



Department for  
Business, Energy  
& Industrial Strategy

# PRODUCING POST-IMPLEMENTATION REVIEWS (PIR)

Principles of best practice

July 2018

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# Introduction

This document was produced by the Department for Business, Energy, and Industrial Strategy (BEIS) Better Regulation Executive (BRE) to assist colleagues across government in completing Post-Implementation Reviews (PIR).

This document is not a collection of binding rules. Instead, it provides overarching principles of best practice to be used in conjunction with departments' own guidance when completing PIRs.

Additionally, colleagues should refer to the guidelines set out in the Treasury's [Green Book](#), [Aqua Book](#), and [Magenta Book](#) for a full summary of the guidance for completing appraisals and evaluations in government.

Further guidance on the Better Regulation Framework, including information on the process for developing policy for regulatory measures, engaging with the Regulatory Policy Committee (RPC), seeking collective ministerial agreement, and laying legislation in Parliament is provided in the Interim [Better Regulation Framework guidance](#).

For more information on the legislative requirements and statutory guidance for factors to consider about whether to include a review clauses, please see the [Small Business, Enterprise and Employment Act 2015 \(SBEE Act 2015\)](#) and [PIR statutory guidance under s.31 of the SBEE Act 2015](#).

Departments should also consider how the evidence collected in the PIR could be used for other purposes, such as for post-legislative scrutiny.

Departmental Better Regulation Unit (BRU) or the RPC can provide you with more information and advice on proportionality.

The document is structured in the following way:

- Overview
- Assessing Impacts
- Writing the PIR

## Overview of the policy process

Diagram 1 below outlines the steps for regulatory policy making. This can broadly be broken down into three stages:

- **Pre-consultation** – This refers to the initial development of policy proposals, prior to (or in preparation for) formal or informal consultations.
- **Pre-Implementation** – This refers to the stage following initial consultation prior to the introduction or laying of legislation. There is a legal requirement set out in the SBEE Act 2015 where if the secondary legislation has an impact below +/- £5m (net annualised impacts to business) this is a significant factor supporting non-inclusion of a review clause, and in such circumstances the department will be required to publish a statement as to why it is not appropriate to make provision for review of the legislation. In the absence of a review clause the policy should be subject to appropriate monitoring and evaluation. Review clauses are also included in primary and secondary legislation beyond these requirements, for policy and other reasons.
- **Post-Implementation and Review** – Once the proposals have come into force, this stage offers the opportunity to monitor and evaluate whether the regulation has met the intended objectives of the legislation.



These stages apply to both primary legislation and secondary legislation.

\*Independent scrutiny is optional for all measures at pre-consultation and is not required for measures below the threshold of +/- £5m EANDCB or for building safety; for other measures departments would usually seek independent scrutiny before seeking Cabinet clearance to agree the final policy, although there may be circumstances where this is not appropriate. Your BRU can advise.

# Overview

- 1.1. The requirement to complete a PIR is triggered by a statutory review clause within the legislation, or an equivalent administrative commitment to carry out a review. Reviews will normally be completed within five years of the regulatory measure coming into force and on a repeating five-year cycle thereafter, or according to any statutory deadlines.
- 1.2. A PIR provides evidence to support the recommendations of the statutory/non-statutory review report and informs the next steps in the policy development cycle (ROAMEF)<sup>1</sup>. It seeks to establish whether and to what extent, the regulation:
  - has achieved its original objectives;
  - has objectives that remain appropriate;
  - is still required and remains the best option for achieving those objectives; and
  - could be achieved in another way which involves less onerous regulatory provision to reduce the burden on business and/or increase overall societal welfare.

## Policy cycle - ROAMEF



- 1.3. A PIR should utilise evidence gathered from appropriate ongoing monitoring and evaluation to assess the effectiveness of the measure. This includes assessing the extent to which the effects anticipated in the original regulatory impact assessment (RIA) actually occurred; and whether there were any unintended effects of the measure and the reasons for those.

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<sup>1</sup> The ROAMEF cycle (Rationale, Objective, Appraisal, Monitoring, Evaluation, Feedback) is expected lifecycle for all policies. More information can be found in the [Green Book](#).

