

How to restore good process in public policy

Australian federal and state governments are not meeting basic standards of evidence and consultation-based policymaking, according to research commissioned by the Evidence-Based Policy Research Project.

Percy Allan / 01 April 2022



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The misuse of federal and state public monies for political pork-barrelling of sports clubs, car parks, and emergency relief, begs the question — how good are our governments at making more important decisions that warrant legislation? The answer is disturbing.

For the fourth year running, independent research undertaken by two philosophically opposed think tanks — the right-wing Institute of Public Affairs (IPA) and leftist Per Capita — found that Australia’s federal and state governments fall short of basic standards of evidence- and consultation-based policymaking. Of 20 pieces of legislation reviewed this year, only six received solid scores (between 7.0 and 8.5 out of a possible 10.0) while five got unacceptable scores (below 5.0). The remaining nine received mediocre scores (between 5.0 and 6.5).

The case study that most approximated a good policymaking process was the federal **Corporations Amendment (Corporate Insolvency Reforms) Bill** (8.5/10.0) while the one that rated lowest was the Victorian **Constitution Amendment (Fracking Ban) Bill** (2.5/10.0). IPA is a self-described “free market” think tank and Per Capita Australia, an “independent progressive” one, funded by the Susan McKinnon Foundation, a not-for-profit association which underwrites better policy governance projects.

Each think tank separately benchmarked the same 20 federal and state government legislative acts against 10 attributes of good decision-making identified by Professor Kenneth Wiltshire AO of the University of Queensland Business School. They include: demonstrating a public need, inviting stakeholder input, setting a public objective, brainstorming alternative solutions, evaluating their relative merits, costs, and benefits, and designing a rollout plan for the chosen policy. Such a business-case approach to making a policy that impacts people’s lives and costs taxpayers millions seems obvious.

Yet most of the legislation failed to do many of these things.

The think tanks relied on publicly available information for assessing whether each piece of legislation met the Wiltshire criteria, since a government’s final policy decision should have transparent underpinnings. There was joint agreement that the policies that came closest to an ideal decision-making process were the **Corporate Insolvency Bill** and the Queensland **Forest Wind Farm Development Bill** (8.0/10.0).

Weak spots

The research found that the most common weakness in policymaking was not comparing the costs and benefits of alternative policy options. Other lapses were: not

identifying different options in the first place, ignoring alternative mechanisms (for example, using incentives or penalties), failing to explain how a policy would be rolled out, and not inviting public feedback before finalising it.

Unfortunately, policy development in Australia tends to be short-term, partisan and reactionary — often lacking a public mandate for implementation. Our governments should deliver evidence-based policies by taking a “business case approach” in dialogue with communities and affected stakeholders. By fostering a more rigorous, consistent and transparent policy process, governments would both develop better policies for the long term and make gains in public trust and confidence.

The scorecard

The joint research broke down the standards of evidence-based policy into categories. In the 2021 research period, no legislation achieved an “excellent” standard.

Excellent Process

- No case studies

Sound Process

- Fed ***Corporate Insolvency Bill*** (8.5/10.0)
- Qld ***Forest Wind Farm Development Bill*** (8.0/10.0)

Acceptable Process

- Fed ***Freedom of Speech Bill*** (7.5/10.0)
- NSW ***Domestic Violence Bill*** (7.0/10.0)
- Qld ***Child Sexual Assault Bill*** (7.0/10.0)
- Qld ***Wage Theft Bill*** (7.0/10.0)

Mediocre Process

- NSW ***Electricity Infrastructure Bill*** (6.5/10.0)
- Vic ***Conversion Practices Ban Bill*** (6.5/10.0)
- Vic ***Public Drunkenness Decriminalisation Bill*** (6.5/10.0)
- Fed ***Fair Work Amendment Bill*** (6.0/10.0)
- Fed ***Circuit and Family Court Bill*** (6.0/10.0)

- Fed **Digital Platform Code Bill** (6.0/10.0)
- Fed **Drug Testing Trial Bill** (5.5/10.0)
- NSW **COVID-19 Recovery Bill** (5.5/10.0)
- Qld **Future Fund Bill** (5.5/10.0)

Unacceptable Process

- Fed **Income Support Bill** (4.5/10.0)
- Fed **JobMaker Hiring Credit Bill** (4.5/10.0)
- Vic **Drug Court Bill** (4.0/10.0)
- NSW **Bushfires Legislation Bill** (3.0/10.0)
- Vic **Constitutional Fracking Ban Bill** (2.5/10.0)

The media is replete with faulty decision-making processes at all levels of government. If every major government decision was required to state why it was needed, who was consulted, what was its public purpose, what alternative options were considered, why it was the preferred policy, and how it would be administered, the scope for corruption, misallocation and waste of public money would be diminished.

Having auditors general, integrity bodies and select committees of inquiry rake over failed policies and processes does not fix the underlying problem, which is that no government in Australia consistently addresses the above questions when making policy. The solution is a “statement of public interest” to do exactly that for each major government decision, including discretionary grants.

The results of the 80 case studies undertaken over the past four years suggest a solid process was followed in only 27 of them by the governments involved. In 19 cases, the ratings were well below par. In the balance of cases, the process quality was mediocre. The think tanks’ total scores on the 10 Wiltshire criteria for the case studies were remarkably similar in 60 of them (either identical or only one-point difference). Of the remaining 20 cases, 17 had differences in scoring of just two points.

The ability of two ideologically opposed think tanks to broadly agree on which policies were done well and which were not, suggests that standardising public policymaking to accord more closely to recognised best practice (such as meeting the Wiltshire business-case criteria) could remove much of the distrust and discord in Australian politics. Indeed, those policy case studies that followed good process appeared to fare

better politically than those that only partially met it. Adhering to a good process can make a public policy more widely accepted.

Australia prides itself on being better governed than most countries. However, based on the IPA/Per Capita research findings, we should not be smug about our representative democracy — because policymaking at both federal and state levels leaves considerable scope for improvement.

Source: <http://aicd.companydirectors.com.au/membership/company-director-magazine/2022-back-editions/april/how-to>