



Regulatory Policy Committee

Improving the evidence base for regulation
Regulatory Policy Committee scrutiny in 2013

March 2014

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Foreword



2013 was the Regulatory Policy Committee's (RPC) second year as an advisory non-departmental public body.

During this time I have seen a continued commitment to the Government's better regulation agenda, with evidence that the reforms are starting to deliver real benefits. The Government's Statements of New Regulation and Red Tape Challenge contain measures, with impacts validated by the RPC, that deliver quantified savings to business each year. The fast-track system has enabled proposals that cut red tape on businesses and civil society organisations to progress more quickly.

The system is also becoming more transparent. I was particularly pleased to see the improvements in the presentation of the Government's seventh Statement of New Regulation, with far fewer measures not yet validated by the RPC. Last year the RPC took the initiative of publishing a complete list of validated cost estimates for all the measures we have seen over the course of this Parliament.

We have met more often with government departments to discuss principles of analysis and provide further insight on specific cases. We have developed new tools and processes to ensure we can provide timely and effective advice and support to

departments. We have continued to work to improve how we interact with the better regulation system, and with the Better Regulation Executive. We have worked hard to make access to our scrutiny of impact assessments easier for businesses and civil society organisations and have published our opinions in a more timely fashion. I have been pleased to see this translate into the Committee's work being discussed in some of the major policy debates on new legislation.

Unfortunately there has been a disappointing reduction in the overall quality of impact assessment. This is the first time we have recorded a drop of this nature.

We have also seen an increasing number of policy measures avoiding some of the important checks that this Government put in place to ensure that regulations imposing a new burden on business are subject to proper scrutiny. The pressure to skip steps of the agreed scrutiny process may increase further in the final stages of this Parliament. For the Government to realise its pledge to reach the end of this Parliament with the burden of regulation lower than at the start, all relevant regulations must have their costs validated by the RPC. The measures where validation is still outstanding need to be concluded as soon as possible this year.

I therefore expect 2014 to be a challenging and busy year, as we move towards the end of the Parliament, and as external organisations make greater use of the work of the RPC. We will need to continue to deliver high quality and robust scrutiny of regulatory proposals in an ever more timely and transparent manner.

I sincerely thank all the RPC members and the RPC secretariat team for their continued and highly professional work in this important role.

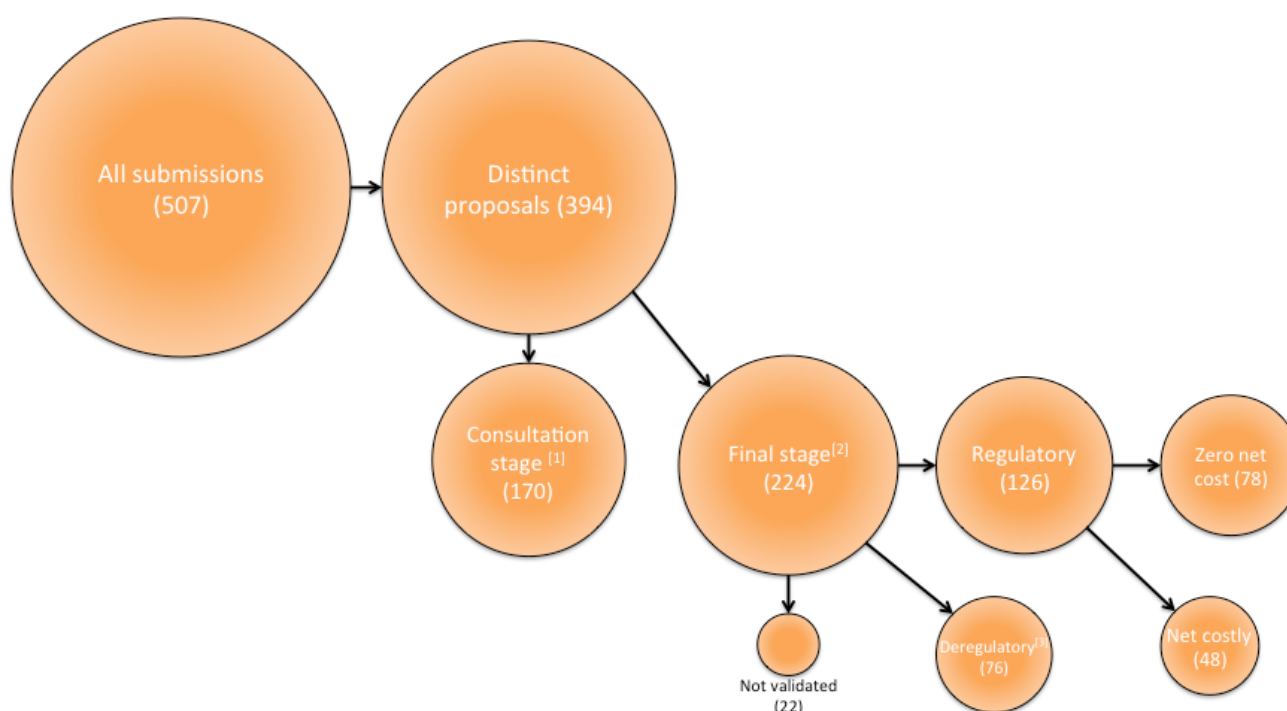
*Michael Gibbons OBE
Chair, Regulatory Policy Committee*

Executive summary

In 2013, the Regulatory Policy Committee:

1. **Reviewed nearly 400 distinct proposals for regulatory change from departments.** For measures that reached the final stage of the policy process and were validated by the RPC:
 - 126 increased the scope of regulation on business and civil society organisations. The 105 domestic measures imposed an additional cost on business of £128 million each year. The 21 EU-derived measures introduced costs of £1.3 billion each year, with the Alternative Investment Fund Managers Directive accounting for nearly this entire figure.
 - 76 reduced the scope of regulation. The 73 domestic measures reduced costs to business and civil society organisations by £274 million each year. The 3 EU-derived measures reduced costs by £2.5 million each year.

Figure 1 – Number of submissions to the RPC in 2013 by stage and validated direction of impact



[1] includes measures seen by the RPC as consultation stage impact assessments or as fast track triage assessments, but excludes measures subsequently seen at final stage in 2013.

[2] includes 41 proposals seen at both consultation and final stages during 2013.

[3] includes 14 deregulatory proposals where it was not possible or proportionate to quantify the benefits, and which were recorded as zero net cost proposals in Statements of New Regulation

2. **Reviewed over 200 Government estimates of the annual costs and savings to business and civil society organisations from regulatory changes, improving the accuracy of the estimates by over £112 million each year.** The Government's

claimed cost savings to business and civil society organisations from regulatory changes is £44 million lower each year than it would have been without RPC scrutiny. This takes the total difference between the cost estimates initially submitted by departments and the values finally validated by the RPC to over £475 million each year since the beginning of 2011.¹

Table 1 – Summary of differences between estimates initially submitted by departments and figures validated by the RPC during 2013

Impact of RPC scrutiny in 2013 ^a - corrections made to:	Absolute change in estimated impact on business ^b (£ million each year)	Net impact of RPC scrutiny on the Government's regulatory account ^c (£ million each year)
Underestimated INs	5	+5
Overestimated OUTs	73	+73
Overestimated INs	0	0
Underestimated OUTs	34	-34
Total	112	+44

^a Corrections made during 2013. Figures do not correspond exactly to the two Statements of New Regulation in 2013 because RPC figures relate to those validated during 2013, and not to measures coming into force during 2013 as reported in the Statements of New Regulation.

Furthermore some changes relate to measures that have not yet been reported in a Statement of New Regulation.

^b Column shows the absolute changes made to departmental assessments as a result of RPC scrutiny, a measure of the increase in accuracy made as a result of RPC scrutiny.

^c Column shows the net impact on departmental assessments as a result of RPC scrutiny, a measure of the impact on the Government's assessment of the costs of regulation. A positive figure indicates the Government have less scope to regulate as a result of RPC scrutiny.

- Rated 75% of first-time impact assessment submissions as fit for purpose,² a reduction from 81% in 2012.** The reasons for this are not completely clear. In some cases, the work may have been hurried due to parliamentary timetables. In other cases, the pressure to meet the One-in, Two-out policy may have reduced the accuracy of departmental estimates. The introduction of the fast track system in August 2012 makes comparisons between years harder, because some simpler cases no longer need to go through the full scrutiny route. This means that those subject to full scrutiny are now, on average, more complex.
- Published four red-rated opinions as a result of departments consulting on proposed new regulations despite the RPC rating the impact assessment as not fit for purpose.** Three of these opinions generated significant interest in parliamentary debates and public discussion of the proposals: trade union registers of members, biodiversity offsetting, and capping the charges in auto-enrolment pension schemes. The increased contribution of RPC opinions to policy debates on regulatory reform has raised the profile of the importance of evidence in the policy-making process.

¹ Departmental overestimates of the benefits of deregulation account for three quarters of this figure (£336 million), with just under a quarter coming from under estimated costs of regulation (£105 million). A small proportion from underestimated benefits (£34 million).

² This covers impact assessments and not proposals for the fast track route. The fast track was introduced during 2012 and fast track submissions have been included in the statistics in 2013 only, and therefore cannot be compared with the previous year.

5. **Brought increased transparency to the process for changing regulation by ensuring that RPC opinions are available to all interested parties.** As part of several transparency initiatives, the RPC has developed a public record³ of all measures that have been validated by the Committee and included in the Government's regulatory account.
6. **Taken on additional roles in supporting government's work on better regulation.** The RPC now provides independent scrutiny of the small and micro-business assessments (SaMBAs). These are developed by departments to support all new regulatory proposals. As part of the Government's Accountability for Regulator Impact scheme, the RPC now provides an appeals function for business representatives and trade associations where they cannot reach broad agreement with non-economic regulators on the estimated costs of proposed changes. The RPC has also been advising ministers on the regulatory barriers to challenger businesses.

Forward look for 2014 and beyond

7. The coming year will test the Prime Minister's commitment to be the first government in modern history to reach the end of a Parliament with the burden of regulation lower than at the start. The RPC is determined to maintain its vigilance, to ensure claims are scrutinised and the results published, helping departments and the Better Regulation Executive achieve this goal. As such, this year presents important challenges for the Government's agenda on better regulation:
 - i. **Producing a final validated and complete account of the impact of regulatory changes on business and civil society organisations over the course of the Parliament.** There remains a number of legacy measures from previous years not yet validated by the RPC. New political imperatives and policies are likely to emerge in the coming year. There are still four outstanding and not yet validated measures introduced while One-in, One-out was in effect: restrictions on tiers 1 and 2 migrants, restrictions on student migrants, audit exemption for small-sized firms, and the Energy Company Obligation on energy efficiency. Since the start of 2013, there have been two additional regulatory measures (metal theft controls⁴ and pre-planning consultation) and seven deregulatory measures introduced without final RPC validation.
 - ii. **Preserving the credibility of the system introduced to ensure effective scrutiny of proposals for regulatory change.** During 2013, the RPC observed a growing number of cases that avoided full and proper scrutiny of the evidence base for regulatory proposals. Of the measures that were not seen by the RPC at consultation stage, 40% were rated not fit for purpose on initial submission.
8. The Government should ensure that all regulatory proposals have been independently assessed, and that there is time for independent validation of cost estimates. The RPC provides the necessary independent validation of the estimated impact of proposals.

³ <https://www.gov.uk/government/publications/validated-costs-and-benefits-to-business-of-regulations>

⁴ The RPC validated the impact assessment accompanying the Scrap Metal Dealers Bill, but has yet to validate the impact assessment for the Scrap Metal Dealers Act.

Any gaps in the account risk undermining the credibility of the overall account and the Government's better regulation agenda.

Key issues

What dominated the regulatory landscape in 2013?

1. **We reviewed impact assessments for 394 distinct proposals from departments.**⁵ Of these, 164 proposals came through the full scrutiny route and 230 through the fast track. Of the 202 proposals that reached the final stage of the policy process last year, and that were validated by the RPC:
 - 126 measures increased the scope of regulation. 48 of these measures increased costs on business and civil society organisations by a total of £125 million each year. 78 of these measures were net beneficial to business;
 - 76 measures reduced the scope of regulation, and costs by a total of £274 million each year.⁶
2. **Ten proposals that reached final stage in 2013 contributed over three quarters of the costs and three fifths of the cost-savings to business.**⁷ These proposals covered a range of policy areas, from employment rights, to consumer protection and gambling stakes [Tables 2a and 2b].
3. **We reviewed 36 European measures in 2013.**
 - **33 measures were regulatory, most with total costs to business and civil society organisations of less than £1 million each year.** One measure, transposing the Alternative Investment Fund Managers Directive, was validated as introducing costs of £1.24 billion each year. Implementation of the Consumer Rights Directive was validated at a cost of £60 million each year for the EU elements.
 - The three deregulatory EU measures last year reduced costs by less than £1 million per measure each year on average.
4. **The RPC reviewed two measures that went beyond the minimum required by the EU, known as ‘gold-plating’.** Both related to the implementation of the Consumer Rights Directive. The gold-plating was put in place in order to ensure greater protection for UK consumers. The RPC validated that, together, they introduced an additional £1.35 million of costs each year and a one-off cost of £0.23 million beyond the minimum EU requirements. While the cost of EU measures remain largely out of scope of the Government’s regulatory account (One-in, Two-out), the costs of gold-plating are scored.

