



# *Policymaking Using Behavioural Expertise*

SYNOPSIS OF WRR-REPORT 92

WRR

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SYNOPSIS OF WRR-REPORT 92

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## Background

This publication is a summary of WRR report No. 92, *Policymaking Using Behavioural Expertise* [Met kennis van gedrag beleid maken] by the Netherlands Scientific Council for Government Policy. For substantiation of the conclusions and recommendations in this publication, reference is made to that report.

The report *Policymaking Using Behavioural Expertise* (ISBN 978 90 8964 871 6) was submitted to the Dutch Government by the Council on 10 September 2014. It is commercially available and can be ordered from Amsterdam University Press. A pdf version can be downloaded free of charge at [www.wrr.nl](http://www.wrr.nl).

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## INTRODUCTION

The Council was requested to advise on the relevance and possibilities of new findings in the behavioural sciences for government policymaking. This report is the result. It is a follow-up to the Council's Investigation *The Human Decision-maker [De menselijke beslisser]* (2009).

A great deal of policy involves influencing the choices and behaviour of citizens. One significant finding in the behavioural sciences is that policies that approach people exclusively as beings who calculate rationally run a real risk of failure. People do not usually arrive at their choices in such a well-informed and well-considered manner as many policymakers would seem to assume. The economic crisis that began in 2008 has again made clear that the assumptions in economic models are often much too optimistic or are incorrect. In essence, the behavioural sciences draw attention to the need for empirically valid policy theories about how people make choices and the factors that influence them in doing so.

The urgent need for good policy theories has only increased. In the first place, the government is increasingly confronted by problems in which the sum total of individual behaviours and choices plays an important role, from climate change to life-style related diseases. Secondly, the government is increasingly emphasising people's own responsibility and freedom of choice. To prevent this leading to problems for many people, it is important for government policy to be based on realistic assumptions about how people make choices and what they can handle in this field. In times of austerity, knowing what works is even more important so as to ensure that proper use is made of public funds.

The Council's report consists of two parts:

- Sections 1 and 2 are of a general nature. They concern the relevance of the behavioural sciences to policymaking and the question of how the 'behavioural sciences perspective' can be embedded more firmly in government processes;
- Sections 3 and 4 deal with two specific topics, namely potential objections to 'nudging', and how to deal with 'choice overload'.



# 1 THE BEHAVIOURAL SCIENCES AND THEIR VALUE FOR POLICYMAKING

There have been important new findings in the behavioural sciences in recent years regarding how people make choices. Those findings can be summarised using a small number of terms:

- Biases and heuristics. Countless studies have shown that people often do not reason or choose in the manner assumed in the classical economic models. They weigh losses more heavily than gains, prefer to avoid uncertainty, have a preference for the status quo, view present advantages as far more important than future advantages, etc. This means that the framing of a choice can have a major effect on the option that someone chooses. In the case of organ donation, for example, it makes a great deal of difference if the system is one of ‘no, unless’ or ‘yes, unless’;
- Social norms. When making choices, people are greatly influenced by what they think the majority of people do. In the UK, for example, the number of tax returns submitted on time increased significantly when it was communicated emphatically that nine out of ten taxpayers do so on time;
- The role of the subconscious. Without realising it, people are often influenced by all kinds of information and cues in the environment. Research has shown that more people adhere to social norms if the physical environment is kept neat and tidy. Images of food or the aroma of a delicious meal can also arouse our appetite even if we do not consciously perceive the images or the aroma;
- Ego depletion. There are limits not only to human rationality but also to human willpower. It is often difficult to stick to one’s good intentions. Psychological research has shown that self-control can fail if it is called on for too long. This is referred to as ‘ego depletion’.

There is a great deal of interest, particularly in the United States and the United Kingdom, in the possibilities that these new findings offer for the government and government policymaking. A lot of experimentation is taking place, in particular by the British *Behavioural Insights Team* (BIT). Publication of the book *Nudge* (2008) by Thaler and Sunstein has also given a boost to the practical application of these kinds of insights in policy. ‘Nudging’ refers to a non-coercive manner of guiding behaviour by using the new findings in the behavioural sciences about how people make choices, and by playing on their ‘irrationality’.

