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RATIONALISING THE POLICY MESS?

Ex ante policy assessment and the utilisation of knowledge in the policy process

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Abstract

Procedures for the ex ante assessment of public policies are currently in vogue across the OECD. Their design is typically informed by an instrumentally rational model of problem solving, which assumes that knowledge is collected, evaluated and then translated straightforwardly into 'better policies'. This model has, it seems, been little affected by more than three decades of academic research which has demonstrated that the reality of every-day policy-making is far messier. This paper analyses whether the uptake of ex ante assessment of policies is nonetheless capable of providing new opportunities for knowledge to inform processes of policy deliberation and learning. Drawing on an analysis of policy assessment procedures in three countries and the European Commission, it finds that there are several ways in which assessment knowledge is used in the policy process. Moreover, its argues that policy learning occurs despite, rather than because of the instrumental design of the new assessment procedures, which tends to act as a barrier to open deliberation and knowledge utilisation.

Introduction

"We are living in interesting times for anyone concerned with the theory and practice of appraisal" (Owens *et al*, 2004: 1944). Formal procedures for policy level *ex ante* assessment are currently experiencing a remarkable level of interest in the European Union (EU) (Jacob *et al,* 2007; Radaelli 2005), but also well beyond (OECD 1997; 2004). These procedures come in different guises, such as Regulatory Impact Assessment (RIA), Sustainability Impact Assessment and Impact Assessment (IA), and seek to achieve different things (Radaelli, 2005). Broadly speaking they all aim to identify the major impacts of a proposed new policy, are carried out before the final decision on the policy is taken, follow a formal administrative procedure and result in a formal report or statement. While the set-up and diffusion of these procedures has been the focus of a number of comparative studies (e.g. OECD, 1997 and 2004; Radaelli, 2005), the existing literature has little to say about what, if any, impact they have on the actual processes and outputs of policy making. This is somewhat curious given that their underlying aim is precisely 'to inform decision makers by predicting and evaluating the consequences of various activities according to certain conventions' (Owens *et al*, 2004: 1944).

Our purpose in this paper is to go beyond simply describing the different assessment procedures in various jurisdictions and/or reviewing their quality based on a documentary analysis of the resulting statements (e.g. Lee and Kirkpatrick 2004; Wilkinson *et al* 2004). While these things are worthy of analysis, in this paper we explore what role assessments play in the wider policy-making process. We assess their influence through examining the uses to which evidence generated within formal *ex ante* assessments is put. In the past, the consensus has generally been that policy assessment and evaluation had only very limited effect on policy decisions (Weiss 1999, Owens et al 2004). The proliferation of policy assessment makes it even more important than ever to pose and seek to answer "fundamental questions… about the nature of appraisal and its role in the political process" (Owens et al 2004, p1944). In principle, we might expect the increased uptake of policy level procedures to have altered this somewhat pessimistic picture. First, previous assessment processes tended to be 'end of pipe' – conducted when there was less in policy terms to play for. Recent efforts to 'upstream' assessment into the earlier stages of decision-making and to link it more strongly into central level policy making should have opened opportunities for knowledge-induced policy change. Second, the problem was traditionally cast in terms of how to get policy makers to listen to knowledge developed externally by scientists (Nutley et al 2007). Ex ante policy assessment, in contrast, requires policy makers themselves to collate and evaluate evidence before making policy. On the other hand, the new assessment procedures are still firmly rooted in a positivist view of public policy-making. They are designed in a way that corresponds with a rational model of problem solving based on a conception

of a linear policy process. Typically, the handbooks and guidance disseminated to policy makers set out a sequence of analytical steps that policy assessments should follow. These clearly mirror the same linear, rational phases as conventional planning guidelines and lower level forms of assessment such as Environmental Impact Assessment. The process normally begins with the identification of a policy problem or objective, runs through an analysis of options and respective impacts and leads to a weighing up of alternatives with a final selection of the 'best' policy choice (see for example OECD 1997 and CEC 2005). In this conception, policy assessment is - at least implicitly - based on a number of assumptions about the policy process and the role of knowledge within it. For example, it suggests that policies are designed to address identified problems or objectives, that the impacts of planned policies can be anticipated with a certain degree of accuracy, that there is a central decision-maker who selects a policy option on the basis of expected net benefits and that 'better' information necessarily leads to more 'rational' policies.

It is curious that the basic rationale for, and design of, policy assessment has been so little affected by at least three decades of research in political science, sociology, administrative studies and other disciplines that have fundamentally questioned the traditional view of both the policy process and the role of policy analysis. Without attempting to summarise varied and complex bodies of literature, three main aspects can be highlighted. First, most scholars of political science would argue that while the policy cycle may under certain circumstances be a useful heuristic device, a rational, linear conception of the policy process is not an empirically robust model (Sabatier and Jenkins-Smith 1993). Influential authors emphasise that political decision-making is characterised by discontinuities, dynamic change and a loose coupling between problems and policies (Sabatier and Jenkins-Smith, 1999, Kingdon 1995). Second, it has long been accepted that there is usually no unitary decision-maker or central steering mechanism. Instead, policy decisions are the outcome of complex actor and interest constellations and the range of available policy options is limited by institutional path-dependencies and actor constellations (e.g. Sabatier, 1999). Third, knowledge is seen to have a far more varied role in the policy process than the positivist model would suggest (deLeon 1997, see also Owens, 2004). A range of authors with a more post-positivist orientation emphasise the important role of ideas, argumentation and discourse in shaping policy debates and ultimately decision-making (Majone 1989, Fischer and Forester 1993). In this view, knowledge is not merely constituted by factual information, that is generated to help solve problems. Instead, knowledge is strategically used by different actors - typically in competitive fashion - to structure policy problems and solutions, to advance their positions, and to gain influence (see also Radaelli 1995).

This increasingly visible discrepancy has led to intense discussions in the literature (e.g. Cashmore 2004). Consequently, many authors have called for new 'participatory' or 'critical' forms of policy analysis and assessment (deLeon 1992; 1997; Fischer 1993, Dryzek 1990). Others have pointed to the pointed to the (perceived) failure of the post-positivist camp to develop approaches that go beyond an analysis of competing frames, claims and norms and help translate these into collective decision-making (van Eeten, 1999).

In a recent paper, Owens et al (2004) have rejected the polarisation between the technical-rational model and its post-positivist critique on the basis of both empirical and theoretical grounds. They challenge the common post-positivist view that policy analysis must be fundamentally reinvented to fulfil this role, suggesting that learning opportunities may well be provided through the more traditional forms of policy analysis. They claim that "experience suggests that even quite technical procedures have, as an unintended effect, provided important apertures for deliberation and learning" (p. 1950) between different frames and coalitions. However, they see the need for much empirical work to better understand whether such a role exists today and under what conditions it might be possible in the future. This paper explores the scope for initiating deliberation and learning through some of the policy-level assessment procedures that are now proliferating in OECD countries. More specifically, it focuses on routinised *ex ante assessment activities undertaken or initiated by policy making units in the administrative parts of government*. The analysis is organised around four research questions:

1. How is the role of assessment conceptualised in the four jurisdictions and what is the stated purpose of the procedure? Here, our main reference points are the legal frameworks and guidance documents published by different parts of government. The aim is to validate our assumption that the dominant model of policy-level assessment is still that of technical-rational analysis.

2. To what extent does policy level assessment follow the formal rules defined by procedural guidelines and handbooks? Where do we find variation and why? Specific attention is given to whether a gap between rational procedures and messy policy processes is manifest in practice.

3. Which function(s) does ex ante assessment fulfil in practice? Does it serve different functions for different actors? Here, we aim to explore in more depth whether we can indeed detect the opportunities for policy learning referred to by Owens et al. (2004) or whether other functions are dominant.

4. Which factors determine the function of assessment practice in the policy-making process? Is there systematic variation between policy areas, instruments and actors? This question aims to draw out generic explanations of the results.

While most of the policy assessment literature has focussed on comparative accounts of the proliferation of assessment procedures, other social science branches have dwelled deeper into science-policy interface. Several decades of research into the use of knowledge in policy-making has suggested that the relationship is far from simple. The early literature - often referred to as the 'study of knowledge utilisation' - has grappled with the finding that knowledge is often not used a basis for decision-making, for example in health, social or education policy (e.g. Caplan et al 1975, Knorr 1977, Francis et al 1980, Corwin and Seashore Louis, 1982, Deshpande 1981). Studies examining social science more broadly as well as evaluations or assessments concluded that decision-makers rarely 'learned' from knowledge in a straightforward way. The reasons put forward to explain this phenomenon fall into two broad categories. First, a wide range of barriers are identified that impede the flow of information from researchers to decision-makers. Amongst the many obstacles that have been observed are, for example: shortcomings of the research itself, problems in spelling out findings in an accessible and relevant way, lack of dissemination or access to policy and the related questions of resources, skills and incentives or the transformation of messages during communication process (Romsdahl 2005). Second, it was observed that decision-makers often use knowledge to suit their own interest (Owens, 2005). While studies emphasise different aspects and individual authors apply different terminologies, three types of knowledge use emerge from the knowledge utilisation literature (cf. Weiss (1999: 470) and Romsdahl (2005: 141)):

- Conceptual learning: Knowledge plays the role of 'enlightening' policy-makers in the sense that it provides new information, ideas and perspectives into the policy system. This may include challenging existing beliefs and opening up opportunities for policy change.
- Instrumental learning: Knowledge is put to use for concrete decisions in the sense of specific information to improve the design of policies and provide rational guidance.
- Political use: Knowledge is put forward to attain political objectives, typically as a way of providing justification for a decision already taken, disarming an opponent's view point, or postponing a decision.

More recent studies have taken as a starting point the awareness that research can be used in different ways by different actors. The suggestion is that learning is undervalued because actors anticipate certain instrumental uses that are typically not achievable. Instead, social scientists and evaluators should be more realistic about the influences their work can have on policy-making: "When evaluators can add to the knowledge available, so much the better, but their knowledge is just one form out of many, and it has to compete for a hearing with other knowledge in circulation. [...] A study,

however, large and competent, does not sweep all before it and impose a new formulation upon the policy-forming community" (Weiss 1999: 471). This has led to a more optimistic view that has tried to trace the more subtle long-term learning effects (for example Bulmer 1987, Anderson and Biddle 1991). These studies tended to find that assessments have an important role in policy formation but usually over the longer term. It has, however, been recognised that these slow effects can be extremely difficult to trace to the point of being 'invisible to the naked eye' (Weiss 1999).