⁵ Including proposals seen at both consultation and final stage, and those resubmitted after a not fit for purpose rating, we considered 507 submissions during 2013.

⁶ A regulatory proposal that is net costly to business and civil society scores as an ‘IN’ and a net beneficial piece deregulatory proposal is scored as an ‘OUT’. Net beneficial pieces of regulation, or where it is not proportionate to quantify the impacts, are scored as ‘Zero Net Cost’ for Statement of New Regulation purposes. The overall figures used here are different from those published in the Statement of New Regulation, as proposals validated by the RPC during any period do not directly correspond to an SNR period. 2013 covered SNR periods 5 and 6 but some RPC-validations during 2013 have implementation dates which fall in different SNR periods, such as measures proposed for introduction in 2014.

⁷ £97 million (78%) of the £125 million of annual costs to business (INs) and £163 million (60%) of the £274 million annual benefits (OUTs).

Table 2a – Five most significant OUTs validated during 2013

Title of proposal	Department	Annual savings to business	Brief description of proposal
Collective redundancy consultations	Business, Innovation & Skills	£66 million	To change large scale collective redundancies consultation requirements. Once consultation has taken place with affected individuals, businesses are able to implement changes more quickly and within a set of rules closer to those within which European and international competitors operate.
Gambling review of stake and prize limits	Culture, Media and Sport	£34 million	To establish a more coherent and systematic approach to reviewing the regulatory controls on the maximum stake and prize limits permitted for gaming machines through the reintroduction of a triennial review.
Streamlining planning measures – Design and Access Statements, and Decision Notices	Communities and Local Government	£24 million	To reduce the number of applications that would require an accompanying Design Access Statement, as part of the overall objective of streamlining the planning application process, removing delays and costs from the process.
Vehicle driver (certificate of professional competence – CPC) exemptions	Transport	£24 million	To exempt those that drive lorries, buses and coaches only as an incidental part of their job from the requirement to obtain a certificate of professional competence. The savings arise from businesses not having to pay for the training, and no longer incurring productivity losses associated with employees undertaking training and travel time.
Seafarers certification for operating workboats less than 500 tons	Transport	£15 million	To expand the existing certification route for seafarers working specifically on workboats, by allowing them to work on vessels of up to 500 gross tons. Businesses will no longer have to pay for unlimited certification for seafarers who will only be working on vessels of this type.

Table 2b – Five most significant INs validated during 2013

Title of proposal	Department	Annual costs to business	Brief description of proposal
Smart meter roll out for the domestic and small and medium non-domestic sectors	Energy and Climate Change	£36 million	To roll out smart meters to enable gas and electricity customers (individuals and businesses) to have more control over their energy usage.
Reform to the regulatory framework for consumer credit	Business, Innovation & Skills / HM Treasury	£32 million	To reform how consumer credit is regulated, through introducing stronger powers to tackle behaviours that are detrimental to consumers. This would include transferring powers from the Office for Fair Trading to the Financial Conduct Authority.
Shared parental leave	Business, Innovation & Skills	£17 million	To allow eligible working families more choice about how they balance their work and caring commitments, through enabling choices on whether to be at home together or to work at different times and share the care of their child.
Pension protection fund compensation cap arrangements	Work and Pensions	£9 million	To amend the compensation scheme for members of underfunded defined benefit occupational pensions schemes where employers become insolvent, so that individuals with longer service in a scheme will receive a higher compensation cap.
Improved transparency of executive remuneration reporting	Business, Innovation & Skills	£5 million	To improve transparency requirements for the reporting of director remuneration, to enable more effective shareholder engagement on the setting of pay. The intention is that clearer information will encourage pay to be more effectively linked to performance.

Submitted vs. RPC-validated figures

5. **During 2013, we reviewed over 200 departmental estimates for the costs and benefits to business and civil society organisations of regulatory changes and improved their accuracy by an absolute amount of £112 million each year.** This takes the total value for the improvement in estimates to £475 million since 2011.⁸ Table 3 sets out the impact of the different types of correction made following RPC scrutiny.
6. **In all but one case, RPC scrutiny resulted in a higher estimate of the costs to business or a lower estimate of the cost savings.** RPC scrutiny led to the proposal relating to the raising of gambling stakes moving in scope of the regulatory account, with the result that it was validated as an OUT of £34 million.⁹ As such, the figures of £112 million (in 2013) and £475 million (since 2011) are the overall impact RPC scrutiny has had on the quality of departmental estimates. They provide an indication of the scale of the impact of independent scrutiny on improving the accuracy of estimates.
7. **The impact of improved accuracy of estimates during 2013 is to change the Government's estimates by a net increase of £44 million in costs each year.** As a result of the gambling stakes review proposal, £78 million of underestimated INs and overestimated OUTs identified during 2013 are partially offset.¹⁰ Since 2011, RPC scrutiny of departmental estimates has had the net result of reducing the estimates of savings to business by £407 million of each year compared with initial departmental estimates.
8. **RPC scrutiny has provided a very real brake on new costly regulation (Chart 1).** Without RPC scrutiny, the Government would potentially have been able to introduce an additional £407 million of annual regulatory burdens on business and still be in the same credit position under its overarching One-in, One-out policy.¹² Effectively, government departments would have been able to 'spend' more on new regulation.

The net impact on the Government's overall assessment of the costs of regulation of £44 million additional annual costs following RPC scrutiny during 2013 is larger than the cost of new regulation that came into force during 2013, which had a combined annual cost of £28.5 million.¹¹

⁸ Excluding the effects of pensions reform.

⁹ Prior to RPC scrutiny the Department had assessed these benefits as indirect.

¹⁰ The scale of improvements in departmental estimates of annual impacts (the gross impact of RPC scrutiny) was £112 million, comprising £78 million underestimated INs and overestimated OUTs, and £34 million underestimated OUTs, to result in a net impact on the Government's assessment of the costs of regulation of £44 million in additional costs.

¹¹ Seventh Statement of New Regulation, Department for Business, Innovation & Skills (2013)

¹² Since the introduction of One-in, Two-out in 2013, new regulatory burdens need to be offset by twice the amount of cost savings. This limits the scope of new regulatory burdens that the Government could have introduced without RPC intervention to £203.5 million additional burdens each year.

Table 3 – Summary of differences between estimates initially submitted by departments and RPC-validated figures

Impact of RPC scrutiny	Gross impact		Net impact	
	Absolute change in estimated annual impact on business ^a (£ million)		Effect of RPC scrutiny on Government's regulatory account ^b (£ million)	
Corrections made to:	2013 ^c	Cumulative ^d	2013	Cumulative
Underestimated INs	5	105	+5	+105
Overestimated OUTs	73	336	+73	+336
Overestimated INs	0	0	0	0
Underestimated OUTs	34	34	-34	-34
Total	112	475	+44	+407

^a Column shows the absolute changes made to departmental assessments as a result of RPC scrutiny, a measure of the increase in accuracy made as a result of RPC scrutiny.

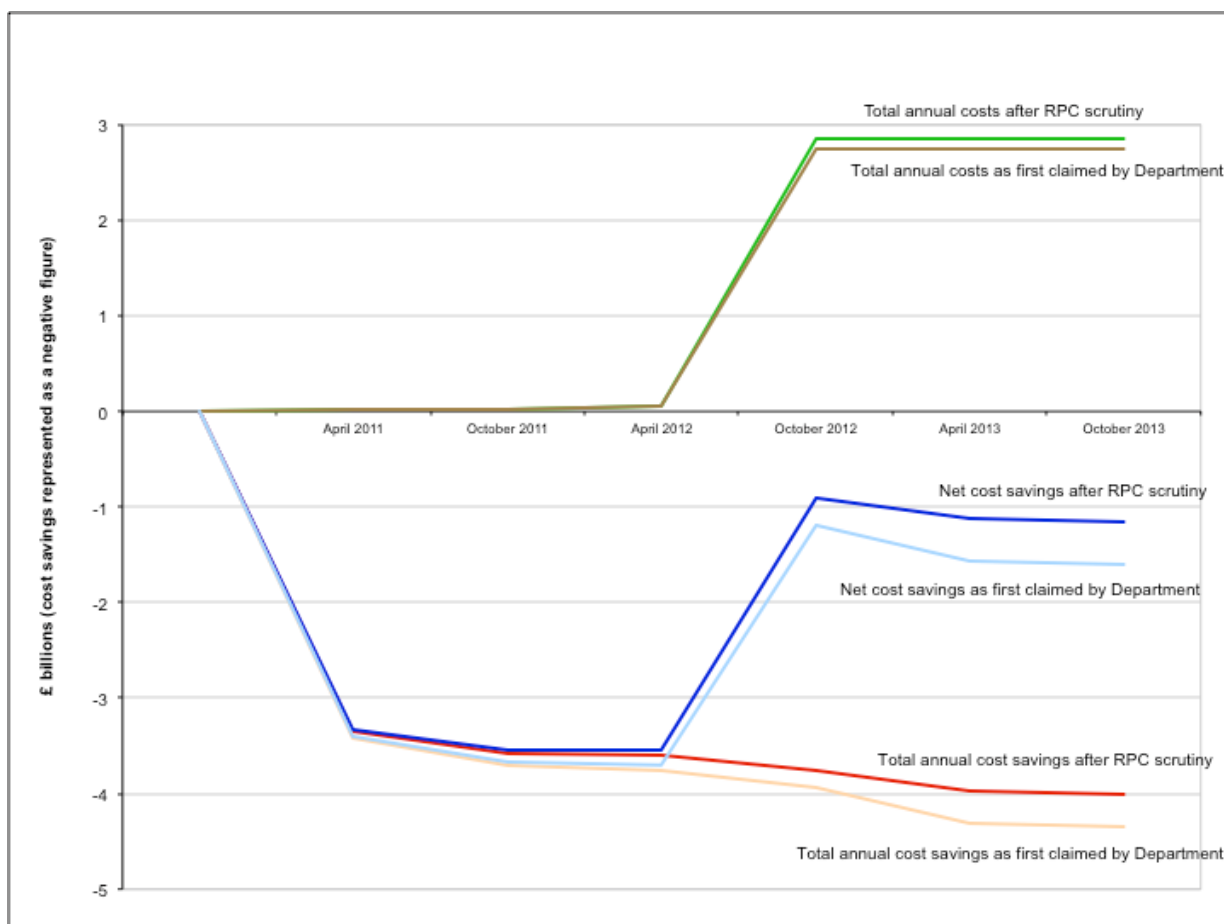
^b Column shows the net impact on departmental assessments as a result of RPC scrutiny, a measure of the impact on the Government's assessment of the costs of regulation. A positive figure indicates that the cost to business is greater than originally estimated, and as a result the Government have less scope to regulate as a result of RPC scrutiny.

^c Corrections made during 2013. Figures may not correspond to Statement of New Regulation (SNR) periods, because our numbers relate to figures validated by the RPC during 2013, and not to measures coming into force during 2013 as reported in the SNR.

^d Corrections made since the beginning of 2011. For purposes of this table, changes to INs are treated in the same way as changes to OUTs, although the operation of One-in, Two-out requires that INs be weighted twice the value of OUTs.

9. **Putting this in context, the Government's estimates of cost savings to business from regulatory changes would be £1.6 billion each year, rather than the £1.2 billion each year validated by the RPC.** Without RPC scrutiny, either the estimates of changes to the costs of regulation at the end of the Parliament would have shown significantly more credit than should be the case, or the scope to introduce costly regulation in the last year of the Parliament would be greater.

Chart 1 – Impact of RPC scrutiny on departmental estimates over time shows how the differences between RPC-validated figures and those initially submitted by departments would have resulted in different balances for the Government’s regulatory account since 2011.¹³



Departmental performance

10. **Overall Departmental performance declined slightly compared with 2012.** We rated 75% of impact assessments submitted to the RPC for the first time as fit for purpose (Figure 2), compared with 81% in 2012.¹⁴ This is the first time we have observed a decline in the overall quality of impact assessments since the start of One-in, One-out. The reasons for the decrease are hard to pinpoint, but could in part be related to:

- departments having less time to prepare the evidence base for regulatory proposals;

¹³ The chart plots the validated costs and benefits of proposals, and the balance of those costs and benefits. This reflects the extent to which the burden of regulation has increased or decreased on the basis of RPC-validated figures and does not seek to account for One-in, Two-out during 2013

¹⁴ First time submissions are an appropriate focus for the reporting of departmental performance as they represent what departments produced using their internal systems prior to RPC scrutiny.

- the pressure to meet the One-in, Two-out policy affecting the accuracy of departmental estimates; and
- the introduction of the fast track, because a number of less analytically challenging proposals are no longer being submitted as impact assessments. Departmental performance on fast track proposals was comparable to the full scrutiny route, with 77% of all submissions rated fit for purpose.

11. **We observed significant variation in performance between departments** (Table 4). Overall fit-for-purpose performance ranged from 50% to 90%, excluding those departments with five or fewer cases. We would like to see a higher proportion of departments scoring 90% or more fit for purpose, and a significant improvement in the poorer performers.

Figure 2 – Breakdown of first-time submissions to the RPC by scrutiny route, stage and proportion fit for purpose. Circles are drawn in proportion to the number of submissions in each category, with the number also shown in brackets within the circles.

