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Regulatory Policy Committee Annual Report 2011: Departments achieve year on year improvement but number of regulatory proposals deemed 'Not fit for purpose' remains unsatisfactory

The independent Regulatory Policy Committee (RPC), charged by government with assessing the quality of analysis and evidence supporting government departments' proposals to regulate, today publishes its Annual Report 2011 *'Improving Regulation'*. The report shows that 72% of just under 600 Impact Assessments (IAs) reviewed were judged to be 'Fit for Purpose', a significant improvement from the 56% recorded in 2010. However, this leaves more than a quarter of all proposals judged 'Not fit for Purpose.'

IAs, produced to support regulatory proposals, are scrutinised by the RPC to assess the quality of the case made and to validate the government's One-In, One-out system. An RPC Opinion is produced rating each IA as Red, Amber or Green (RAG). A Red rating declares the IA 'Not Fit for Purpose'. This draws Ministers' attention, in real time, to significant concerns with the quality of analysis and evidence provided to support the proposal, and informs their decisions. *'Improving Regulation'* presents departmental RAG performance and lists the IAs that have been reviewed alongside the rating assigned.

Chairman of the RPC Michael Gibbons said: *"Across Whitehall, Departments have worked hard to show a greater commitment to IAs and an improvement in their quality with considerable year on year improvement in response to the independent challenge presented by the RPC. This is a very significant step forward and provides evidence that the scrutiny we provide is beginning to make a real difference. This would not of course be possible without the highly visible and consistent commitment of Ministers to this cause.*

"But a quarter of IAs still fail to pass the RPC test and this is worryingly high. Departments need to raise their game still further and we should all expect and work towards 80%, ideally more, 'Fit for Purpose' RPC Opinions by the end of 2012. Secondly, we are looking for a step change in the number of best practice 'Green' ratings, with only a third achieving this standard in 2011. Thirdly, renewed effort from those Departments whose performance does not reflect the overall picture. We are also looking for greater consideration of alternatives to regulation at consultation stage and more robust cross-Whitehall evidence gathering.

"2011 has seen a significant rise in the quality of evidence and analysis supporting regulatory proposals, essential to ensuring that the policymaking process delivers effective outcomes. But there is room for more improvement and we will look for this in 2012 and beyond."

The RPC also provides an independent review of the costs and benefits of measures covered by the Government's One-in, One-out rule, whereby departments must offset any new regulatory cost on business with cuts to the cost of existing regulation.

Mr Gibbons continued: *"The Government's One-in, One-out rule has undoubtedly put pressure on Departments to strip away regulation. This challenge makes Departments*

review regulatory design and bring forward 'Outs' for the RPC to validate. The two most common problems we find are 1) inaccurate forecasting of the cost and benefits to business and 2) incorrect classification of what is an 'In' or an 'Out' and we will be looking for improvements in these areas this year."

For further information please see <http://regulatorypolicycommittee.independent.gov.uk> or contact Sue Youngman, Compass Rose & Co on 07768 283 162.

1. The RPC was set up in 2009 to provide independent scrutiny of the evidence supporting proposed regulatory measures put forward by Government. In 2011 it moved to commenting, for the first time in the UK, on evidence in real time, before it was seen by ministers. It becomes an Advisory Non-Departmental Public Body in April 2012.
2. The RPC does not comment on the Government's policy objectives. It comments on the analysis and evidence supporting new regulations.
3. The RPC is a group of independent experts, including businessmen, academics, trade union and consumer representatives. The Committee is supported by a secretariat of officials with a mixture of analytical, policymaking and economic expertise. Further information on the Committee can be found on the RPC website.
4. Departments submit IAs accompanying regulatory proposals to the RPC, and an RPC Opinion must be given before Ministers on the Reducing Regulation Committee, the Cabinet sub-Committee set up to vet all new regulatory proposals, will consider the proposal. Under the RPC's traffic light system, if it is 'Fit for Purpose,' it is classified as either 'Amber' or 'Green'. 'Amber' is used to denote an IA with areas of concern that should be corrected but which is still 'Fit for Purpose'. If an IA is classified 'Red' it is 'Not Fit for Purpose' – the RPC has major concerns over the quality of evidence and analysis.
5. The RPC's Opinions inform the decisions that are taken by Ministers as to whether they proceed or not with the proposal. If the Government proceeds with a proposal despite the RPC assigning a 'Red flag' the Opinion is published on the RPC website.
6. Each IA is tested against well-established standards for Government appraisal set out in the Better Regulation Executive's toolkit^[1] and guidance for impact assessments along with HM Treasury's Green Book^[2].

The RPC has previously published its seven recommendations for how to improve the quality of IAs:

- Don't presume regulation is the answer
- Take time & effort to consider all options
- Make sure you have substantive evidence
- Produce reliable estimates of the costs and benefits
- Assess non-monetary impacts thoroughly
- Explain and present results clearly
- