

Guiding Principles for EU Legislation

These are the guiding principles underlying the Government's approach to EU measures, aimed at maximising the UK's influence in Brussels and ending the gold-plating of EU legislation in the UK.

General Principles

1. The Government's approach is to look at the cumulative impact of new EU measures.
2. Wherever possible, the Government will argue for alternatives to regulation at European level, drawing on behavioural science insights.
3. The Government will engage with the European Commission before it has adopted proposals to increase UK influence on the drafting of legislative proposals.
4. The Government will build alliances with other Member States and relevant MEPs and other EU-level stakeholders to increase the UK's effectiveness in negotiation.

Ministers must ensure that:

- a. they are well sighted on all EU measures relevant to their department, from the initial Commission proposal through to transposition and implementation; and
 - b. their department assesses from the outset the impact on the UK of the proposed legislation and effectively project manages the process from negotiation to transposition.
5. When transposing EU law, the Government will:
- a. ensure that (save in exceptional circumstances) the UK does not go beyond the minimum requirements of the measure which is being transposed;
 - b. wherever possible, seek to implement EU policy and legal obligations through the use of alternatives to regulation;
 - c. endeavour to ensure that UK businesses are not put at a competitive disadvantage compared with their European counterparts;
 - d. always use copy out for transposition where it is available, except where doing so would adversely affect UK interests e.g by putting UK businesses at a competitive disadvantage compared with their European counterparts. If departments do not use copy out, they will need to explain to the RRC the reasons for their choice;
 - e. ensure the necessary implementing measures come into force on (rather than before) the transposition deadline specified in a directive, unless there are compelling reasons for earlier implementation; and
 - f. include a statutory duty for Ministerial review every five years.

Operating Principles

1. Twice a year, Ministers will report to the Foreign Secretary on their department's early influencing priorities and engagement strategies, showing how they are seeking both to influence the Commission's policy agenda and ensure that important future EU measures (legislative and non-legislative) are justified, that the policy objectives of a regulatory proposal cannot be achieved through non-regulatory means and proposals are drafted to maximise benefits and minimise risks to the UK. The European Affairs Committee, following consultation with the RRC, can then, in turn, agree cross-government early influencing priorities for joined-up lobbying.
2. Departments will endeavour to seek clearance for their proposed UK negotiating position promptly. Departments should analyse the order of magnitude of likely impacts of different negotiating options to help Ministers make evidence-based decisions. The analysis should be proportionate to the proposal and time available and be presented succinctly.
3. The government will work with EU partners to hold the EU institutions to account on the commitments they have made on consultation, impact assessment, the "think small first" principle and reviews in order to improve the quality of EU regulation.
4. Before starting transposition, departments must satisfy the RRC that they have identified the aims of the EU law and the relevant policies of the UK government, and how the two will be brought into harmony so that transposition neither has unintended consequences in the UK nor risks infraction.
5. The legal text for UK transposition should only be finalised once the policy framework has been agreed by the RRC.
6. The Regulatory Policy Committee must clear impact assessments for all transposition proposals.
7. The European Affairs Committee should be kept informed.
8. When reviewing departments' approach to transposing and implementing EU law, the RRC will expect departments to apply the following principles:
 - a. within two weeks of publication in the Official Journal the RRC to have been notified and provided with a pro forma including an outline project plan to the obligations coming into force;
 - b. proposed implementation applies the Guiding Principles and meets the standards in the Government's guide to European policy-making;
 - c. proposed implementation complements domestic legislative objectives; and
 - d. proposed implementation delivers the outcomes required by the directive, but does so in a way that (save in exceptional circumstances) avoids going beyond the minimum requirements; thereby minimising the cost to business. This should be supported by evidence.