Although the research presented in this paper follows a similar line of enquiry, it differs from the bulk of the literature cited above in that it considers the role of essentially *internal* assessment procedures. As ex ante policy assessment as defined here are directly undertaken or at least commissioned by the unit that are in charge of policy, the questions around barriers to knowledge dissemination play only a very small role. Our focus on internal assessments therefore allows us to focus on exploring the different uses of assessment knowledge and their determinants within the policy-making arena. Although our research has moved on from the more rationalist perspective of the earlier knowledge utilisation literature, their empirically based typologies of knowledge use remain valid and will be used to analyse the empirical material. 'Political use' will, however, be understood not as negative divergence from the rational model (i.e. the strategic misuse of information) but more neutral as a category that explores the extent to which knowledge has become an object of political negotiation.

In order to explore these types of use we focus on policy assessments undertaken or initiated by the administrative parts of government in three countries (Germany, Sweden and the United Kingdom) and in the European Commission. We have chosen these jurisdictions because, although all have adopted some form of policy assessment and a central coordinating unit (Radaelli & De Francesco, 2007), the systems vary in relation to formalisation, institutional set-up and overall orientation. For the sake of convenience we refer to them all as 'policy assessment'. We opted to focus on a selection of 37 policy cases which cover a broad range of policy sectors and types of policy intervention (e.g. regulations, strategies, economic instruments, see Table 1). The larger number of cases studied in the EU is due to the fact that the Commission's more transparent approach allowed us to carry out more cases using the same resources.

Cases analysed
EU (17 cases, 22 interviews)   • Groundwater Daughter Directive   • Framework Decision on the Principle of Availability   • Capital Adequacy Directive   • Communication on winning the battle against global climate change   • Framework Programme on Solidarity and management of Migration Flows   • Environment and Health Action Plan   • Directive on the retention of data   • Directive on legal protection of designs   • Euro-Mediterranean Partnership Work Programme   • Regulation concerning the Visa Information System   • Recast of the Gender Equality Directives   • Regulation on Timber Imports   • Regulation on Sugar Reform   • Rural Development Strategy   • Thematic Strategy on Air Pollution   • Decision on FP7 for research   • Directive on car taxation
Germany (7 cases, 18 interviews)   • Farm Premium Law   • Genetic Technology Law   • Flood Protection Law   • SEA laws   • Federal Transport Infrastructure Plan   • 2005 Climate Change Programme   • Federal Airport Concept
Sweden (7 cases, 14 interviews)   • EC CO$_2$ trading directive   • Climate Change follow up study   • Climate strategy   • Public transport   • Sustainable production and consumption patterns   • Biofuels in transport sector   • Transport taxation
UK (7 cases, 16 interviews)   • Landfill Allowances Regulations   • Kyoto project-based mechanisms and the EU ETS   • Data capture and sharing powers for the border agencies   • National Lottery Bill   • NHS (Pharmaceutical Services) Regulations   • Working Time in Road Transport   • Offshore Petroleum Activities

Table 1: Policy cases analysed in the four jurisdictions

For each jurisdiction, a study was completed comprising an analysis of the overall assessment system, its origins and objectives, recent reforms, guidance documents etc.. These drew on two principal sources of data. First *relevant documents* (guidance on assessment, assessment reports, draft and final legal texts, policy documents and relevant publications by external stakeholders) provided a broad basis for analysis. Second, tracing the creation and diffusion of knowledge in a multi-causal policy process could only be achieved through in-depth interviews with those at the centre of the processes. Semi-structured elite *interviews with desk officers* responsible for the policy in question were identified as a principal data source. Overall, more than 60 interviews were conducted, 19 interviews with 'generic' stakeholders (i.e. actors involved in supporting and/or promoting assessment, or with an obvious stake in the process e.g. NGOs), 43 desk officers (i.e. the officials that completed the assessments).

The use of assessment knowledge in practice

How is the role of assessment conceptualised?

In the *EU*, the prevailing system of policy level assessment is Impact Assessment (IA). This system was introduced in 2002 and combines elements of Sustainability Impact Assessment with ongoing efforts to develop better RIA. It only applies to major new policy initiatives. New guidelines and a set of technical and operational handbooks were launched in 2005 (SEC (2005) 791). The basic conception of the procedure is instrumentally-rational, based on the familiar linear steps (SEC (2005) 791). However, this is significantly attenuated in several key respects: First, the policy documents clarify that the policy assessment process should be "an aid to political decision-making, not a substitute for it" (SEC (2005) 791: 4). The aim of the options analysis is put modestly: "This may then allow the conclusion to be drawn that one option stands out above the others." (SEC (2005) 791: 39). Second, the guidance draws attention to the limits of analysis, reminding desk officers to "flag up uncertainties and assumptions in the final... report" (SEC (2005) 791: 39). Third, the importance of the analysis process is emphasised and consultation with stakeholders is considered a vital part of policy assessment. Stakeholders are not limited to providing information on impacts, but should be allowed to express views on all stages of the policy assessment, including the nature of the problem and the objectives.