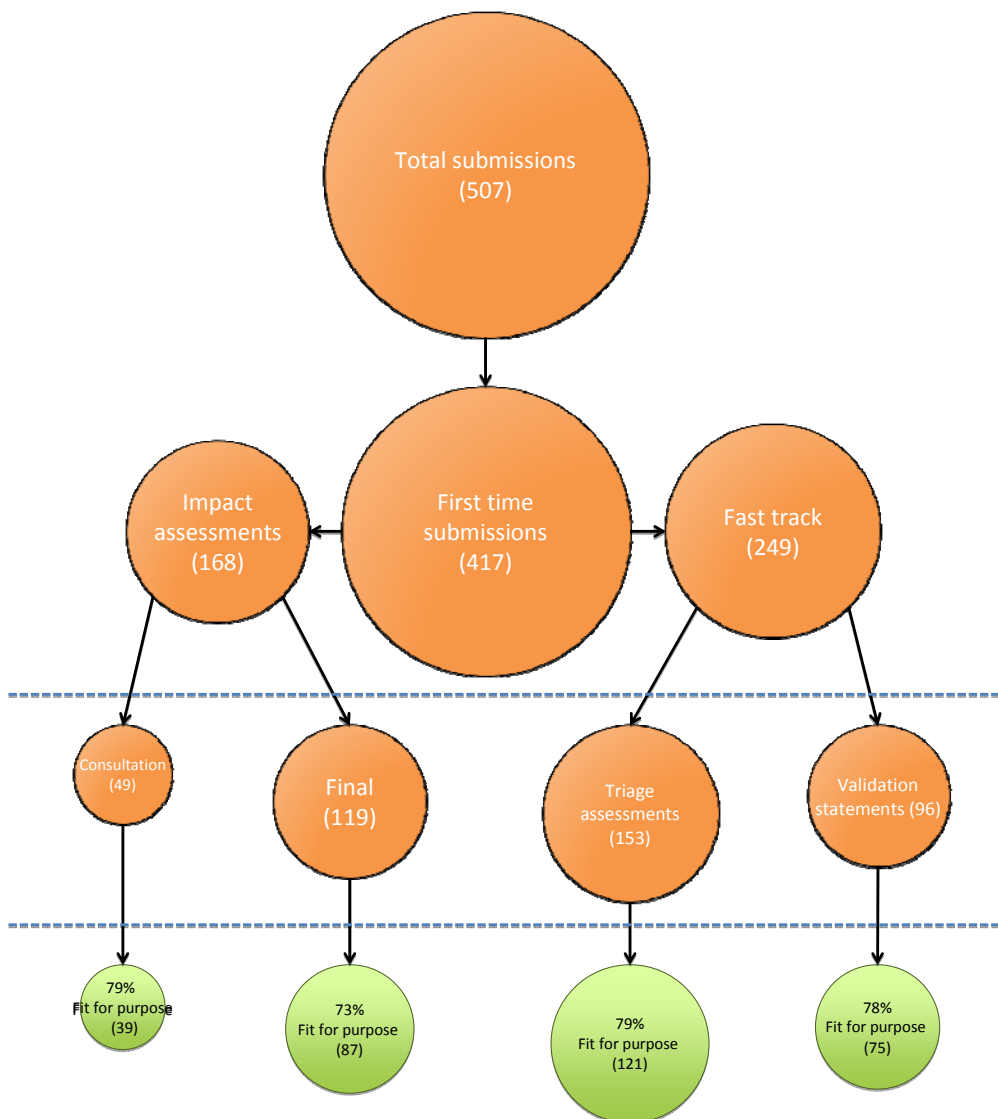


Table 4 – Departmental performance on first time submissions ranked by overall performance in 2013. Departments that submitted five or fewer cases to RPC in 2013 are grouped. The table presents data by the four different types of submissions the RPC received – impact assessments for the full scrutiny route, submitted at consultation and final stages, and fast track submissions, reported as regulatory triage assessments submitted at an early stage of policy development and final stage validation statements.

	Total		Full scrutiny (impact assessments)				Fast-track (for low-cost and deregulatory proposals)			
			Consultation		Final		Triage assessments		Validation statements	
	% fit for purpose	Number	% fit for purpose ¹⁵	Number	% fit for purpose	Number	% fit for purpose	Number	% fit for purpose	Number
Health and Safety Executive	91	11	50	2	100	5	100	1	100	3
Department of Energy and Climate Change	90	29	100	4	100	11	80	10	75	4
Department for Work and Pensions	90	10	50	2	100	2	100	3	100	3
Ministry of Justice	89	9	100	2	100	2	75	4	100	1
Department for Transport	87	84	100	10	85	27	93	30	71	17
Other departments ¹⁶	85	14	n/a	0	n/a	0	82	11	100	3
Department for Business, Innovation & Skills	79	61	100	5	71	31	91	11	79	14
Home Office	74	27	100	4	44	9	80	10	100	4
HM Treasury	75	20	100	1	62	8	82	11	n/a	0
Department for Communities and Local Government	72	39	100	1	50	4	82	11	70	23
Department of Health	72	18	75	4	67	3	78	9	50	2
Department of Culture, Media and Sport	67	15	71	7	50	2	75	4	50	2
Department for Environment, Food and Rural Affairs	64	64	17	6	62	13	63	27	83	18
Department for Education	50	16	100	1	50.	2	45	11	50	2
Total	77	417	79	49	73	119	79	153	78	96

¹⁵ Fit for purpose at consultation includes amber and green ratings for consultation stage impact assessments

¹⁶ This includes five cases from the Cabinet Office, three cases from the Ministry of Defence, two cases from the Food Standards Agency, two cases from the Government Equalities Office, one case from Foreign Commonwealth Office, and one case from HM Revenue and Customs. All these departments had 100% fit for purpose, except for Ministry of Defence, which had 33% fit for purpose.

Increasing transparency

12. **We took further steps to improve the transparency of the regulatory scrutiny process.** The recent migration of our website to www.gov.uk/rpc has made it quicker and easier for individuals and organisations to find RPC opinions that relate to particular regulatory reforms.
- **We started publishing all opinions that relate to impact assessments published by departments.** We previously published opinions only if a department proceeded with an impact assessment that received a red rating. During 2013, we started making available through our website all of our opinions on published regulatory proposals.
 - **We created a public record of all the estimated costs to business from new regulation that we have validated.**¹⁷ This provides a clear audit trail for anyone with an interest in the individual measures that make up the Government's One-in, One-out and One-in, Two-out accounts.
 - **We have begun publishing validation statements for fast-track measures from the start of 2014.** A concern we heard from stakeholders during 2013 was that the fast track system lacked transparency. We have gone some way to addressing this by publishing fast track validation statements, once departments have taken a decision to proceed with a proposal.
13. **Increased transparency has already resulted in greater interest in our work from Members of Parliament, business groups and the media.** We published four red-rated opinions as a result of departments consulting on new regulations despite the RPC rating the impact assessment as not fit for purpose. Three of these opinions generated significant interest in parliamentary debates and public discussion of the proposals: trade union registers of members,¹⁸ biodiversity offsetting,¹⁹ and capping the charges in auto-enrolment pension schemes.²⁰
14. **The greater interest in our published opinions in policy debates around regulatory reform has reinforced the importance of evidence in the policy-making process.** In the future, we will ensure our opinions are published more regularly, and made public during relevant consultation periods for proposals, wherever possible.

