phased scrutiny by the public, interest groups and policymakers. There is scope to take this idea further in many ways, from abrogative referenda (allowing regulations and laws to be post-hoc challenged) though to formal incorporation of small deliberative forums in the legislative process (a ‘people’s parliament’).

19. Finally, there is still scope to go further to ensure that the exploration of the evidence is more routinely built into our systems and practice across Whitehall and Westminster. International examples give a sense of how this could be achieved on a bigger scale:

- A shift towards directly linking funding to initiatives that are proven to be effective. A precedent here is the 'Obama fund' $650m with small grants available for promising ideas, medium sized grants to validate and large grants to scale What Works
- Canada has been ring-fencing budgets for experimentation to build the evidence base. They are linking a fixed proportion of funding (proportion tbd.) to experimentation and ministries will need to demonstrate that they have been actively experimenting.
- The creation of more internationally based What Works platforms that enable legislators and others draw on the most cost effective and impactful interventions across the world.

_November 2016_