Policy assessment in *Germany* is formally referred to as 'assessment of the effects of law'. It is set up as a rather narrow, downstream assessment of legal, administrative and budgetary aspects of proposed new laws. Implementation is weak and comprehensive guidance was only introduced very recently. The requirements are briefly set out in the Joint Rules of Procedure of the federal ministries which essentially state that all significant effects of new laws have to be assessed by the lead ministry in cooperation with

other concerned ministries and with input from relevant stakeholders. Although the objectives remain implicit, the focus is on ensuring that the costs of the law or regulation are justified by its benefits. The stated aim is to 'identify the best regulation alternative' (BMI, 2006: 3) through nine successive assessment steps, with the core element being the 'assessment and comparison of benefits and costs'. Another indication of the rationalist conception of assessment in Germany is that guidance documents say almost nothing about the process of analysis. It is understood as an expert and knowledge-based process with a very small role for external actors. Stakeholders are only foreseen as passive providers of information about impacts.

Policy assessment in *Sweden* dates back to the 1970s, but the prevailing system dates from 1995. It is not linked to policy formation but is intended to function at the level of the implementing agencies. Although some provisions for assessment at the ministry level have been suggested, the more important arena for assessment and connecting knowledge to policymaking is the system of Committees of Inquiry. These committees are temporary bodies set up by ministries to comprehensively review the state-of-the-art knowledge of the policy issues at hand and make proposals to the government. Each committee typically lasts for 1 to 3 years, creating more or less concrete proposals for strategies or polices. The official guidance sets out good practice, but does not give specific guidance, for example on methods and tools. The guidance conceptualises assessment as an instrumental process but this is attenuated. For example, the scope and focus of individual assessment is clarified by the specific instructions issued by the ministry 'client' vis-à-vis options and impacts to be considered. Furthermore, political parties are represented in all major committees, and final recommendations are negotiated politically. This means that it is less positivist in the sense that it does not make a strict separation between knowledge generation and political decision making.

In the *UK*, RIA is the main policy assessment system. This is centrally driven by the Cabinet Office. The system predominantly aims to serve the 'better regulation' agenda through producing an "assessment of the impact [on business, charity or the voluntary sector] of policy options in terms of the costs, benefits and risks of a proposal" (Cabinet Office, 2003: para. 1.1). The official guidance clearly conceptualises assessment as a rational and linear process (Cabinet Office, 2007)., although it emphasises that it should be a continuous process starting at the earliest stage of the policy making process. On the other hand, the guidance acknowledges that policy assessment should not be a purely expert-based activity. The aim of consultation is not just to provide relevant information, but also to increase transparency, public buy-in and participation (Cabinet Office, without date).

To what extent does policy level assessment follow formal rules and guidelines?

With respect to the *EU*, although policy assessment has improved the transparency of European rule-making, it does not achieve the ambitious objective of basing policy decisions on robust, integrated assessment knowledge. Actual policy assessment practice is biased towards economic impacts and administrative costs. Unintended consequences and those in other policy areas tend to be neglected and the quality of analysis varies widely. Tool use is rather limited, with a focus on very simple tools such as checklists. The extent and quality of consultation varies from case to case, but often the perspectives included are from the established stakeholders who have been involved in the policy area before. Many - although not all - assessments justify policy proposals that are to a large extent already determined. Policy assessment is often therefore perceived as having a narrow purpose, namely that of informing the detailed policy design and achieving greater societal buy-in. Fundamentally different options (including the 'no action' alterative) are rarely considered, let alone explored fully.

In practice, the *German* procedure is only partially and often formalistically implemented. The framing tends to be extremely narrow; typically, it only addresses administrative costs, direct economic costs and price effects. In many cases, it is considered as an *'annoying duty*[1] that has to be met with minimal effort. Actual analysis is in some cases replaced by pre-set sentences, for example 'the costs cannot be quantified' or 'alternatives: none'. This minimalist attitude is, however, not universal. In a considerable number of cases, efforts are made - some times due to pressure from the Economic Affairs and Finance Ministries - to assess economic and administrative costs. Where this is done, the assessment tends to rely on figures provided by stakeholders, often remaining incomplete. There also appears to be a strong reluctance to include conditional or uncertain information. Although the exact timing varies, policy assessment is typically a one-off activity towards the end of the policy formulation process. The policy assessment documentation rarely contains any information about the way in which analysis was carried out, options rejected, parties consulted, underlying assumptions etc. Stakeholders are not usually involved except - in some cases - as a passive source of data. While policy assessment does not function as an *ex ante* policy assessment system, it should be mentioned that there are other, often extensive assessment activities which surround the policy-formulation process at federal level. The remain, however, outside the context of the formal policy assessment procedure, but are typically carried out in an *ad hoc*, informal, fragmented manner which is not transparent to outsiders.

