

The RPC – how we work with departments

Since the restructuring of the Better Regulation Framework the RPC has undertaken a series of changes to its processes to specifically address how to work with departments in a framework where a +/-£5m EANDCB *de minimis* is applied and where consultation stage IAs are no longer required to be submitted for RPC scrutiny. These changes to process include: departments can seek informal opinions on pre-consultation stage IAs; and access to departmental pipelines of proposals and the ability to call in cases exists.

In line with the RPC Chairman's vision for the RPC to become a Centre of Excellence on regulatory issues, the RPC seeks to engage with departments at the earliest point possible of policy development to assist and advise officials on the regulatory aspects of the proposals within this revised framework.

This document sets out what departments can expect when interacting with the RPC. Specifically, it sets out the RPC 'offer' to departments to help improve evidence and analysis to support their policy proposals in a way that is consistent with a robust independent scrutiny function.

It provides guidance on how we engage with departments, links to relevant published information and indicates areas that we are exploring to support better analysis and use of evidence.

The level of service offered by the RPC will depend on future changes to the better regulation framework and associated resourcing decisions.

Engagement

The RPC will:

- Clearly explain any changes and developments to our processes, application of the framework and expectations relating to the quality of the IAs and analysis. This will be communicated to departments via channels such as the BRU drop-ins, specific training and guidance events, and via website updates, such as RPC case histories.
- Meet departments in advance of submissions, as early as possible, to discuss any aspect of the proposal – be it complex policy areas, methodology issues, general guidance on what to include within the IA and timings for scrutiny.
- Provide opportunity to meet with policy leads to discuss and provide clarity on the points raised within the RPC's opinions. Such opportunities would usually occur after issue of an informal consultation stage IA opinion, an Initial Review Notice (IRN), a not fit for purpose opinion or possibly a fit for purpose opinion.
- In relation to the departmental pipeline and call in the RPC will:
 - Make an initial assessment of departmental pipeline information provided via BRE

- Seek clarifying information, via the BRU, on cases where the RPC is considering a potential call in, with the expectation that the information provided will be sufficient in most cases for the RPC to conclude no further action required.
 - On the cases where the RPC concludes that a call in for assessment is considered appropriate, the Chair will, through a request to the Chief Executive of BRE, seek sight of these cases for scrutiny.
 - BRE will provide their views on whether the identified cases should be called in and, where there is agreement, will request the cases from the department for scrutiny by the RPC. In such cases an opinion will be provided.
 - Where there is not an agreement, the RPC will reconsider whether scrutiny is still considered worthwhile and, if so, will publish an independent opinion once the IA is published.
- With regards to analytical advice, in particular support the Government Economic Service's cross-Whitehall impact assessment training and provide economist placements within the secretariat.
 - Publish analysis undertaken by the RPC to help improve the quality of assessment across government.
 - Actively seek views on the user experience through the IA survey including ideas for improving the RPC service.

Departments should:

- Always engage, through the better regulation unit (BRU), with the RPC secretariat to discuss any of the above ways of engagement such as methodological or process questions and to plan better how impact assessments could progress through the scrutiny process.
- Meet the RPC before any submission, particularly where complex, politically sensitive or difficult methodological issues may exist.
- Be aware that the advice provided by the Secretariat via such meetings will not include guarantees on the likely ratings for submissions. The Secretariat in offering its advice cannot provide the formal assessment opinion of the RPC.
- Expect engagement to be a two-way process, with quarterly BRU catch up meetings with the secretariat lead for the Department to discuss upcoming issues and submissions and reflect on recent experience with the scrutiny process. This will include the discussion and provision of information relating to cases within the departmental pipelines which may be subject to call in for scrutiny as exercised by the BRE, working with the RPC.
- Provide the RPC with feedback and comments on how it can improve its service.

Case work

The RPC will:

- Issuing opinions. The RPC will respond:
 - within 20 working days for consultation stage and EU-exit IAs unless otherwise specifically agreed with the Department
 - Within 30 working days for final stage IAs, BIT Validation statements, NQRP summaries and PIRs.
- Give reasonable consideration to all requests to prioritise cases in light of Ministerial priorities and/or those of other government departments, following a conversation with the relevant departmental BRU(s).
- During the assessment period the Secretariat will
 - seek points of significant clarification from the department via email - at which point the RPC scrutiny 'clock' will stop while the Secretariat awaits a reply,
 - and inform departments in advance if a case is likely to take longer than the above timescales.
- Maintain a robust quality assurance process to ensure a high quality of drafting and consistency.
- Meet departments to discuss any comments in opinions, particularly on not fit for purpose opinions. This includes explaining further the reasoning followed by the committee in relation to any complex methodological issues. However, it remains the department's responsibility to consider how to respond to the committee's opinion in advance of any resubmission.
- Champion greater proportionality within the system, such as the level of detail required in support of lower cost regulation, and provide guidance on RPC expectations in light of experience of the restructured framework.
- Continue to develop and provide guidance on how to interpret the better regulation framework, including examples of previous application through the RPC case histories.
- Engage with departments on new or novel methodological issues arising from casework, and communicate appropriately RPC decisions in relation to these.

Departments should:

- Ensure that all impact assessments submitted to the RPC are drafted to a publishable standard with enough clarity to allow a non-expert reader to understand the proposal. Failure to do so can lead to misunderstandings and avoidable delay.
- Provide supporting information within covering email when requesting prioritisation, for example by highlighting important timetable issues or if departments want something with a fast turnaround then make it clear which cases can go more slowly.
- Support an effective case work process by providing at time of submission all relevant information needed to enable the case to be processed, understanding that failure to provide such information could result in unnecessary delays that will not count towards the turnaround times.

- In relation to consultation stage IAs, consider and discuss with the Secretariat the appropriate format of the expected opinion, i.e. informal or formal format.
- On receipt of opinion, particularly at final stage, inform the RPC of its intentions of when it will publish the IA. This will allow the RPC to publish its formal opinion of the measure on its website.
- Support the system through effective forward planning and the sharing of plans and pipeline information with the RPC in line with the process agreed with BRE.

Communications

The RPC will:

- Keep the published scrutiny process up to date.
- Explore new ways to disseminate guidance on how its consideration of evidence and analysis influence the ratings issued as part of the opinions.
- Publish a red-rated opinion if on receipt of the opinion a department decides not to revise the IA and resubmit but instead proceeds with, or publishes, an IA that is not fit for purpose. If the RPC considers undertaking such action it will inform the relevant better regulation unit in advance (usually at least three working days) of the publication.

Departments should:

- Aim to understand the better regulation framework and how the RPC scrutinises cases, including consideration of the relevant guidance documents.
- Use the RPC case histories and guidance to answer questions in the first instance. That said, the Secretariat is always happy to discuss issues with the departments as and when required.

Raising concerns

Departments should:

Consider how to use the approaches below - in moderation and in the order suggested - to address issues, e.g. if it is of the view that the RPC has incorrectly applied the better regulation framework. These should not be used if a department simply disagrees or is unhappy with the rating within an opinion.

- Always raise issues **in the first instance** with the relevant secretariat lead.

- Discuss with the relevant secretariat lead for the department any concerns about whether the RPC is meeting the expectations in this offer.
- Escalate issues to the RPC head of secretariat that cannot be addressed by the secretariat lead.
- Raise any unresolved concerns by asking ministers to write to the Chair of the Regulatory Policy Committee.
- Refer to the Better Regulation Executive concerns that the RPC might be operating outside its Terms of Reference. In the interests of clarity and open working such referrals should **involve or copy the relevant RPC secretariat lead and/or head of secretariat.**