There is currently a great deal of interest in nudging, but this threatens to distract from the fact that the potential significance of the new findings of the behavioural sciences for government policy extends much further. Nudging is merely the tip of the iceberg. What is located below the waterline is at least as important, namely a potential transition to a kind of policymaking in which the behavioural sciences perspective is taken just as seriously as the economic and legal perspectives.

Such a transition is clearly desirable. In the first place, it can lead to more effective analysis of policy problems. If policymakers do not investigate sufficiently how people make choices and the possible effects of their environment on how they do so, there is a real chance that their policies will prove less effective than intended, or will even fail completely. Experience in the Netherlands provides various examples of this, such as the failed liberalisation of the taxi market or the disappointing results of the life-course savings scheme [*levensloopregeling*]. Conversely, if policymakers do indeed acquaint themselves seriously with the new findings in the behavioural sciences, doing so may result in unexpected and innovative policy solutions. The new findings also imply a certain perspective on the realities of policy and a certain approach to policymaking. We know, for example, that guidance via defaults or social norms can in general be highly effective, but it is not always clear whether that approach will also be successful in actual, specific cases. One important lesson provided by the behavioural sciences is in fact that a great deal depends on the context and environment. At such a moment, a more inductive kind of policymaking is desirable, an approach based on experimentation and learning. It begins by posing questions. What do we know about people's reasons for the behaviour in question? To what extent is a conscious choice involved or merely habitual behaviour? And what do we know about the potential influence of the context in which the choice is arrived at? Research can help answer these questions as effectively as possible. It then becomes possible to determine, with the aid of experimentation, which of the possible approaches will be most effective. Perhaps the most important message from the behavioural sciences is that a new policy can best begin with thorough 'immersion' in the empirics of 'policy subjects' and the reasons for their behaviour, while remaining emphatically open to counter-intuitive findings.

In conclusion, the behavioural sciences can contribute to better analysis, can help to improve existing policies and the use of tools, open up – potentially – possibilities for entirely new forms of guidance, and imply a more inductive means of policymaking.

## 2 WATCHING BEHAVIOUR BEFORE WRITING THE RULES

How can one ensure that policymaking devotes greater attention and space to the contribution that the behavioural sciences can make? There would appear to be consensus as to the desirability of more attention being paid to the behavioural sciences perspective. In the words of the behavioural economist Richard H. Thaler: ‘watching behaviour before writing the rules’. What is less clear, however, is how this should be organised.

Outside the Netherlands, a number of different models are followed. In 2010, the UK government decided to set up a special unit, the *Behavioural Insights Team* (BIT) already referred to. The aim of the unit is ‘to help people to make better choices for themselves’ and to enable public policies, and evaluation of those policies, to be based more often on insights from within the behavioural sciences. The BIT works with government departments and private parties to develop actual interventions, and it guides their application and evaluation. Most of the UK government departments now have their own behavioural teams. In the United States, the *Office of Information and Regulatory Affairs* (OIRA), which oversees all government regulation, has undertaken various initiatives to apply the insights generated by the behavioural sciences to produce simpler and more effective regulation. Since 2012, moreover, every federal authority in the US has been required to seriously investigate the opportunities that the behavioural sciences provide for its regulatory process.

What are the requirements for effective institutional embedding in the Netherlands? What exactly needs to be organised? First of all, critical reflection is required on the nature of the policy problem concerned and on potential solutions, with the focus being on the following three questions.

- Analysis: How and to what extent is the problem caused by the way people (or certain target groups of people) arrive at their choices, and what are the most relevant motives and contextual influences?
- Approach: What (behavioural) mechanisms are put into effect by the policy or the policy intervention so that the stated objective will be achieved in actual practice (among specific target groups)?
- Evidence: How do we know that?

These questions in fact force us to take account of the role of the motives underlying people’s behaviour, environmental influences, and behavioural mechanisms. The findings of the behavioural sciences must therefore be incorporated

into the policymaking process at an early stage and not only after the course to be followed has already been determined and it is no longer possible to make serious changes to the policy.

A related requirement is the possibility of opposition. It is unwise to leave critical reflection on the nature of the problem and possible solutions entirely to the responsible policymakers because – like everyone else – they may be susceptible to confirmation bias and groupthink. Policymakers therefore need to look for ‘opponents’ and arrange for ‘different pairs of eyes’ or ‘a fresh way of thinking’. This leads to the next requirement: there needs to be sufficient behavioural sciences expertise and mass within government. Government departments should at least have basic capacity available internally. A final requirement is that there should be sufficient time and opportunity for learning and experimenting, so that various guidance tools and arrangements can be explored, and the most effective identified.

