 Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	Tackling illegal immigration in privately rented accommodation	
Lead Department/Agency	Home Office	
Stage	Final	
IA number	HO0094	
Origin	Domestic	
Expected date of implementation (and SNR number)	October 2014 (SNR8)	
Date submitted to RPC	23/10/2013	
RPC Opinion date and reference	05/11/2013	RPC13-HO-1880(3)
Overall Assessment	GREEN	
<p>RPC comments</p> <p>The IA is not fit for purpose for the reasons set out below. However, based on the evidence presented, the IA contains a reasonable assessment of the direct impacts of the proposals on business for OITO purposes and it has therefore been given a green rating, in line with the Better Regulation Framework Manual. While the IA now justifies better the assumptions used for the costs of checking documents, significant concerns remain with the analysis and evidence presented in the IA. These concerns include the incorrect exclusion of costs to the Exchequer in the break even analysis, which renders the break even analysis not fit for purpose. This does not affect the estimated costs to business, and as such, in line with the Better Regulation Framework Manual, cannot be taken into account in the overall rating shown above.</p>		
<p>Background (extracts from IA)</p> <p>What is the problem under consideration? Why is government intervention necessary?</p> <p>Housing is a key enabler of illegal migration. The policy is intended to reduce the availability of accommodation for those intending to stay illegally in the UK. The policy is also intended to tackle the exploitation of migrants by rogue landlords. Government intervention is necessary to deter illegal immigration.</p> <p>What are the policy objectives and the intended effects?</p> <p>The policy is intended to reduce the availability of accommodation for those residing illegally in the UK. The policy is intended to discourage those who stay illegally and encourage those who are resident in the UK illegally to leave by making it more difficult to establish a settled lifestyle through stable housing. The proposal will also reinforce action against rogue landlords who target vulnerable tenants by putting people who are illegally resident in overcrowded accommodation.</p>		
<p>Comments on the robustness of the OITO assessment</p>		

The IA says that it is a regulatory proposal that would impose a net cost to business (an 'IN') with an Equivalent Annual Net Cost to Business of £4.7m. This assessment appears to be reasonable and is consistent with the current Better Regulation Framework Manual (paragraph 1.9.10).

Comments on the robustness of the Small & Micro Business Assessment (SaMBA)

The proposals regulate business and are intended to come into force after 1 April 2014 and therefore the SaMBA is applicable.

The SaMBA is sufficient. The Department has set out why it believes applying exemptions would not be appropriate, and a number of mitigating actions which will be taken to ease the burdens on landlords. For example the Department is proposing to mitigate the impacts through simplified lists of documents for checking, and through not applying the regulation to tenancies starting before the legislation is enacted.

Quality of the analysis and evidence presented in the IA

Following the comments in our opinions of 9/9/2013 and 11/10/2013 the IA now includes a stronger evidence base on the likely costs associated with checking and storing documents, scheduling subsequent checks and clarifies previous comments regarding transitional IT costs. The IA also responds to our previous concerns about the double counting in the breakeven analysis. Despite this, there remain significant concerns with the break even analysis presented in the IA. As such, the IA as a whole cannot be considered fit for purpose, despite providing a reasonable assessment of the direct impacts on business.

Impacts of reduced migration

Our previous opinions raised concerns regarding how the IA treats costs to the Exchequer in the break even analysis and how this has been used to inform the decision making process. The IA uses breakeven analysis as a way of modelling the number of illegal migrants who would need to be deterred from staying in the UK, and the benefits that would accrue to society as a result, in order to justify the additional costs and burdens imposed by the proposal. To ensure that the break even analysis can be used effectively, to inform the decision making process, it should accurately capture the costs and benefits of the proposal. It is not appropriate to include the benefits and exclude costs to the Exchequer of the proposal.

The IA estimates a saving of £4,250 per year per illegal migrant removed from the UK (page 16) as a result of reduced use of public services. The IA describes the benefits of the proposals by using the figures for increased volumes of departures alongside the estimated savings per departure. These benefits are used as a justification for the imposition of the costs associated with the proposal.

The IA correctly excludes costs to illegal migrants from the estimate of the impact of reducing the number of migrants, as they are in the UK illegally. However, the IA also excludes the cost to the Exchequer of lost tax revenue from the breakeven

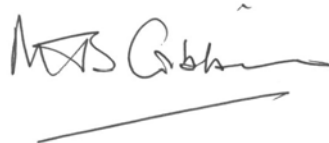
analysis. This is incorrect.

The cost to the Exchequer, which is compliant with the relevant legislation, is a result of a reduction in taxable activity that occurs as a result of the proposal. As the savings associated with reduced use of public services are included in the breakeven analysis, the costs to the Exchequer should also be used, to provide an accurate assessment of the likely impacts of the proposals in order to properly inform the decision-making process. These costs and benefits are key in the decision-making process and so should be treated in as robust a manner as those figures included in the headline NPV figure.

The IA states that *“we do not include any impact on the UK Exchequer as any taxes paid by a migrant resident in the UK illegally accrue directly as the result of an illegal action ... The Home Office also believe that the IA process should not capture the ‘benefits’ associated with illegal activity as this may lead to perverse incentives in the decision making process”*. It is not clear why the Department consider this justification to be robust. If policy proposals have costs and benefits for society, these form a legitimate part of the decision making process. For example, decision makers should be aware if policy proposals in relation to illegal activity could have significant wider impacts on tax payers, as this should form part of the justification for the policy. It is not appropriate only to include one part of this assessment as is currently presented in the IA. This is not a question of measuring the ‘benefits’ of illegal activity but of accurately capturing the net costs or benefits of proposals.

The Committee notes that the Department requested advice on this issue from the Better Regulation Executive (BRE) and was advised that the position in the IA was not consistent with the Better Regulation Framework Manual. Following our previous Opinion, representatives of the BRE and the RPC met with Home Office officials to discuss this issue and agreed a pragmatic approach to the presentation of these costs and benefits. The agreed approach would have ensured that the IA would more effectively inform the decision making process but the department did not implement it. It is also noted that the IA is not consistent with the Migration Advisory Committee (MAC) report which advises that tax revenue and benefit spending should be assumed to be approximately equal and treated as having no net impact. However, these considerations do not impact on the direct impacts on business, and as such do not affect the rating of the Opinion.

Signed



Michael Gibbons, Chairman