

## **BETTER REGULATION EVIDENCE PLAN 2011/12 (Joint Evidence Plan with Defra and Environment Agency)**

Evidence Plans are part of Defra's business planning processes. They have been developed for each policy programme, ongoing function or hub with a substantial evidence base

The main purposes of Evidence Plans are to help Defra policy and evidence teams to:

- Maintain a clear 'line of sight' between policy objectives and evidence needs;
- Ensure best use of others' evidence and maximise opportunities for partnerships;
- Show a clear rationale and value for money for Defra investment in evidence;
- Prepare for policy evaluation.

### **1. POLICY RATIONALE**

#### **1.1 Policy context**

Reforming regulation is one of the Coalition's highest priorities. The expectation overall is that the role of regulation should be reduced, reserved for when it is genuinely essential to achieving environmental ambitions; and the use of softer and less costly approaches should be increased. Against a background of improving Better Regulation (BR) processes<sup>1</sup> generally there are specific new commitments to: introduce a 'one in, one-out' rule; target inspections; impose sunset or review clauses; give the public the opportunity to challenge the worst regulations; end gold-plating of EU rules. Steps are also being taken across Government to increase alternatives to regulation including through increased application of approaches which better recognise behavioural patterns.

The Defra BR programme works with Better Regulation Executive to deliver the government's regulatory reform objectives in Defra. The programme aims to ingrain the reform agenda's principles into the department's ways of working so they become part of the way we meet Structural Reform Plan objectives. Beyond the demands of BRE processes, this means working pro-actively with teams to make sure the principles inform policymaking from the outset and provide policymakers with the appropriate skills and evidence. The programme also implements specific flagship BR initiatives aimed at reducing costs for businesses and improving environmental outcomes. The BR programme works with all Defra's regulators with a particularly close partnership with the Environment Agency's BR team to ensure effective delivery of policy outcomes while obtaining best value for the taxpayer and removing unnecessary impact on business.

The decisions that will have to be made to deliver on this agenda while also addressing the Coalition's challenge of being the greenest Government ever will need to be informed by a significantly improved, and more accessible, evidence base. The Better Regulation Programme has therefore established an evidence workstream. Each evidence activity covered by this evidence plan (EP) is aimed at helping to provide a more robust basis for:

- Either: reforming the existing policy landscape by identifying when regulation is

<sup>1</sup> E.g. new Impact Assessment (IA) processes and stronger commitments to review all policies

necessary and when other policy instruments should be used or combined.

- Or: where regulation is necessary, designing and implementing it in the most effective and efficient way

This is a joint EP between Defra's Better Regulation team and the Environment Agency's Better Regulation programme to ensure a joined up and coherent approach, recognising the interactions between policy design and implementation.

## 2. CURRENT STATE OF KNOWLEDGE, INVESTMENT AND FUTURE REQUIREMENTS

### 2.1 Current state of knowledge

Please also [annex key references](#).

We have recently reviewed the state of regulatory research with a focus on environmental policy. This demonstrates that there is a very large number of research reports and other resources relevant to this area, commissioned over a number of years by government departments, arms length bodies, universities and NGOs. They are, however, spread and often inaccessible which means it is very difficult to gain a clear and coherent view of their import and implications for the decisions at hand.

A few general conclusions on regulatory evidence relevant to Defra as a whole are that:

- Much of the existing research focuses on the design and implementation of regulations and there are a number of guides and other materials to make research available to practitioners. Nevertheless further progress can still be made in filling research gaps on specific regulatory questions, making more recent research accessible and ensuring guidance reflects governmental objectives. Specific research gaps identified are: understanding the impact of regulations on civil society and on the ability of citizens to take local action, designing regulation for micro-businesses and on the effectiveness of different approaches to securing compliance.
- Little effort has been invested historically in collating and using evidence to reform the existing regulatory landscape. In particular, no synthesised evidence existed on the stock of regulations for which Defra is responsible. Additionally, while research has been undertaken on the effectiveness of different policy mechanisms, the regulatory reform agenda increases the role for bringing this work together to understand when regulation is necessary to achieve objectives and when other policy mechanisms or combinations of mechanisms would be more appropriate.
- The new regulatory reform agenda also highlights the need to better understand the linkages between regulation and the green economy and economic growth more widely.
- While it is clear that we would benefit from being able to draw on successful international approaches to better regulation and regulatory reform, flows of information on international approaches are variable, depending for example on policy area and parts of the world. We have not yet found an accessible summary of international approaches and successes.
- The programme has recently been extended to cover the department's food and

farming responsibilities. There is clearly a significant evidence base covering these policy areas and we would benefit from reviewing the state of knowledge, the gaps and the lessons that are transferable to other policy areas and then exploring what should be done to promote consistency of approach across the department.

