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Latest Research shows slow progress in Governments using Evidence Based Policy principles

For the second year running, independent research undertaken by two philosophically opposed Right and Left think tanks finds that there is considerable scope for governments in Australia to more rigorously follow basic standards of Evidence Based policy making. Unlike last year, none of the 20 case studies this year got close to a perfect score of 10. But four case studies got a sound score of 8 or 8.5. Sadly 8 case studies got rated below 5.0

The Evidence-Based Research Project is getting real traction in New South Wales where the Parliament's Upper House asked its *"Procedures Committee inquire into and report on all highly contentious government legislation … be subject to a comprehensive and consultative green and white paper process… and a modified research and deliberative process be available for highly contentious private members' bills to ensure that the intent and possible ramifications of the draft legislation are fully explored."* This followed representations by the chair of the Research Project, Percy Allan.

The Project's research was undertaken by the Institute of Public Affairs (IPA), a self-described 'free-market' think tank and Per Capita Australia, a self-labelled 'progressive' think tank. Other than jointly selecting the 20 case studies to examine, each think tank worked on its own. In three quarters of the case studies, the two think tanks gave the same or similar score. In the rest the difference in scores was not greater than 2 points on the scale of 10.

Research Project's Focus

The research was commissioned by the newDemocracy Foundation (nDF), a non-partisan organisation that seeks ways "we can do democracy better". It was two thirds funded by the Susan McKinnon Foundation, which underwrites better policy governance projects and one third by Percy Allan, a former Secretary of the NSW Treasury.

The research project's Steering Committee - which includes people experienced in business, public and social affairs, such as Glenn Barnes, Peter Shergold and Verity Firth - called again on major political parties to publicly commit to applying evidence-based and inclusive engagement processes when making major policy decisions in government.

Each think tank separately benchmarked the same 20 federal and state government policies against ten attributes of good decision making identified by Professor Kenneth Wiltshire AO, the J. D. Story Professor of Public Administration at the University of Queensland Business School. Professor Wiltshire served on the Research Project's Editorial Committee which reviewed the work of each think tank, but had no control over their final verdicts.

The Wiltshire criteria focus on good <u>process</u>, not results, because the net fiscal, social, economic and environmental impact of a policy may not be known for a long time. The think tank reports' findings involve judgements only about the way a legislated policy was made, not whether it was good or bad policy per se.

However Professor Wiltshire last year made the point that:

"My 35 years of research suggest that good policy processes result in better outcomes than decisions made without a strong evidence base and close consultation with stakeholders."

In six cases the think tanks ratings suggest a solid process was followed by the governments involved. In eight cases the decision making process was flawed. In the remaining cases the process quality was mediocre.

There was joint agreement that the policies that came closest to best-practice decision making processes were the Federal National Redress Scheme for Institutional Child Sexual Abuse Act 2018, the Victorian Environment Protection Amendment Bill 2019 (Single use plastic bags ban) and the Queensland Termination of Pregnancy Act 2018 (legalisation of abortion).

The lowest scored case studies were the Federal Sharing of Abhorrent Violent Material Act 2019 and the Federal Promoting Sustainable Welfare Act 2018 neither of which satisfied more than two or three of the ten benchmarks associated with a good policy process.

The project's co-funders gave these reasons for underwriting the project:

Sam Mellett, Director of Susan McKinnon Foundation said:

"Our governments should make policy decisions with a clear process that starts with establishing the facts, weighs up the pros and cons of various options and involves a dialogue with communities and stakeholders before resolving. More often, policy development tends to be short-term, partisan and reactionary and often lacks a public mandate for implementation. By using a 'business case approach', governments would not only develop better policies, but also improve politics as citizens would gain greater trust in the decision-making process."

Percy Allan who also chairs the project's Steering Committee said:

"The public is suspicious of government decision making. Winning back trust especially on contentious legislative issues requires capturing the full facts about a problem, weighing up alternative solutions and seeking public input on the best way forward before a final decision is taken. When politicians follow that path they regain public trust, when they don't they lose credibility. A good policy process is smart politics – that's the lesson politicians should take from these case studies."

Iain Walker of newDemocracy that commissioned the work said:

"newDemocracy is first and foremost a research organization aiming to build public trust and confidence in government decision making. We do this by working with governments to design and operate public engagement projects that enable everyday people to contribute to reaching shared and trusted recommendations around challenging areas of public policy.

"Evidence Based Policy process is critical to ensuring that citizens can transparently see the reasoning and alternatives considered before a major decision. We congratulate the research project team for the impact they are making and appreciate the bi-partisan groups in elected office, notably in NSW, who are acting to reform their processes to better meet this standard."

Research Project's Findings

The research project's Steering Committee ranked the main findings of the two think tanks as follows:

Excellent Process:
- Nil

Sound Process
- Fed National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Average rating 8.5/10)
- Vic Environment Protection Amendment Bill 2019 /Single use plastic bags ban (Average rating 8.5)
- Qld Termination of Pregnancy Act 2018 /Legalisation of abortion (Average rating 8.5%)
- Vic Residential tenancies Amendment Act 2018 (Average rating 8.0%)

Acceptable Process
- Qld Human Rights Act 2019 (Average rating 7.5)
- NSW Electoral Funding Act 2018 (Average rating 7.0)

Unacceptable Process
- Fed Tax Relief So Working Australians Keep More Of Their Money Act 2019 (Average rating 4.5)
- Fed Assistance and Access Act 2018 /Encryption law (Average rating 4.0)
- Vic Fire Services Reform Act 2019 (Average rating 3.0)
- NSW Crimes (Domestic and Personal Violence) Amendment Act 2018 (Average rating 3.0)
- NSW Children and Young Persons (Care and Protection) Amendment Act 2018 (Average rating 4.0)
- Qld Final Environmental Approval for Adani Mine (Average rating 3.0)
- Fed Promoting Sustainable Welfare Act 2018 (Average rating 2.5)
- Fed Sharing of Abhorrent Violent Material Act 2019 (Average rating 2.0)

The think tanks' yes/no scores on the ten Wiltshire criteria were remarkably similar in 15 of the 20 case studies. In the others they were not wildly apart. Of the 200 criteria marked in the 20 case studies the think tanks had identical scores on 153 and differed in judgement on 47. As with last year's research project it was heartening that experts from both a Right and Left think tank could broadly agree on legislated policies that had been well formulated and those that had not. This suggests that fixing public decision making processes could win broad consensus across the political divide if party leaders put their minds to it.

As with last year's case studies the research found that the most scope for improvement in government decision-making was comparing the costs and benefits of alternative policy options, explaining how a policy decision would be rolled out and issuing a Green Paper to invite public feedback before announcing a policy decision in a White paper.

John Roskam, Director of The Institute of Public Affairs (IPA) noted:

> "Australia's governments, both state and federal, are failing to undertake best practice policymaking. This failure is undermining the quality of public policy and is having a detrimental impact on faith in public institutions. Public policy in Australia is often made on the run, built on shabby foundations, motivated by short term political gain, and consequently having mediocre outcomes.

> "Policy-makers face the challenge of limited knowledge, and must remedy this by gathering evidence on the nature of the problem, alternatives to fix the problem and undertake public consultation on the impact of policies. Good process does not guarantee good policy – but bad process has a much higher chance of producing lower quality, uninformed, and harmful policy outcomes."

Emma Dawson, Executive Director of Per Capita Australia stated:

> "Per Capita was proud once again to participate in this important project, alongside the Institute of Public Affairs. As it did last year, the analysis we undertook revealed that a careful approach to policy development is too often lacking, at all levels of government.

"While ideological values and principles must always guide the direction of government, this project shows that following a rigorous and consultative process is critical to the effective development and implementation of policies to serve the public interest."

After the end of the embargo period, a copy of this media statement together with both the IPA and Per Capita reports can be downloaded from the newDemocracy Foundation website - www.newdemocracy.com.au/EBP2019/

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Appendix 1: FAQ

- *How can I see the full report?*

The common research methodology used and the separate findings of each think tank are summarised in Appendix 1-3 of this media release.

The two think tank research reports can be downloaded at - www.newdemocracy.com.au/EBP2019/

- *What are the Wiltshire criteria?*

The Wiltshire criteria can be found in Appendix 3.

Using these criteria the think tanks each asked the following questions of each public policy to score the number of Yes answers out a possible 10:

1. **Need**
   Is there a statement of why the policy was needed based on factual evidence and stakeholder input?

2. **Objectives**
   Is there a statement of the policy's objectives couched in terms of the public interest?

3. **Options**
   Is there a description of the alternative policy options considered before the preferred one was adopted?