In practice the generic guidance in *Sweden* plays a very minor role compared to the specific instructions given to each committee by the ministry. In most cases, the guid-

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[1]   Interview no. 2, Germany, Environment Ministry.

ance is followed in the sense that each impact category is briefly assessed or at least mentioned, but they receive only minimal attention. The actual use of the 'Committee Handbook' is also low (Regeringskansliet, 2005). In practice, the specific instructions to the committees frame the assessment. This has a formal component; that is the publicly available written instructions issued by the government, and an informal one, that is the continuous contacts between the Committee secretariat and the ministry. There are few formal requirements regarding participation and consultations, methods or tools, or ways in which the committee results should be used. Weaknesses in these regards therefore cannot be attributed to an implementation failure. On the contrary, most committees appear to be very good on delivering what the ministry requests of them.

Our research confirms other critical accounts of the *UK's* policy assessment system, for example by the UK's National Audit Office (The National Audit Office, 2006) that while compliance with the requirement to produce policy assessment is high, and they remain narrowly focused on direct economic cost. There is a 'silo mentality' regarding different issues (e.g. environment, race, etc), but many desk officers also hold the view that the function of policy assessment is to justify the burden on business and citizens created by regulation. Narrowing the assessment to what are perceived to be a smaller number of critical categories provide a means of tailoring the assessment process to a department's core policy objectives and saves administrative resources. The policy assessment process is weak at exploring different ways of meeting a policy goal. In our sample, policy assessments did not radically change the overall direction of policy: "it is often squeezed in at the very end"[2]. Consequently, policy assessments tend to contain a limited range of options, sometimes artificial constructions created to comply with the requirements: "often [this] is disguised by analysing different options which deliver similar results"[3]. We found that informal consultation with key groups tends to occur before and in parallel with the public consultation process.

Which function(s) does ex ante assessment fulfil in practice?

In many of the cases analysed, policy assessment in the *EU* engendered a certain degree of instrumental learning, but this was limited by the boundaries set by the problem definition and by previous policy commitments. The impact of assessment knowledge on policy design was very small compared to lobbying and political negotiations. One factor that limits the potential for conceptual learning is the narrow focus of the analysis because it means that policy assessment often confirms what protagonists know already. In nearly all the cases examined, policy assessment had little effect on stake-

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[2]   Interview, UK "Case B"
[3]   Interview, UK "Case E"

holder positions. An element which favours the political use of assessment is the lack of data, particular if the impacts of the policy are played out on the national and regional level. The use of incomplete data sets and inevitable reliance on speculative assumptions can is some cases lead to contradictory results and more room for political use of knowledge. In some cases, data have to be obtained from actors - such as the industry to be regulated - which have an interest in a particular policy outcome. While the high transparency of the policy assessment system appears to have supported learning processes, it has also given interest groups the opportunity to engage in political use of knowledge. In several cases, lobby groups have consciously tried to influence decisions by contributing to the assessment, by criticising it or by providing alternative figures. Whether the comparatively inclusive policy assessment process has promoted consensus amongst stakeholders remains doubtful. In the most politicised cases, anecdotal evidence suggests that it may actually have led to more entrenched positions.

Very few resources are devoted to formal RIA in *Germany* and there is a high degree of political use of knowledge. Both the typically late timing of the policy assessment and also the way the results are presented suggest that it tends to be an ex post justification exercise rather than an activity that influences decision-making. This was confirmed by interviewees: '*The RIA is just a little hoop we have to jump through. [...] We try to assess the costs because we are required to do it*'.[4] More interesting and varied is the use of the knowledge from informal assessment activities. In most cases, significant resources were devoted to external studies, workshops, expert groups or internal analysis. These activities tended to result in instrumental learning, mostly about the detailed design of the policy. Conceptual learning in the sense of a more fundamental re-thinking only occurred in one of the seven cases. Political use of knowledge by the lead ministry as well as by other ministries and external stakeholders could be observed in the majority of cases. The interplay between science and policy is commonly neither purely instrumentally-rational nor purely political: '*Scientific input plays an important role, but not in a straightforward way. Everybody has their own researchers. There is a certain competition [about claims and research input], we use our own budgets to commission studies that substantiate the interests of the different ministries*'[5]

In Sweden, most committees engage in comprehensive instrumental fact finding. There is a fair amount of both instrumental and conceptual learning among its members. In relation to actual decision-making processes, however, the knowledge is primarily used politically. This has several reasons: First, the instructions to Committees

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4   Interview no. 2, Germany, Environment Ministry.
5   Interview no. 3, Germany, Environment Ministry.

are developed by the ministry in charge which means that problem framings, policy directions and key priorities are set out in advance. Second, the knowledge has difficulties 'creeping in'. The key function of the committee is not learning but to build a political consensus by navigating between established political positions. In 'parliamentary' committees, political negotiations between the political parties are the basis for the recommendations to the government, implying that they are already backed by a parliamentary majority. Agency officials and experts tend to be excluded from the final negotiations and proposals. In 'expert' committees where politicians are not directly involved, the political negotiation might take place after the ministry has received the proposals. Expert committees are also normally highly perceptive to the political context and anchor the proposals at the political level through continuous contacts with the political parties and the government. Hence in both parliamentary and expert committees, the political aspects of assessment knowledge use are even more accentuated in practice than the formal guidance implies. There is, however, variation over time within the process as the political dimension becomes stronger towards the end of the process. Our interviewees have reported very intricate political processes within and around the committees, including activities to influence outcomes by withholding of information, by scheduling committee inquiries after decisions had already been made politically, and by selecting expert members to ensure certain outcomes. At earlier stages, most committees engage in a relatively comprehensive and unbiased fact finding. The political bargaining between the political parties about what to recommend is, however, often disjointed from the assessment process.