We will outline three main approaches for embedding the behavioural perspective that address these requirements in various ways:

- Intra-departmentally. Each government department can itself invest in internally anchoring and applying the findings of the behavioural sciences by appointing a sufficient number of qualified behavioural experts. This is preferable to hiring in expertise on an ad hoc basis because such expertise will not sink in sufficiently to build up a substantial body of knowledge, and will often only be fed into the policymaking process at too late a stage;
- Inter-departmentally. The questions in the Comprehensive Assessment Framework [*Integraal Afwegingskader*] can be tightened up so as to strongly encourage explicit statement of the underlying policy theory. A behavioural science unit can also be set up at central government level within which substantial, methodological behavioural knowledge is embedded. That unit can work with government departments to analyse policy problems and to develop and test appropriate solutions;
- An adaptation of the policymaking and legislative process. Checks and balances can be organised within the policymaking and legislative process so as to make it more or less obligatory for the findings of the behavioural sciences to be incorporated into policymaking, with policymaking also being tested from that perspective. This can be achieved by means of a mandatory ‘before the fact’ evaluation or impact assessment in the case of larger dossiers, the setting up of an oversight body, and greater transparency. This links up with recent OECD recommendations for the design

of the policymaking and legislative process. Because this third approach involves a more drastic change, one might begin on a small scale with a few pilot projects.

These three approaches differ as regards their 'weight', but they are not mutually exclusive. The best chances for successfully embedding the behavioural sciences perspective will be created if the all three approaches (i.e. their core elements) are introduced simultaneously.



### 3 **NORMATIVE CONSIDERATIONS REGARDING NUDGING**

One of the applications of the behavioural sciences that has received a lot of attention is ‘nudging’. This term refers to a family of guidance tools whose common features are that they are non-coercive, make use of the new behavioural science findings regarding how people make choices, and sometimes play on people’s ‘irrationality’. One familiar example is guidance by means of defaults. A number of remarkable successes have already been achieved by means of nudging. But normative objections to this method have already been expressed, specifically in the American literature. Critics say, for example, that the authorities wrongly assume that they can determine what is ‘the best choice’ for the citizen, and that nudging is in fact a form of manipulation.

How seriously should we take these objections? Many of the objections to nudging in fact also apply to the existing policy instruments, and are therefore not a valid reason to reject nudging specifically. In the view of the Council, the most significant criticism is the lack of transparency of some types of nudges. That objection needs to be taken seriously. The government will therefore always need to be sufficiently open about the use of nudges, even if doing so would decrease their effectiveness. Every observant person must be able to identify the attempt to guide him/her. One option when the deployment of new policy nudges is envisaged is to explicitly report this to Parliament, for example in an explanatory memorandum. Once a policy has been introduced, the government should account for the use of the nudge on the appropriate web pages.

When assessing the desirability (or undesirability) of nudging, it is also necessary to consider the particular matter in question. With controversial issues, such as measures to increase the number of organ donors, one needs to be more reticent about using nudging than with uncontroversial issues, such as measures to entice people to take more exercise. In the case of controversial issues, the explicit consent of Parliament is extremely important.

Considerations regarding the rule of law are also relevant. The government is bound by principles of legality, proportionality and good governance. The fundamental rights of citizens must also be guaranteed, for example regarding privacy, and people must have the option of taking matters to court. The greater the consequences of specific nudges, the more important it is to assess the relationship between those nudges and such principles of the rule of law.

Management by means of social norms can lead, for example, to a form of stigmatisation that is unacceptable in a country under the rule of law. However, nudging can also increase the constitutionality of government action, namely if this relatively 'light' resource takes the place of more mandatory legislation. The existing structure to ensure the constitutionality of government action provides a basis for the necessary consideration of constitutional matters where nudging is concerned.