4. **Mechanisms**
   Is there a disclosure of the alternative ways considered for implementing the chosen policy?

5. **Analysis**
   Is there a published analysis of the pros/cons and benefits/costs of the alternative options/mechanisms considered in 3 and 4?

6. **Pathway**
   Is there evidence that a comprehensive project management plan was designed for the policy's rollout?

7. **Consultation**
   Was there further consultation with affected stakeholders after the preferred policy was announced?

8. **Papers**
   Was there (a) a green paper seeking public input on possible policy options and (b) a white paper explaining the final policy decision?

9. **Legislation**
   Was there legislation and adequate Parliamentary debate on the proposed policy initiative?

10. **Communication**

Is there an online official media release that explains the final policy in simple, clear and factual terms?

Source: Questions derived from the Wiltshire ten-point criteria and approved by Professor Kenneth Wiltshire AO.

- *Where did this project originate?*

The research project's Steering Committee was self-selected from a newDemocracy forum exploring ways to make trusted, long-term decisions involving over 100 opinion leaders held in Melbourne and Sydney in 2017/18. Participants were asked to work together to answer what could be tried to restore trust in public decision making.

A similar benchmarking study (confined to the federal government) was done in 2012 by the Institute of Public Administration Australia (IPAA) when Professor Allan was its National President. Professor Allan proposed to this forum that the exercise should be revived on an annual basis and extended to state governments.

Think Tanks' Report Rating Scores on 20 Government Case Studies

Evaluation Criteria >	Establish Real Need		Set Public Objectives		Identify Options		Consider Mechanisms		Compare Options		Design Pathway		Consult Public		Issue Green & White Papers		Submit Bill & Debate		Convey Decision		Total Score	
Think Tanks >	IPA	PC	IPA	PC	IPA	PC	IPA	PC	IPA	PC	IPA	PC	IPA	PC	IPA	PC	IPA	PC	IPA	PC	IPA	PC
FED: Sharing of Abhorrent Violent Material Act 2019			Y	Y															Y	Y	2	2
FED: Assistance and Access Act 2018 (Encryption law)	Y	Y	Y	Y				Y					Y	Y			Y				4	4
FED: Tax Relief So Working Australians Keep More Of Their Money Act 2019	Y		Y	Y							Y	Y					Y	Y	Y	Y	5	4
FED: Social Security (Administration) Amendment (Income Management and Cashless Welfare) Act 2019	Y		Y	Y	Y			Y					Y	Y	Y		Y	Y	Y	Y	7	5
FED: National Redress Scheme for Institutional Child Sexual Abuse Act 2018	Y	Y	Y	Y	Y	Y	Y	Y				Y	Y	Y	Y	Y	Y	Y	Y	Y	8	9
FED: Family and Domestic Violence Leave Act 2019	Y	Y	Y	Y	Y		Y						Y				Y	Y	Y	Y	5	6
FED: Promoting Sustainable Welfare Act 2018			Y					Y									Y	Y	Y		3	2

Evaluation Criteria >	Establish Real Need		Set Public Objectives		Identify Options		Consider Mechanisms		Compare Options		Design Pathway		Consult Public		Issue Green & White Papers		Submit Bill & Debate		Convey Decision		Total Score	
Think Tanks >	IPA	PC	IPA	PC	IPA	PC	IPA	PC	IPA	PC	IPA	IPA	IPA	PC	IPA	PC	IPA	PC	IPA	PC	IPA	PC
FED: Schools funding formula, 'direct income' approach	Y	Y	Y	Y	Y	Y		Y					Y			Y			Y		5	5
VIC: Environment Protection Amendment Bill 2019 (Single use plastic bag ban)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y				Y		Y	Y	Y	Y	Y	8	9
VIC: Fire Services Reform Act 2019			Y	Y													Y	Y	Y	Y	3	3
VIC: Bail Amendment Act 2018	Y	Y	Y	Y				Y					Y	Y			Y	Y	Y		5	5
VIC: Residential Tenancies Amendment Act 2018	Y	Y	Y	Y	Y	Y	Y	Y		Y				Y	Y	Y	Y	Y	Y	Y	7	9
NSW: Modern Slavery Act	Y	Y	Y	Y	Y	Y		Y										Y	Y	Y	4	6
NSW: Crimes (Domestic and Personal Violence) Amendment Act 2018			Y	Y													Y	Y	Y	Y	3	3
NSW: Children and Young Persons (Care and Protection) Amendment Act 2018	Y		Y	Y	Y										Y			Y	Y	Y	5	3
NSW: Electoral Funding Act 2018	Y	Y	Y		Y	Y		Y		Y			Y	Y	Y		Y	Y	Y	Y	7	7