In practice, the focus of the analysis on direct economic and administrative costs means that there is usually little or no scope for conceptual learning in *the UK*. Undertaking a comprehensive policy assessment is seen as too complex and time consuming. Policy assessment is also not used as an instrument to highlight and explore trade-offs, these are - on the contrary - rather downplayed. Major decisions are usually made politically and often before the policy assessment is carried out. Instrumental learning occurs in some cases, but typically only in relation to details. Political use is more dominant as the assessment of direct costs (and, to a lesser extent, benefits) often functions as a way of justifying and providing transparency about the impacts of the pre-decided policy. Moreover, "policy people are very risk averse and often choose the solution that is safest and most uncontroversial"[6]. Both conceptual and instrumental learning are also limited by what some desk officers perceive as a rather artificial nature of policy assessments; i.e. that they require a formal assessment of (sometimes unrealistic) policy options even though in most cases the issues were already known about. There

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[6]   Interview, UK, "Case B"

is little evidence that stakeholders altering their pre-conceived positions based on policy assessments.

What factors determine the function of assessment practice?

In the *EU*, we found that the Commission's policy assessment procedure broadly follows the instrumental-rational model, but that guidance documents promote a relatively process-conscious assessment approach which recognises the limits of rational analysis. On the other hand, we established that policy assessment practice does not usually conform to the ambitious goals in terms of scope of analysis and variety of methods. The involvement of stakeholders is somewhat limited, although it still goes much beyond practice in the other jurisdictions. We found a dominance of small-scale instrumental learning, some instances of political use of knowledge and several cases where policy assessment did not play any significant role.

There are several potential explanations for the apparent failure to widen the scope of assessment and using more diverse methodologies: First, there are inherent difficulties in analysing broader impacts. Even when policy units are willing to go beyond an analysis of direct costs, they are confronted with complexities, uncertainties, shortage of data and a lack of well-established assessment methods. This is reinforced by a risk-averse attitude of policy officials and a desire for quantification and monetisation of impacts. Second, the organisational culture which frames the work of the lead DG governs the focus of its assessments. Given the difficulties making clear causal links between policies and impacts, assessments focus on effects in key areas of departmental interests. Third, the availability financial resources, time and technical knowledge is a significant constraint. Fourth, some desk officers also see policy assessment as an inappropriate or unnecessary requirement, particularly in relation to specific issues and instruments. Hence the approach in these cases is predominantly about demonstrating that the policy assessment requirements have been completed. Fifth, many decisions are based on pre-existing legal or political commitments: "You don't sit down with a blank sheet".[7] Finally, the dominant political priorities - namely the concern about Europe's competitiveness - are shaping the focus of assessment. All those factors have limited the role of policy assessment in most cases to instrumental learning about narrow design options and implementation pathways. In some cases where the assessment was carried out at a late stage, it did not have any effect.

All these above factors contribute to a considerable gap between the prescribed policy assessment procedure and actual processes of assessment and decision-making. It concerns particularly the very limited ability of desk officers to actually assess impacts and

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[7] Interview, EU, "Case E"

the fact the prescribed process of an open options assessment contrasts with a much more constrained reality. In some cases, lack of knowledge and policy options is explicitly recognised in policy assessment reports. In other cases, the gap is rather concealed by assessing certain unrealistic options and by not being explicit about the limitations of analysis (e.g. assumptions and sensitivities).

In *Germany*, our analysis showed that the prevailing policy assessment procedure corresponds most closely to the instrumentally-rational model, but also that the implementation gap is particularly large. Formal policy assessment either produces little knowledge and or produces it for political use. This appears to have strengthened informal assessment activities that have taken over some of the instrumental learning functions that policy assessment is supposed to have.

A key reason for the weakness of formal policy assessment seemed to be that key actors do not have an interest in transparent assessment practices. Politicians often see policy assessment as restricting their discretion as ministers or parliamentarians. As changes to a proposed policy are commonly portrayed as sign of political weakness, ministers focus on defending the suggested measure from fairly early stages. Policy-makers in ministries tend to see it as counterproductive to their effort to push a legislative proposal through the legislative process. It seems plausible that this effect is particularly strong in the German political system. Major stakeholder groups with access to ministries also tend to benefit from informal processes. Some stakeholders also expressed reservations about being drawn into legitimising an assessment the outcomes of which may be unacceptable to them. Given these fundamental barriers, any formal policy assessment system would face resistance, but the research suggest that the rationalist approach of the current procedure adds specific problems. Most importantly, unrealistic ideals about the processes of defining objectives and exploring alternatives make desk officers uneasy and sometimes cynical about the procedure. While policy assessment understands policy as a rational problem-solving activity, the daily reality of the officials is one in which a political bargaining logic is very important (and in some cases dominant). The expectation that impacts can be anticipated and should be precise ironically leads to the effect that much relevant information is not included because it does not live up to this ideal. Finally, the lack of attention given to process issues can also be partly explained by the conception that policy assessment is a purely expertise-based activity. The lack of knowledge input and validation by stakeholders contributes to the low quality of policy assessment.