One practical objection to nudging is that in certain cases it merely amounts to treating the symptoms without affecting the real problems, namely the social structures and the underlying problematic values and preferences of the citizen. This objection is obviously irrelevant if the behaviour that is to be altered is due solely to 'banal' causes such as being busy, procrastination or inattention, but it becomes relevant in the case of more complex challenges, such as combating obesity or encouraging people to save energy. In such cases, it is not wise to rely entirely on nudging. Nudging will perhaps be able to make a contribution, but a real and lasting solution is likely to require more far-reaching measures. The pitfall here is that exaggerated expectations of nudging may lead to discussion of more structural measures being postponed. Our advice is therefore that more experimentation should be carried out with nudges that can plausibly be expected to have a realistic chance of success.

## 4 CHOICE OVERLOAD

The number of choices and temptations that people face has increased enormously in recent decades. There are far more options and products on the market than in the past, the advent of the Internet has made it possible to purchase items whenever one wishes, and through deregulation and liberalization the government has also increased the number of choices. Freedom of choice and personal responsibility are important values within current policies. Due to these developments, ‘choice overload’ or pressure to make choices – i.e. the total number of choices and temptations that confront someone per unit of time – is increasing enormously.

One of the lessons from the behavioural sciences is that there are limits to the number of choices and temptations that people can cope with. If the pressure to choose becomes too high, the quality of their decisions falls, and they are more likely to yield to temptation, for example by eating unhealthy food or making reckless impulse purchases. Recent research suggests that the pressure to make choices may become high particularly among people with a low income, and can also have harmful effects.

There are, in principle, two possible policy responses to choice overload. The first is to help people increase their ability to make well-considered choices and their self-control, for example by providing information, education, and training. This approach is basically preferable. But where its effectiveness is concerned, the available research shows only mixed results. To a certain extent, people can learn – or train – how to make well-considered choices and to exercise willpower, but there are limits to this. Certainly not every intervention in the area of education and/or training is successful, and lasting results often demand that one make a major effort. Moreover, research on ego depletion makes clear that there are limits to what even the most strong-willed and skilful choosers can cope with.

It may therefore be desirable to also make use of the second option, namely to make it easier for people to make well-considered choices, for example, by nudging them in the direction that will probably turn out to be beneficial for them. Certain groups within society can be helped by being given recognizable, non-coercive nudges in the direction of the option that will probably work out best for them. Some people will perhaps regard this as being ‘paternalistic’, but a categorical refusal of such ‘paternalism’ may sometimes lead to these groups

falling ‘from the frying pan into the fire’. The least one can do is ask them what they prefer.

This report does not provide an answer to the question of which of these two policy options should be applied, or when. We simply want to initiate discussion and outline the options. The central issue is the extent to which a task is involved here for the government. When introducing policies that call upon the citizen to make more choices – or that increase the negative consequences of the wrong choices – to what extent should the government simultaneously introduce guidelines and facilities that help people to make the right choices, either by increasing their ability to make choices and their self-control or by nudging them in the right direction? In short, to what extent should the government help people to help themselves?

## 5 HOW TO ORDER

The report *Policymaking Using Behavioural Expertise* (Dutch: *Met kennis van gedrag beleid maken*, ISBN 978 90 8964 871 6) is commercially available and can be ordered from Amsterdam University Press.

A PDF version can be downloaded free of charge at [www.wrr.nl](http://www.wrr.nl).



Amsterdam University Press

In 2009, the Netherlands Scientific Council for Government Policy (WRR) published its investigation *The Human Decider* [*De menselijke beslisser*], in which a wide range of scientists provided an overview of new findings from the behavioural sciences about how people make choices. There has since been a great deal of interest in this subject, not only among the general public but definitely also among policymakers.

In its report *Policymaking Using Behavioural Expertise*, the Council deals with the relevance of the new findings for government policymaking. It also considers how the ‘behavioural sciences perspective’ can be embedded in government processes. Is it a good idea, for example, to set up a special behavioural science unit?

The Council also considers the possible normative objections to nudging. How seriously should we take those objections? In addition, the Council raises new questions. Are people always able to deal effectively with the many choices with which they are confronted nowadays? If not, what policy consequences should the government introduce in this connection?

*The Netherlands Scientific Council for Government Policy (WRR) is an independent think-tank for the Dutch government. It provides the government with advice, both on request and of its own accord, from a long-term perspective. The topics are cross-sectoral and cover social issues with which the government may need to deal in the future.*

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THE NETHERLANDS SCIENTIFIC COUNCIL FOR GOVERNMENT POLICY