Fostering more experimentation to improve the justice system

This is a note of an informal roundtable ‘How can we foster more experimentation to improve the justice system?’ convened by the Ministry of Justice and the Alliance for Useful Evidence, at Nesta on 16 September 2015. The Speakers were Peter John (Professor of Political Science and Public Policy, UCL) and Jill Rutter (Programme Director, Institute for Government). It was chaired by Stephen Muers (Director, Criminal Justice Policy, Ministry of Justice).

What is experimentation?
The Collins English Dictionary defines experimentation as “a test or an investigation, especially one planned to provide evidence for or against a hypothesis”. Experimental government should be understood as part of a continuum. On one side we have “‘seat-of-the-pants’ experiments”, where there is no rigorous learning or evaluation strategy. At the other end of the continuum is “experimental research” using scientific methods such as randomized control trials. Ideally governments should move to the latter end of this continuum. For more on this, see the Alliance’s 2015 report Better Public Services through Experimental Government. Greater experimentation, as a way of meeting complex policy challenges, was also a theme in the Institute’s Programme for Effective Government. However, despite many people in government signing up to the principle of experimentation, its application so far has been relatively limited.

Promising developments
Nevertheless, the external speakers recognised that MoJ are already ahead of the curve in terms of trials and experimentation, and there was discussion of some of the innovative trials, pilots and the Data Justice Lab (that uses quasi-experimental designs). Another promising development is the cross-government Trial Advice Panel – a free service developed in partnership with the Economic and Social Research Council that offers Whitehall departments technical support in designing and implementing controlled experiments, by the What Works Team in the Cabinet Office. For further information, email trialadvicepanel@cabinetoffice.gov.uk. The Behavioral Insights Team’s much-downloaded 2012 report, Test, Learn, Adapt remains an excellent ‘how-to’ guide to experiments. One of its authors David Halpern, went on to be appointed the UK Government’s National What Works Adviser and was instrumental in launching the Trials Advice Panel during the summer of 2015.

Devolving experimentation?
It was also recognised that the current Secretary of State for Justice made significant investment in evidence on education in his former role, such as his support for the Education Endowment
Foundation (EEF) who run many experiments relating to primary and secondary schools. The EEF may be a model for others to follow – independent of government but producing research that is aimed particularly at head teachers and other leaders in schools - rather than policy makers. There was no necessary reason why experimentation needed to be driven by Whitehall – and indeed giving others the space to experiment and apply the results from experiments could be helpful. A key role for central government was to shape a system with the infrastructure and culture that would enable those experiments and the dissemination of learning. The localism agenda and move to devolve power from the centre can also be a great opportunity to experiment. For instance, we can learn from the ‘natural experiments’ of different policies across England, Scotland, Wales and Northern Ireland.

Moreover, since the MoJ sat in the middle of an end-to-end process – picking up people who entered the justice system because something had gone wrong, and putting people back into society who might impose costs on other departments, MoJ should be ready to collaborate and share data and insights with other departments who are interested in the same people.

The many challenges of experimentation
There are many practical and political difficulties in setting up experiments. One of the challenges flagged up at our roundtable was not having enough time to prove results of an experiment - in reality it takes time for new treatments to be implemented, and therefore a year-long experiment might actually only result in 3 months' worth of useable data before things have moved on. It can also take a long time to see if interventions are working on reoffending – you may need to wait 1 or 2 years to see if a treatment has been effective. It is also vital to replicate experiments. One study is not enough, particularly if highly localised and with a small sample.

Another challenge often raised about experimental approaches is the ‘post-code lottery’ – particularly if there is an element of randomisation in the experiment. One response to this is to recognise the amount of variation that already exists within “national” public services and use this to encourage public to see the value of trials (and sometimes error!). We could also build on the experience of other public deliberation exercises such as You Be the Judge? Are there also opportunities to engage with other professional groups, perhaps including the judiciary, so that they don’t feel that they sit ‘outside’ the system of experimentation and research – but are directly part of it. The experience of experimenting in education is that the best way to get ‘buy-in’ is to just do it - get the practitioners involved so that they support it and see the value of it, and they end up being your greatest champion for more experiments in the future.

Useful contact information:
Professor Peter John UCL: peter.john@ucl.ac.uk
Jill Rutter, Institute for Government: jill.rutter@instituteforgovernment.org.uk
The Trials Advice Panel, Cabinet Office: trialadvicepanel@cabinetoffice.gov.uk
The Alliance for Useful Evidence: www.alliance4useful evidence.org/join

Membership of the Alliance is free and open to any individual. The Alliance is a partnership between Nesta, the Big Lottery Fund and the Economic and Social Research Council. It is an open network championing the greater use of evidence in social policy and practice. Members come from every Government department – as well as from charities, academia and local authorities.