In *Sweden* we find that the formal guidance emphasises an instrumental role for the knowledge but also that the set up explicitly recognises the political dimensions in way that distinguishes it from the other jurisdictions. In practice, this political aspect is

even further accentuated. The instrumental and political uses of assessments that dominate the Swedish cases are strongly linked to the particular institutional arrangements surrounding the 'committee of inquiry' system. First of all, the institutional separation between the committee and the ministry creates a gap between knowledge and policymaking. Second, resource and time limitations clearly play in: in most cases, the resources available are too tight to allow broader explorations. Another factor is the strong framing of the assessment as a result of the ministry's organizational goals and the connected narrow selection of participants and their expertise. The written instructions and informal steering of the process precludes conceptual learning because it is so strongly geared towards political decision making, not learning.

However, it must be noted that the rules surrounding committees usually provide various stakeholders the opportunity to bring 'their' knowledge to the table, which opens for more political uses as well as learning between different interest groups. Indeed, as in Germany the political bargaining logic dominates committee processes more than the instrumental rationality that permeates the official guidance: even when committees are of 'expert' rather than 'parliamentary' types, they still need to anchor their proposals politically to ensure that it can sail through the ministry and parliamentary processes.

The Swedish experiences therefore suggests that the political uses cannot be clearly separated from conceptual uses: a fair amount of 'enlightenment' sometimes occur among the members of the committees as they are confronted with and forced to assimilate various stakeholder positions, knowledge and perspectives. As noted, the institutional separation between the committee and the ministry however constrains the wider uptake of this enlightenment. This institutional separation therefore presents both opportunities and risks.

Finally, in *the UK*, policy assessment follows a model of economic rationality, but the guidance emphasises the importance of an iterative and transparent process. Policy documents express a high level of confidence in the ability of economic analysis to help choose the 'best policy option'. Actual policy assessment reports, however, focus on impacts that can be easily quantified, thereby only giving a very limited view of costs and benefits that mostly fulfils a role of narrow instrumental learning. Political use of policy assessment knowledge largely occurs in the sense of legitimising decisions that have already been taken. In spite of extensive compliance with consultation requirements, stakeholders do not tend to engage with the assessment because of a (perceived or actual) lack of expertise and because policy assessment is not seen as having a major impact on decisions.

The focus on economic impacts and administrative costs is a clear consequence of the dominance of the competitiveness paradigm in the UK. The Better Regulation Commission, which is located in the very heart of government and has the explicit and high level political support, promotes policy assessment as primarily a means to achieve the political target of reducing regulatory burden. Consequently, issues that by their very nature require varying degrees of regulatory intervention (e.g. the environment) risk being marginalised in the assessment process. In addition, in many cases the objectives are already defined by EU law or existing policies which are only slightly amended. In the case of significant new policies, the goals often derive from senior bureaucrats or from Ministers, who "try to make their names by proposing big regulations"[8]. The result is that "[following an policy assessment] Ministers won't thank you if you don't come up with what they want"[9]. The mismatch between the ambitions of policy assessment and the practice of policy-making is also obvious. Compared to the EU, however, policy assessment reports and desk officers are much more open about the fact that direct economic and administrative costs are the main focus of assessment.

Conclusions

This paper set out to analyse whether the uptake of ex ante assessment of policies is capable of providing new opportunities for knowledge to inform processes of policy deliberation and learning. It also investigated how far the conceptualisation and use of policy assessment systems reflect different models of the use of evidence in policy-making. Despite considerable differences in administrative culture, institutional context and procedural design, the intended role of *ex ante* policy assessment in the four jurisdictions is actually broadly similar. All four aim to provide technical information to help policy-makers select the best policy option – i.e. an instrument to make policy more rational. Only in the case of the European Commission's IA system have post-positivist ideas left a noticeable impression on the assessment guidance, particularly in relation to processes and recommended methods. But how are these assessment procedures applied in the real world of policy-making?

The practice of policy assessment is contingent upon the political context. Assessment processes and outcomes vary both between and within the four jurisdictions. Overall, we have seen that knowledge serves a range of functions and that these functions frequently vary between actors and over time. With the exception of cases where there was no significant production of knowledge (because assessment was not done at all or done formalistically), *ex ante* policy assessment led to a significant degree of *instru-*

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[8]   Generic Interview No 1, UK
[9]   Interview, UK, "Case E"

mental learning. This normally concerned the detailed policy design and tended to be selective in the sense that it focused on achieving the desired political objectives at the lowest possible economic and administrative costs. This does not, however, imply that policy assessment achieves its aims of 'rationalising the policy mess'. Generally, we found that while these assessments informs policy designs at the margins, but it was the political context that dominated the structure and outcome of decision processes. In the large majority of cases, a range of constraints meant that the assessment procedure could not play the role of steering the decision-making process that is foreseen in guidance documents. The strength and type of constraints varied but tended to include political commitments, legal requirements, the positions of powerful stakeholders, public opinion and existing legal and institutional frameworks. If the policy choice was limited by these factors, administrations had little motivation to commit resources to an assessment of options and impacts. Consequently, assessments were then primarily used in relation to narrow policy design issues or to justify a policy.