- 1.4. Monitoring and evaluation plans should be built in at the start of the policy process to monitor specific elements of the policy to help Departments manage their resources to produce higher quality PIRs, by ensuring they can collect the data they require for the evaluation throughout the life of the policy and enable the measuring of the success of the policy when a PIR is written. Good practice is to set out monitoring and evaluation plans in the RIA accompanying the original proposal.
- 1.5. Wherever practicable, work on the PIR should be built into wider evaluation work so that all relevant evidence can be considered and duplication of effort avoided. This will be particularly important if the measure is integral to wider policy, in which case there will be a strong case for production of the PIR to coincide with outputs of the wider evaluation. Any relationship between the measure and the wider policy, and the proposed next steps for each, should be explained in the PIR.
- 1.6. The [PIR template](#) provides suggested headings for the findings of a PIR and can be used for both statutory and non-statutory reviews. The use of the PIR template is not mandatory, but is recommended.
- 1.7. The revised Statutory Guidance under s.31 of the SBEE Act 2015 encourages departments to take a proportionate approach in considering the inclusion of statutory review clauses pursuant to SBEE, as well as updating the better regulation framework requirements for PIRs under SBEE. These include removing the need for completed statutory and non-statutory PIRs to be laid before Parliament, and the introduction of the PIR fast-track, where measures below +/- £5m (net annualised impacts to business) are not required to be scrutinised by the RPC. All PIRs including those not subject to RPC scrutiny still need to be published.
- 1.8. Proportionality means taking an approach where the costs of the data collection, analysis and review activity itself are appropriate to the expected benefits or levels of uncertainty associated with the measure. The level of analysis and resource required will depend on a case by case basis from a light-touch desktop review to significant evaluation projects with data collection.
- 1.9. The Magenta Book is the principal source of guidance for policy makers and analysts in central government on conducting an evaluation. The Green Book provides guidance on the economic principles that should be applied to both appraisal and evaluation.

## Assessing impacts

- 1.10. The government's Principles of Regulation states that regulation "*should not impose costs and obligations on business, social enterprises, individuals and community groups unless a robust and compelling case has been made*". Each PIR should evaluate the measure's actual effects on business including comparing them with those that were anticipated at the RIA stage.
- 1.11. The scope and proportionality of the PIR should take into consideration the expected impacts as set out in the RIA, although evidence should not be restricted to these expected impacts of the measure, but should also be capable of capturing unintended effects. Outlined below is brief guidance for a few key areas:
- **UK business impacts:** Business impacts that occur within the UK economy should be assessed as part of a PIR (this reflects Green Book guidance). In some cases it may be appropriate to discuss effects on non-uk businesses, but any such discussion must be clearly distinct from UK impacts.
  - **Direct and indirect impacts<sup>2</sup>:** Both are of potential concern for the PIR; however, for smaller interventions when conducting the initial IA it may not have been judged to be proportionate to attempt to assess indirect impacts. The PIR should consider significant wider impacts, even if not included in the original IA.
  - **Small and micro businesses:** Given that the burden of regulation can fall disproportionately on small and micro businesses, the impacts on them should be specifically considered.
  - **Assessment of compliance and enforcement:** It is standard practice to assume at the regulatory impact assessment stage that there will be 100% compliance with the measure, unless there is evidence to the contrary. At the PIR stage, it is important to test this assumption empirically where it is feasible and proportionate to do so. The effectiveness of any enforcement regime should be assessed against the [Hampton Principles](#) and the regulators' code.
  - **Market structure impacts:** A PIR should include an assessment of the market structure before and after the measure, for example whether the measure has affected the number of firms in the market or market dynamics.
- 1.12. Departments should consider the timing of the expected impacts of the regulation, and how reviews can be tailored in to match these. Where feasible, co-ordinating the reviews of related regulations should be considered.
- 1.13. Departments could develop their own internal checklists to support meaningful peer reviews and aid policy makers and analysts in deciding that an appropriate and proportional PIR has been completed.
- 1.14. With regards to unintended effects (those not included in the original regulatory impact assessment because of analytical methodology, flaws in implementation or unforeseeable changes in the external environment), it is important for the PIR to both capture and assess the reasons why they have occurred, insofar as possible.

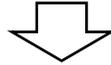
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<sup>2</sup> Direct impacts broadly mean any impacts from a policy whose effects will be immediate and unavoidable. Indirect impacts broadly mean any subsequent impacts, often where there has been explicit behavioural changes.

## Overview of structure for assessing impacts

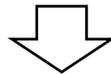
### 1. To what extent is the existing regulation working?