## 2.2 Primary objectives of evidence activities

- To support the delivery of the government's regulatory reform agenda in Defra in a rational way, so the Reform Plan objectives can be achieved while also supporting economic growth
- To inform the BR team's work to improve culture and capacity for BR across Defra and the EA, including improvement of the 'develop options' and other stages of the Policy Cycle
- To determine how EA and other regulators can ensure effective delivery of the Government's environmental policies while obtaining best value for the taxpayer and least negative impact on business
- To gather evidence to inform reviews of specific initiatives

## 2.3 Current investment in evidence

Relative to other Defra areas, the investment covered by this joint EP is very small. A formal BR evidence workstream in Defra was established during 2010 as part of the restructuring of Defra's BR team. EA's BR evidence programme is longer established and has already contributed a wealth of research - one of the reasons for the close collaboration formalised by this joint EP. This EP covers 6 broad areas:

1. **Assessing the stock of regulation.** Reforming regulation requires an improved understanding of the stock of regulation for which Defra is responsible, whereas traditionally policymaking focuses on the flow of new policy rather than looking back at what's already been implemented. This work involves identifying the regulation in each Defra area and assessing its costs and benefits. An important question for regulatory reform is also the extent to which regulation is required to meet EU objectives so this work also involves assessing what is essential to meet EU obligations.
2. **Developing the analytical tools for regulatory reform.** The Government objective of reforming and reducing regulation means policy objectives will need to be met through more rational use of available policy mechanisms, such that regulation is only used where necessary and other approaches or combinations are used where more appropriate. This work is to bring together the analytical approaches required to review opportunities for regulatory reform. The principles for how different policy mechanisms function and combine to meet objectives is core to this. Creating the right conditions for the green economy and economic growth more widely are fundamental. The main output will be a guide for policymakers and analysts in Defra. The Better Regulation Programme is establishing plans for reviewing regulations across the department on a rolling basis, supported by this guide.
3. **Supporting design of effective and efficient interventions.** In some circumstances regulation will still be necessary to achieve policy objectives. This work is to help underpin how regulation should be designed so as to achieve the required outcomes in as business-friendly a way as possible. Generally this will

involve drawing on existing research but in some cases there are gaps in our understanding which may require new research. For example, in 2010/11 we have commissioned two social research projects to fill gaps identified in section 2.1- on micro-businesses and approaches to securing compliance. Possible areas for further research next year could be to better understand the links between regulation and economic growth, and about the impact of regulation on civil society.

4. **Supporting effective and efficient implementation of interventions.** This work, led by the Environment Agency, focuses on improving capacity for risk-based regulating. It includes work on regulating low-risk activities and 'good performers', and investigating the potential for self-certification and supporting a customer focused, sector-based approach to regulation
5. **Review of specific interventions.** While 2-4 above focus on the generic transferable lessons that apply across policy areas, this involves monitoring and evaluating the specific policies for which the Defra and BR programmes have direct responsibility (e.g. Environmental Permitting, compliance tools, Civil Sanctions, the Environmental Damage Regulations, the Operational Risk Appraisal system (OPRA) and the use of advice and guidance)
6. **Knowledge management and dissemination.** All the above evidence activities are undertaken to inform practice amongst SROs (Senior Responsible Owners in Defra who are responsible for budgets), other policymakers and analysts in Defra and operational staff in the Environment Agency and other regulators. Finding the right vehicle to communicate information in an accessible and digestible way is an essential part of each of the above activities. Nevertheless this is identified as an activity in its own right given its importance and that some materials will cut across the above activities.

A large proportion of this work involves synthesising existing evidence resources and developing user-friendly materials, including training modules, for Defra and regulator staff. This will generally be done internally within the Defra and Environment Agency teams working with other analysts across the organisations. Where new research is needed, this will generally be commissioned externally.

## 2.4 Identifying and prioritising new evidence needs

Section 2.3 covers the main evidence needs that are essential to achieving Government objectives in this area and we envisage that they will last the life of this EP subject to changing political priorities.

The key to ensuring value for money, and given the limited budget available, is to make the most of resources already available and work in partnership with other organisations where possible – e.g. Research Councils and universities, all regulators, Scotland and Northern Ireland Forum for Environmental Research (SNIFFER), EU network for the implementation and enforcement of environmental law (IMPEL) and the European Commission.

We will keep these research areas under constant review as the BR team monitors progress against the Government's priorities. A review of the BR programme, including its evidence base, is planned by December 2012.