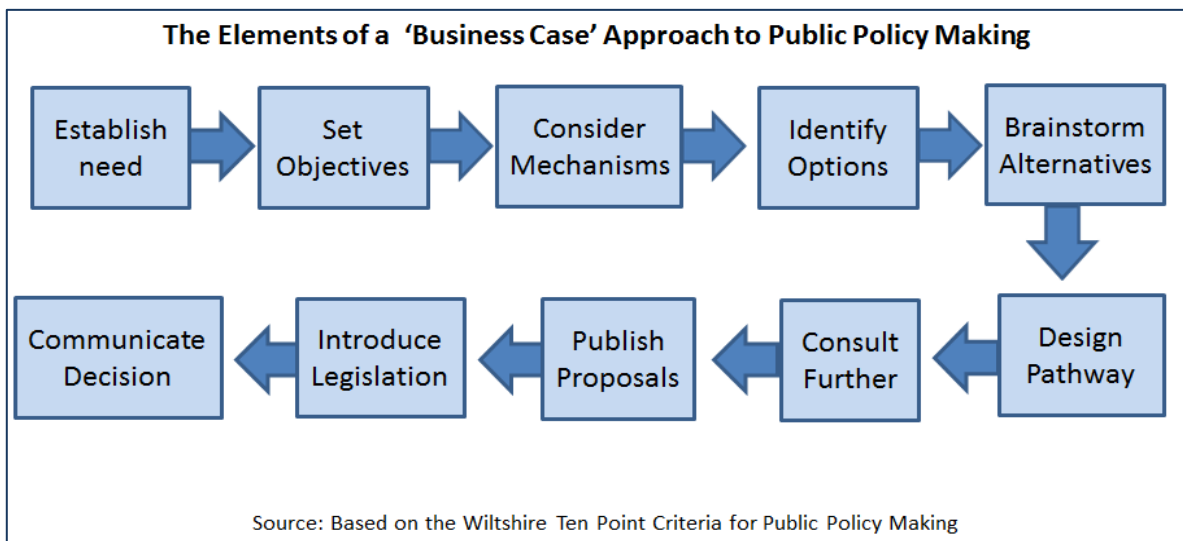| Evaluation Criteria >	Establish Real Need		Set Public Objectives		Identify Options		Consider Mechanisms		Compare Options		Design Pathway		Consult Public		Issue Green & White Papers		Submit Bill & Debate		Convey Decision		Total Score	
Think Tanks >	IPA	PC	IPA	PC	IPA	PC	IPA	PC	IPA	PC	IPA	IPA	IPA	PC	IPA	PC	IPA	PC	IPA	PC	IPA	PC
QLD: Termination of Pregnancy Act 2018 (legalisation of abortion)	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y			Y	Y	Y	Y	Y	Y	Y	8	9
QLD: Non-consensual Sharing of Intimate Images Act 2019 ('revenge porn' laws)		Y	Y	Y				Y					Y	Y			Y	Y	Y	Y	4	6
QLD: Human Rights Act 2019		Y	Y	Y	Y	Y		Y			Y	Y	Y	Y	Y		Y		Y	Y	7	8
QLD: Final environmental approval for Adani mine	Y		Y					Y		Y									Y	Y	3	3

Legend:

- **Y = Yes, otherwise No.**
- **IPA = Institute of Public Affairs**
- **PC = Per Capita**

- Green shading = Same Scores
- Light Green shading = Similar Scores
- No shading = Different Scores

Sources:

- Institute of Public Affairs, *Evidence Based Policy Research Project - 20 Case Studies*, A Report Commissioned by the Evidence-Based Policy Research Project and facilitated by the newDemocracy Foundation, November 2019 (Principal author: Matthew Lesh, Adjunct Fellow, IPA).
- Per Capita, *Evidence Based Policy Analysis - 20 case Studies*, A Report Commissioned by the Evidence-Based Policy Research Project and facilitated by the newDemocracy Foundation, November 2019 (Principal authors, Emma Dawson, Executive Director and Abigail Lewis, Research Associate, Per Capita).