- To what extent has the policy achieved its objectives?
- To what extent have the success criteria been met?
- Have there been any unintended effects?
- What have been the actual costs and benefits of the policy? How do these compare with the estimated costs and benefits?
- What have been the impacts on small and micro businesses (where relevant)? How do these compare with the estimated impacts?



### 2. Is government intervention still required?

- What would happen if you removed the regulation (has the problem been solved either because of the policy, because the market has changed, or due to other factors)?
- Are the objectives of the regulation still valid / relevant?



### 3. Is the existing form of government regulation still the most appropriate approach?

- What are the likely costs and benefits going forward?
- How likely are unintended effects in the future?
- How effective is the implementation / enforcement mechanism for the policy?
  - To what extent do compliance levels indicate that the enforcement mechanism chosen is inappropriate?
  - What are stakeholders' views on implementation?
- To what extent would non-statutory measures achieve the same benefits?



### 4. If this regulation is still required what refinements could be made? (What scope is there for simplification, improvements?)

Could refinements be made:

- To improve enforcement / compliance levels?
- To simplify implementation to reduce burden on business (including small and micro businesses where relevant) and reduce costs?
- To reduce the scope of the policy to take organisations out of the regulatory obligations?
- To otherwise improve implementation to enhance benefits?

### 5. If this regulation is not required, but government intervention in some form is, what other regulation or alternatives to regulation would be appropriate?

## Writing the PIR

- 1.15. For transparency and consistency of reporting, a summary of the findings, conclusions and recommendations of a PIR should be set out in the PIR template.
- 1.16. It is for departments to decide on the best way to present the findings. It is recommended that all PIRs should include a summary of the PIR methodology (including the approach to economic, impact and process evaluation where applicable) and a critical review of the coverage and quality of the evidence and data collection that has informed the PIR where appropriate. You should also record any significant lessons for the RIA process arising from the evidence, for example where costs or benefits had been found to be wrongly estimated.
- 1.17. If further advice is needed departments can contact BRE/RPC.
- 1.18. The process of finalising and publishing a PIR should follow the five steps outlined below:

### Step 1: Departmental approval process

Departments may find it useful to peer review their PIR, particularly where there is centralised coordination of PIRs. Departmental BRUs can provide further advice and advice on the internal approval process. The PIR should be signed off by the department's chief economist and relevant Minister, or in line with the departments own internal process.

### Step 2: Formal quality assessment by the RPC

For reviews pursuant to review clauses in statute, and non-statutory reviews where the Reducing Regulation sub-Committee (RRC) clearance is required, the PIR should be sent to the RPC if the direct impacts of the measure to business are above +/- £5m (net annualised). They will undertake a review of the quality of the evidence base and analytical elements of the PIR. A "fit for purpose opinion" from the RPC should be obtained before moving to step 3. Further guidance on how the RPC assess PIRs can be found in its case histories document which can be found on the [RPC's Whitehall Portal](#). RPC validation is not required if the measure has an impact below the +/- £5m threshold, however it will still require RRC clearance.

### Step 3: Obtaining RRC clearance

All reports setting out the conclusions of a statutory review require clearance through the RRC before publication. In those cases, the PIR should be attached to the letter seeking the RRC clearance, along with the draft report and the RPC opinion (if applicable). Where the PIR has been carried out on a purely administrative basis, RPC clearance will only be needed for measures above +/-£5m (net annualised direct impacts) or that might require collective agreement for other reasons (e.g. cross departmental interests, controversy, proposed changes to the measure arising from the review). The Economic and Domestic Affairs Secretariat (EDS) in Cabinet Office will be able to provide advice on a case by case basis.

## Step 4: Publish the PIR

For both statutory and non-statutory reviews, departments must publish the PIR after clearance from the RRC. The PIR would normally be published alongside the report setting out the conclusions of the review and where appropriate alongside the RPC opinion. The report on the PIR should be published on [legislation.gov.uk](https://legislation.gov.uk), linked to the original legislation, under the '*more resources*' tab, to which it relates.

## Annex 1: Acronyms

BEIS:	Department for Business, Energy and Industrial Strategy
BIT:	Business impact target
BRE:	Better Regulation Executive
BRU:	Better Regulation Unit (within government department)
EDS:	Economic and Domestic Affairs Secretariat
EANDCB:	Equivalent annual net direct cost to business
PIR	Post-implementation review
RIA:	Regulatory impact assessment
RPC:	Regulatory Policy Committee
RRC:	Reducing Regulation Cabinet sub-Committee
SBEE:	Small Business, Enterprise and Employment Act 2015



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