¹⁷ <https://www.gov.uk/government/publications/validated-costs-and-benefits-to-business-of-regulations>

¹⁸ <http://www.publications.parliament.uk/pa/ld201314/ldhansrd/text/131111-0002.htm>

¹⁹ <http://www.endsreport.com/index.cfm?go=41556>

²⁰ <http://www.ft.com/cms/s/0/58cdb5ac-680c-11e3-8ada-00144feabdc0.html#axzz2t84W1Lec>

To support transparency and to enhance the impact of our scrutiny, we started routinely publishing our opinions in one place, provided a public record of all validated figures, and overhauled our web and social media presence.

www.gov.uk/rpc

@RPC_Gov_UK

Measures challenging the scrutiny process

15. **In 2013, a number of measures did not comply with the Government's own rules.** This has taken a number of forms, including proposals:
- submitted to the RPC with insufficient time allowed for scrutiny;
 - submitted to the RPC after publication;
 - proceeding on a red-rated, not fit for purpose, opinion; or
 - inappropriately submitted for the first time at the final policy stage.
16. **If departments abide by the Government's agreed rules, this will help deliver consistent improvements in the approach to better regulation.** The Better Regulation Framework Manual²¹ sets out a process and system to enable effective scrutiny of proposals within an appropriate time frame. We helped develop the framework, and the manual and processes have been signed off by ministers.
17. **In some instances, there may be a genuine need to move proposals through the system rapidly.** However, we have seen too many cases where departments do not allow sufficient time to follow the proper scrutiny process, especially in the periods leading to the publication of a statement of new regulation. Poor planning and timetabling may be an indication of wider problems in the policy development process.
18. **We are particularly concerned about measures where impact assessments are published in advance of our scrutiny.** We are aware that the following impact assessments were in the public domain before the RPC issued its opinion on them, and without any delay on the part of the RPC in developing the relevant opinion.

²¹ www.gov.uk/government/publications/better-regulation-framework-manual

Table 5 – Impact assessments published in 2013 prior to an RPC opinion being issued

Policy proposal	Department	Description of the proposal
Trade union registers of members	Business, Innovation & Skills	Provides a level of transparency and consistency, not achieved by current legislation, to assure trade union members, the general public and employers that trade union membership lists are accurate. Proposal will place a statutory duty on trade unions to provide an annual membership audit certificate.
Employee shareholders scheme	Business, Innovation & Skills	Provide for a new type of employment status with fewer rights but with shares in the employing business. Proposal will provide greater flexibility and choice to encourage employee ownership, in line with evidence that this could improve business performance.
Auto-enrolment pensions charge caps (consultation)	Work and Pensions	When employers are choosing a workplace pension scheme, they are often unaware of the charges their employees will pay. The policy aims to protect individuals from excessively high charges, particularly where automatic enrolment means they have not made an active decision on their scheme.
Zero hours contracts (consultation)	Business, Innovation & Skills	Zero hours contracts provide benefits to both employers and employees, but there is some evidence of actual or perceived abuse, causing detriment to individuals. Abuse of such contracts can also have a negative impact on UK businesses generally if it leads to a potentially efficient form of contracting being under-used. A review found that such contracts have a role to play in a modern and flexible labour market, and can provide benefits to both employers and individuals alike. The consultation sets out a number of potential options to tackle these issues.
Biodiversity offsetting (consultation)	Environment, Food and Rural Affairs	To improve the delivery of planning policy requirements relating to biodiversity in a cost-effective way, by providing a potentially faster and more consistent approach to assessing the impact of development on biodiversity; agreeing the mitigation and compensation requirements; and demonstrating compliance using a standardised system.

19. **Many of these proposals have involved complex underpinning analysis, reinforcing the importance of going through the established processes to enable effective independent scrutiny.** Often departments which do not follow the agreed process have later run into problems, because they have inadequate analysis of the underlying evidence, which delays them in making progress with their policy. Departments could avoid these problems by allowing sufficient time for scrutiny within the system and following due process.
20. **We have also noticed an increase in the number of measures that we see for the first time at final stage.** For these measures, only 21 of 35 (60%) of first-time submissions received a fit for purpose rating. Effective scrutiny of an impact assessment prior to the launch of a consultation can help identify any issues with that impact assessment, and also flag areas where the evidence will need to be developed or strengthened by consultation. Circumventing this stage of the scrutiny process can create challenges for departments, which may have insufficient evidence for proposals at the final stage.
21. **A key part of our role is to uphold the principles of effective scrutiny.** While willing to engage with departments, we have always been clear that proceeding with an impact assessment that has received a red-rated opinion will result in publication of that opinion. It is unhelpful to stakeholders to proceed with consultations that are not supported by a robust impact assessment. It is also inappropriate to proceed with 'substitutes' for impact assessments such as an 'analytical annex', which are not subject to independent scrutiny. The Committee is surprised that departments are willing to undermine beneficial policies by not giving the evidence and underpinning analysis due consideration. The circumvention of effective scrutiny has the potential to create significant reputational risks for those departments.

Our changing role

Small and micro-business assessments

22. **Since July 2013, we have scrutinised the quality of small and micro-business assessments for all new regulatory proposals.** For any new regulatory proposal coming into force from April 2014, departments must undertake a small and micro-business assessment (SaMBA). Such an assessment identifies whether the proposals are likely to have disproportionate impacts on smaller businesses and set out proposals to mitigate such impacts.
23. **There has been a small improvement in the quality of the assessment of potential impacts, but there has not been a significant increase in proposals that exempt small and micro-businesses.** Failing to identify potential impacts on smaller businesses correctly, or failing to set out why proposals do not include exemptions or other mitigating steps, results in the RPC rating an impact assessment as not fit for purpose. Four submissions did not include a suitable SaMBA, although the RPC rated only one as not fit for purpose on the basis of the SaMBA alone. We believe there is scope to improve the quality of SaMBAs. We have not yet seen an increase in

proposals applying new or innovative approaches to mitigate impacts on smaller businesses.

Accountability for Regulator Impact

24. **The Government asked us to provide an appeals function for businesses representatives and trade associations that dispute a non-economic regulator's assessment of the impact on businesses of proposed changes to policy or practice (including operational or enforcement activity).** Regulators should carry out an assessment of the impacts on business of proposed changes involving those affected where possible. If business representatives consider that a regulator's assessment substantially mis-states the likely impact, and they cannot reach broad agreement with the regulator, they may ask the RPC to review the regulator's assessment.
25. **We investigate cases referred to us and determine the best means of resolving any dispute.** In cases where we provide arbitration, we review the evidence provided by both the regulator and business representatives, and decide which is more robust. We will publish shortly guidance setting out how cases should be submitted, what information business representatives need to submit, and the significance that the RPC attaches to evidence from different assessments.