Appendix 3 – The Wiltshire Criteria

Based on an article for the Committee for the Economic Development of Australia (CEDA) by Professor Kenneth Wiltshire AO of the University of Queensland Business School, the essentail elements involved in developing a businenss case in a public policy context can be stated as follows:

The Elements of a 'Business Case' Approach to Public Policy Making

Establish need → Set Objectives → Consider Mechanisms → Identify Options → Brainstorm Alternatives → Design Pathway → Consult Further → Publish Proposals → Introduce Legislation → Communicate Decision

Source: Based on the Wiltshire Ten Point Criteria for Public Policy Making

Ten Criteria for a Public Policy Business Case

1. **Establish Need:** Identify a demonstrable need for the policy, based on hard evidence and consultation with all the stakeholders involved, particularly interest groups who will be affected. ('Hard evidence' in this context means both quantifying tangible and intangible knowledge, for instance the actual condition of a road as well as people's view of that condition so as to identify any perception gaps).
2. **Set Objectives:** Outline the public interest parameters of the proposed policy and clearly establish its objectives. For example interpreting public interest as 'the greatest good for the greatest number' or 'helping those who can't help themselves'.
3. **Identify Options:** Identify alternative approaches to the design of the policy, preferably with international comparisons where feasible. Engage in realistic costings of key alternative approaches.
4. **Consider Mechanisms:** Consider implementation choices along a full spectrum from incentives to coercion.
5. **Brainstorm Alternatives:** Consider the pros and cons of each option and mechanism. Subject all key alternatives to a rigorous cost-benefit analysis. For major policy initiatives (over $100 million), require a Productivity Commission analysis.
6. **Design Pathway:** Develop a complete policy design framework including principles, goals, delivery mechanisms, program or project management, implementation process and phases, performance measures, ongoing evaluation mechanisms and reporting requirements, oversight and audit arrangements, and a review process ideally with a sunset clause.
7. **Consult Further:** Undertake further consultation with key affected stakeholders of the policy initiative.
8. **Publish Proposals**: Produce a Green and then a White paper for public feedback and final consultation purposes and to explain complex issues and processes.
9. **Introduce Legislation:** Develop legislation and allow for comprehensive parliamentary debate especially in committee, and also intergovernmental discussion where necessary.
10. **Communicate Decision:** Design and implement a clear, simple, and inexpensive communication strategy based on information not propaganda, regarding the new policy initiative.

Appendix 4 – Project Acknowledgements

Project Sponsor:

- Iain Walker, Executive Director, newDemocracy Foundation.

Project Steering Committee:

- Percy Allan AM, Chair of the Steering Committee.

- Glenn Barnes, Chairman of Ansell Limited and Co-Chair of the Citizens for Democratic Renewal Project (being facilitated by the newDemocracy Foundation).

- Peter Doukas, Chair of the Ethnic Communities' Council of NSW and Managing Director of law firm Denison Toyer.

- Verity Firth, Executive Director of Social Justice for the Centre for Social Justice and Inclusion, University of Technology Sydney (UTS) and Co-Chair of the Citizens for Democratic Renewal Project.

- Janice Lee, Head of Government Practice, LEK Consulting.

- Sam Mellett, Director of the Susan McKinnon Foundation which sponsors research into bold new solutions to entrenched problems.

- Kirsty Nowlan, Executive Director of Strategic Engagement, Research, and Advocacy at the Benevolent Society.

- Professor Peter Shergold, AC FRSN, Chancellor of Western Sydney University, company director and a former Secretary of the Department of Prime Minister and Cabinet.

Project Editorial Panel:

- Dr Kenneth Wiltshire AO, Emeritus J D Story Professor of Public Administration at the University of Queensland who has published many books on public policy and pubic administration.

- Martin Stewart-Weeks, Principal, Public Purpose, an independent advisory practice working at the intersection of government, policy, technology and innovation.

- Percy Allan AM, Principal, Percy Allan & Associates Pty Ltd, a public policy consultancy, and Visiting Professor, Macquarie Graduate School of Management.[i]

- Rebecca Bishop, an experienced policy and financial advisor.

Financial Sponsors:

- Susan McKinnon Foundation: http://www.susanmckinnon.org.au/

- Percy Allan AM: http://www.percyallan.com

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