## 2.5 Secondary benefits of evidence activities

- A useful resource for other Government departments, other regulators, the business community and other external groups
- Improved transparency and accountability to the public for decisions taken on environmental regulation and the alternatives, and reputational gains
- A more robust basis for engaging with the European Commission on its approach to environmental policy and for shaping the EU agenda
- Supports the removal of unnecessary legislation

## 2.6 Alignment to long-term evidence challenges and Reform Plan objectives

Developing, and helping to embed, an improved understanding of the effectiveness and appropriateness of regulatory and other levers is essential:

- to be able to meet the Better Regulation priorities contained within BIS' Reform Plan such as One In One Out and using alternatives to regulation
- and do so in a way that contributes to both the three priorities in Defra's Reform Plan and the three big evidence challenges, and ensures that they are not undermined.

This is therefore a cross-cutting evidence base relevant to all Defra's objectives.

## 3. INTERNAL CAPABILITIES - USING DEFRA'S EVIDENCE SPECIALISTS

### 3.1 Range of knowledge disciplines needed

- General research and research management skills
- Economist expertise
- Social researchers including market researchers
- Expertise in both policy design and implementation/enforcement

### 3.2 Access to internal specialists

- Economist embedded within the team with expertise in Defra legislation and general research and management skills
- Input from other Defra economist teams as required, particularly from the Environment and Growth Economics team in Defra.
- Input from the Defra chief social researcher and a share of another dedicated social researcher, as well as links with The Centre of Expertise on Influencing Behaviours. Social research is important in helping to understand where alternatives to regulation can be effective in influencing changes in behaviour.
- Input from departmental statisticians as required.
- EA provide access to regulatory practitioners and other customer facing staff.
- EA economists and social scientists provide support to shape and commission research and in-house scientists and market researchers help to deliver it.

### 3.3 Future resource needs and filling gaps in expertise

The current input meets our requirements and we envisage retaining it.

## 4. EXTERNAL KNOWLEDGE SUPPLY AND PARTNERS

### 4.1 Strategic external capabilities and suppliers

### 4.2 Leverage and partnerships

- **Other government departments.** Working collaboratively with those facing the same challenge often with related policy responsibilities. e.g. BIS/BRE, DECC, Health and Safety Executive
- **Regulators.** Information exchange of transferable lessons e.g. through the Defra regulatory network including e.g. Natural England, MMO, Rural Payments Agency, FERA, Forestry Commission, Animal Health; through other regulators such as Local Authorities (and the Local Better Regulation Office and Local Government Association). In addition, devolved administrations and their regulators.
- **International Government Organisations.** Seeking funding from, influencing and using research outputs. E.g. European Union, OECD and UNDP + other potentials (OECD, UNDP).
- **Research Councils.** Influencing research programmes, and seeking funding from or joint funding. E.g. ESRC/Living With Environmental Change and EPSRC.
- **Universities.** Drawing on research outputs and expertise and as research providers. E.g. London School of Economics, Leeds, Cranfield.
- **Research networks.** Drawing on research outputs and joint funding. Scientific Knowledge for Environmental Protection (SKEP), IMPEL and SNIFFER.
- **Business community.** Primary evidence and insights into the best course of action. Through BR team advisory group, EA Regulatory Business Forum and other bilateral arrangements.

### 4.3 Use and value of advisory bodies and external specialist advisers

The Defra BR programme management structure includes an external (largely business-led) advisory group and an analytical group which will review research outputs. There is also an annual regulation conference planned which will be an opportunity to gain feedback from a wider audience.

## 5. MEETING NEW EVIDENCE NEEDS

### 5.1 Overall approach to meeting your evidence needs

- Dedicated resource within the team to specify and manage research in response

to changing needs and to ensure findings are embedded in practice within the BR team and across Defra and EA.

- Taking a multi-disciplinary approach through working with the range of experts identified in section 3.2
- Securing value for money through:
  - Collating and synthesising existing research as far as possible first and responding to identified research gaps where better information is needed to meet Reform Plan priorities
  - Building partnerships and learning from other organisations and experts with parallel experience and interests, possibly through calls for evidence
  - Pursue available funding opportunities (e.g. EU Life Fund, Customer insight challenge fund, Cranfield risk centre) to leverage additional funding
- Managing risks and monitoring performance through adherence to PPM structures within the Better Regulation programme.
- Securing quality of outputs through expert steering of commissioned work and internal review of all outputs by those identified in section 3.2. Consideration being given to arrangements for external peer review.

## 5.2 Evidence investment forecast

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## Annex

### **Key references supporting the current state of knowledge** [\[Return to Section 2.1\]](#)

A review was undertaken internally. This is available on request. Two key sources currently on the web are:

- [Environment Agency publications catalogue – http://publications.environment-agency.gov.uk](http://publications.environment-agency.gov.uk)
- Environmental Research Funders Forum database: <http://www.environmentalresearch.info/>

However, sources are spread and there are many others.

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