Challenger businesses

26. **In September 2012, ministers also asked us to take on an expanded role “to investigate where challenger businesses, seeking to enter new markets, are being unjustifiably hampered by regulations or regulators and report publically on their findings”.** Challenger businesses are new and innovative businesses, either (i) seeking to enter existing markets with alternative or disruptive business models, or (ii) creating entirely new products and technologies, or markets.
27. **We sought to uncover such barriers by inviting government departments, business organisations and the general public to contact us and bring examples to our attention.** Through this process we looked at regulation of a number of areas of the economy, including open data, crowd funding, and government procurement. In many cases the barriers we identified were areas where departments told us they were already taking action or had initiatives in place.
28. **In the second part of the year, we provided advice to the Government as part of its new Challenger Business programme.**²² This programme involves a number of targeted discussion events on topics including innovative financial technology, satellites and the commercial space industry, and the sharing economy.²³ Barriers to growth

²² <https://www.gov.uk/government/news/government-to-launch-challenger-businesses-programme>

²³ The sharing economy is an economic system built around the sharing of human and physical assets.

identified at these events are then discussed in a Ministerial star chamber. We will continue to provide advice to Ministers leading this programme when requested.

Methodology changes

29. **Impact assessments should be carried out according to general economic principles, but better regulation processes also require a bespoke methodology.**²⁴ This methodology is subject to refinements to ensure unforeseen circumstances are covered, to deal with difficult cases and to align it with the policy aims of ministers. Throughout 2013 we have been involved in this process, including advising on the drafting of the manual to ensure that its definitions are clear and in line with our understanding, or highlighting individual cases that raise concerns about the methodology.
30. **We have taken on a role in helping officials across Whitehall understand the, often complex, impact assessment framework.** We have worked with the Better Regulation Executive (BRE) economists to develop training courses on how to prepare impact assessments. We also work with departments to help them increase their understanding through meetings, presentations and advice on specific questions. The RPC has provided departments with additional guidance referring officials to case histories that help illustrate the kind of issues they might be dealing with.

Example: Tackling illegal immigration in privately rented accommodation (a Home Office proposal)

The proposal is intended to help reduce illegal immigration through requiring private landlords to check and record the immigration status before letting their properties. This would impose new burdens and costs on those seeking to let their properties.

The case raised an interesting methodological issue in relation to how costs to the Exchequer should be presented within impact assessments, and the constraints which limit the RPC's to issue not fit for purpose ratings, if we believe they have not been correctly reflected. The RPC remit at the final policy stage is primarily to consider if departments have correctly assessed the costs and benefits for business. In this case the Committee felt that the analysis inappropriately excluded a number of costs to the Exchequer when calculating the overall impact of the policy. By excluding such costs the impact assessment did not present an accurate picture of the number of illegal immigrants that would need to be deterred in order for the benefits of the proposal to outweigh the additional costs to landlords.

²⁴ The methodology is owned by the Better Regulation Executive (BRE) and set out in the Better Regulation Framework Manual.

Forward look for 2014 and beyond

Credibility of the system and effective scrutiny

31. **The coming year will be crucial for the Government's better regulation agenda, and in particular for ensuring that there is a validated and complete regulatory account for this Parliament.** The statements of new regulation due in 2014 will effectively close the Government's accounts. The development of the seventh statement of new regulation showed a significant improvement on previous versions, focusing on the presentation of validated impacts and reducing the number of legacy measures not yet validated. In the 2014 statements there is no scope for legacy measures to remain unvalidated. Closing the account will require government to ensure that no blank spaces remain.
32. **The largest outstanding measures are the Energy Company Obligation, estimated to be around £1.3 billion cost to business each year, and the Carbon Emissions Reduction Target, believed to be an OUT of similar value.**²⁵ We understand that the Government are still awaiting a decision from the Office of National Statistics on whether the Energy Company Obligation should be classified as a tax or regulation. The issue must be decided this year so the measures can be captured by one or the other of the existing control mechanisms – the levy control framework²⁶ or One-in, One-out.
33. **This will be a key year for the Government in delivering the Prime Minister's commitment to reach the end of the Parliament with the burden of regulation lower than at the start.** On the basis of the figures validated to date, the Government are on track to meet this commitment. However, a small number of costly new regulations could derail these plans. We have a vital role in ensuring that claims regarding this pledge are based on robust independently validated figures. We want to provide the public and stakeholders with the certainty that any claims about cost savings to business are credible.
34. **The credibility of the scrutiny process is vital.** During 2013 Committee members have been concerned about an increased tendency for departments to circumvent the scrutiny process. As mentioned earlier, we are concerned about the small number of cases that were submitted to us after, or at the same time as, they were published by the department. This timing of submissions makes it impossible for us to scrutinise the evidence and estimates included within the impact assessment before it is published.
35. **Alongside difficulties in validating estimates on time, there is a risk that the quality of consultation could be affected.** There may also be significant reputational risks for departments. If departments do not allow sufficient time for effective scrutiny they risk undermining the quality of their published impact assessment. Poor timing and a reduced quality of evidence in an impact assessment makes it more likely that we will

²⁵ Until the Carbon Emissions Reduction Target has been validated it is not possible to provide a clear position on the net impact of the two measures.

²⁶ <https://www.gov.uk/government/publications/control-framework-for-decc-levy-funded-spending-questions-and-answers>

need to publish a red-rated opinion. The public, media and MPs want to be assured that proposals are evidence-based and thought through – a red-rated opinion undermines a department's ability to promote their policy.

The importance of the role of the RPC – independent, impartial scrutiny and challenge

The RPC is the independent body that:

Ensures the integrity of the regulatory system, keeping government accurate and honest by bringing:

- ***robustness to the process of introducing new regulation or removing existing regulation***, through ensuring there is a sound evidence base for regulatory change. Fewer regulations where there are better alternatives, or that impose undue costs on business or civil society, are likely to get through the system as a result;
- ***credibility to the system***, providing assurance to stakeholders and the public on the Government's claims regarding the reduction of burdens on business and civil society; and
- ***greater transparency*** to the system, ensuring that there is a clear audit trail for the introduction of new regulation, or the removal of existing regulations. This holds the Government to account and protects the integrity of the system.

Improves quality through independent scrutiny of regulatory proposals and providing opinions on the evidence for them. This ensures the evidence supporting proposals is clearly and consistently assessed on its quality, with a clear expectation that they should achieve a fit for purpose rating.