While in some cases assessments have made contributions to broader policy change, we found few examples of *conceptual learning* where an assessment fundamentally challenged problem definitions or policy approaches. This can partly be explained by the narrow scope of assessment that tended to ignore unintended consequences and hidden or external costs. Particularly in Germany and the UK, the analysis tends to focus on direct economic and administrative costs, a conception that does not provide much space for reflections on problem framings, causal effects, alternative measures and so on. Furthermore, the examined assessments take place over relatively short time scales, typically ranging from a few weeks to one or two years. It is well-established in the literature that conceptual policy learning processes require more extended time frames.

Significantly we found a variety of more *political uses of knowledge;* indeed, enough variety to break the concept down into several distinct categories. Most common in the analysed cases was a form of use that could be termed *justificatory*. Here, the lead ministry uses the assessment report to justify a specific measure on the basis of its superiority over alternative courses of action and/or its positive cost-benefit ratio. This type of knowledge use is often criticised as it can be used to make the case for decisions that have been made on other grounds (e.g. special political or economic interests). On the other hand, it serves an important transparency function and is often defended by desk officers as a legitimate and necessary way of explaining a chosen course of action. Similarly, other actors (such as sector ministries or interest groups) often use or produce assessment knowledge for their political purposes, e.g. by putting forward cost estimates, reinterpreting data or assessing certain types of impacts that were not covered by the assessment. This type of *strategic use* of knowledge can also take legitimate

forms of broadening the knowledge base as well as introducing undue bias through the conscious manipulation of evidence (e.g. in the form of overstating the costs of regulation). Strategic use tended to occur in relation to issues with high 'decision stakes' (Funtowicz and Ravetz, 1993). In some cases, assessment processes even became an additional venue for conflict. This was particularly the case if key actors had the expertise and information to engage in a factual discussion and if knowledge claims could be used to support their position. In other cases, however, we observed that assessment processes became largely irrelevant in the face of intense political controversy: '*Once the debate has become heated, stakeholders - us included- don't actually look at the facts anymore, but they fall into an adversarial pattern.*'[10] Interestingly, both officials and stakeholders often considered themselves as one of the more fact-oriented and 'rational' actors and accused other players of using research in a biased and strategic way. While this attitude may be part of the political game, it points towards a phenomenon of competing rationalities and blurred boundaries between science and policy, facts and norms. Finally, we also observed a few cases where the production and use of assessment knowledge also served to signal a political response to a perceived problem in the absence of actual policy measures (for example when these are considered politically, legally, financially or technically unfeasible). As the behaviour has commonalities the well-established phenomenon of symbolic legislation (see for example Dwyer, 1990), it can be referred to as *symbolic knowledge use*.

Although it has, as Owens *et al* (2004) predicted, been difficult to gather systematic evidence on this phenomenon, many of our cases suggest that the gap between the 'rational' conceptualisation of assessment, and the 'messy reality' of policymaking was in fact a barrier to learning. Put differently, we would argue that if learning occurred, this was *despite,* rather than *because of,* the instrumental conception of the procedure. We see at least three main indications of this conflictual relationship. First, the rational assessment model draws the attention of both desk officers and evaluators to the 'technical' elements of the assessment (for example the number of options studied, the degree of quantification, data sources and so on). A conceptual learning approach, in contrast, would be expected to draw attention to the process, framing and scope of assessment. The lack of reflection about which actors to be involved, at what stage and for what purpose meant that learning opportunities were often missed. Second, there was a notable reluctance to draw upon incomplete quantitative information or to use structured qualitative methods to describe impacts. This attitude can at least partly be explained by the positivist framing of policy assessment where precision, neutrality and comprehensiveness are the yardsticks. In practice, it leads to a narrowing down of as-

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[10] Interview no. 2, Germany, Environment Ministry.

sessment from a comprehensive approach to one focused on administrative and economic aspects which can be assessed fairly reliably. Third, assessment procedures and guidance documents do not help desk officers define their difficult role at the interface between science and policy. Instead, they uncritically assign them the role of scientists that make policy decisions more rational. As a consequence, many of the officials we interviewed felt uneasy about and frustrated with assessment procedures that - in their view - has sometimes little to do with the 'way things work in practice'. This led in some cases to a minimalist 'tick box' attitude and viewing the assessment procedure not as a decision support instrument but as a bureaucratic hurdle.

While the overall setting and structure of *ex ante* policy assessment mean that its potential to foster broader policy learning is likely to remain limited, a design of procedures that is more conscious of process and of limitations to knowledge should enable them to play a more important and positive role in policy-making. This paper has provided a start, but for the future, more longitudinal empirical studies will be required to better assess more subtle long-term learning effects. With time, we should be able to, if not rationalise the policy mess, at least establish the conditions under which evidence can play a more prominent and constructive role in political decision-making.

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