Acts as a unique knowledge centre. The role of the RPC has enabled the development of a unique knowledge base and expertise. The RPC is the central record keeper of cost estimates for all regulatory measures. RPC opinions can act as a conduit for outside audiences to access and understand technical information, which can be very valuable to them. The value and power of impact assessments as analytical tools are enhanced by RPC scrutiny.

Ensures an independent voice in debates on the regulatory system, and in relation to better regulation policy and processes. By providing independent challenge within the system – not on specific policies but on the system itself - the framework is set up in a way that enables all impacts and concerns are considered adequately and transparently in the decision making process.

The importance of evidence, transparency and accessibility of analysis

36. **High quality evidence and analysis is essential to the delivery of effective and well-designed policy proposals.** The RPC will encourage greater external recognition and understanding of the impact assessment process. We will seek to use our expertise and opinions as a gateway for others into the evidence base for proposals. The robust scrutiny process and knowledge that we use to develop opinions can provide additional information to those who may be affected by proposals. Improving the understanding of impact assessments, by providing independent discussions of them, will make the system more open, accessible and ultimately more accountable.

Enhancing networks and forging partnerships

37. **The RPC will continue to press for greater independent scrutiny of all regulatory measures at EU and international levels.** A number of like-minded organisations are operating across Europe and beyond. We can provide support and advice for those considering how to embed independent scrutiny within their regulatory systems. This will build on the networks and partnerships developed to date.
38. **We recognise there is also more to do in the UK, within government and with external stakeholders.** The RPC will develop stronger links with other organisations and teams across government, such as the Office for Tax Simplification, with the intention to promote further rigour across government and help steer the development of wider tools and approaches for appraisal, such as the Green Book²⁷ and Better Regulation Framework Manual.²⁸ We will also continue to build links with external stakeholders, and look to capitalise on existing networks, such as those run by the Better Regulation Delivery Office.

Better regulation in the future

39. **The coming year will include opportunities to shape the future of better regulation.** One-in, One-out and One-in, Two-out have helped bear down on the flow of regulation that affects business and civil society. This should not limit the scope for greater independent scrutiny. The principles of evidence-based policy making and independent scrutiny have merits that go beyond the costs and benefits for businesses and civil society organisations.
40. **There is merit in regularly evaluating the methodology and systems used.** It may be possible to simplify structures or processes, or to use different measurements to describe the impact of proposals. Such changes could make the system more straightforward and accessible, and ensure that a wider range of impacts on society are scrutinised effectively.
41. **We would like to see increased emphasis on review and evaluation of existing policies.** Regulations introduced early in the Parliament will be subject to review and decisions made about whether they should be continued. An indicator of a healthy system would be that this year sees an increase in the number of post-implementation review impact assessments submitted to the RPC. We would like to see the framework

²⁷ <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

²⁸ <https://www.gov.uk/government/publications/better-regulation-framework-manual>

ensure that departments undertake reviews, with meaningful incentives for departments to do so systematically, and not solely where the evidence is in their favour. The RPC has an important role to play in scrutinising the outcomes of such reviews.

Annex: RPC performance in 2013

Submission type		Number of submissions	Target turnaround (days)	Proportion late	Average turnaround time (days)
Full impact assessment	Consultation	58	30	9%	21.3
	Final	148	30	16%	18.3
Fast track	Triage assessment	185	10	42%	11.2
	Validation statement	116	30	9%	20.7

Members' biographies

Michael Gibbons OBE was appointed Chair when the RPC became a public body in 2012; prior to that he led the Committee for two years and served on the Better Regulation Commission from 2002. In 2007 he produced the 'Gibbons Review' examining employment dispute resolution regulations and received the OBE for services to regulatory reform in 2008.

Michael's current roles in business include:

- Chair, Elexon Ltd and BSC Panel
- Director, 2Co Power (Yorkshire) Ltd.
- Chair, Carbon Capture Storage Association
- Member, Advisory Board, OPT inc.

He is also a member of the High Level Group on Administrative Burdens, European Commission.

Alexander Ehmann is currently the Head of Government and Parliamentary Affairs at the Institute of Directors (IoD) and also Head of Regulation and Employment Policy. He previously worked in public affairs and external relations for PhonePayPlus, a UK telecommunications regulator.

Ian Peters was originally a member of the Government's Better Regulation Task Force. His current and previous roles include:

- Chief Executive of the Institute of Internal Auditors (current)
- Director of External Affairs at the Engineering Employers Federation from 2001 to 2009
- Deputy Director General of the British Chambers of Commerce
- head of the small and medium enterprise unit at the Confederation of British Industry

Ken Warwick is an independent economics consultant who has undertaken studies for the Organisation for Economic Co-operation and Development and the World Bank on industrial policy and innovation. He also lectures at the University of Warwick.

Until July 2011 Ken was a senior member of the Government Economic Service and the Director of Analysis in the Department for Business, Innovation and Skills. He served as Chief Economist and Acting Director General, Economics there during 2010. He has also worked as a senior economist in the Foreign and Commonwealth Office and the International Monetary Fund in Washington.

Jeremy Mayhew is:

- non-party Common Councilman on the City of London Corporation, where he is a Deputy Chairman of the Policy & Resources, Finance, and City Bridge Trust Committees;
- a non-executive adviser to MOPAC (the Mayor of London's Office for Policing & Crime);
- a senior Advisor to PwC Consulting;
- a Member of the Evaluation Committee of the ESRC (Economic & Social Research Council);
- a Trustee of the City Arts Trust and the British Friends of Harvard Business School; and
- a Member of the Council of the London Chamber of Commerce & Industry.

Jeremy's professional career has mainly been in the media and broadcasting industry, both at the BBC and as a consultant. His previous roles include:

- a Board Director of BBC Worldwide;
- Chairman of the Barbican Centre Board;
- Chairman of the City of London's Audit & Risk Management Committee;
- a non-executive Board Member of the Strategic Rail Authority; and
- a non-executive Board Member of the London Development Agency.

Martin Traynor has been the Group Chief Executive of the Leicestershire Chamber of Commerce since 2001. He has extensive experience in the hospitality industry, having worked in hotel management for 22 years.

David Parker is the UK government's official historian of privatisation and his previous roles include:

- Dean of the Faculty of Management, Cranfield University, 2007 to 2009
- Co-director of the Centre for Research in Economics and Finance
- member of the UK Competition Commission between 1999 and 2007

Sarah Veale is Head of the Equality and Employment Rights Department at the Trades Union Congress (TUC), where she has worked since 1985. She was a member of the TUC team which negotiated the agreement with the CBI and the Government that formed the basis of the Temporary Agency Work Directive; she is also responsible for the development of TUC policy on employment law. Sarah was awarded the CBE for services to diversity in 2006.

Sarah is currently a member of:

- the Board of the Health and Safety Executive

- the Board of the Equality and Human Rights Commission

Her previous memberships include:

- Better Regulation Commission
- Risk and Regulation Advisory Council
- ACAS Board

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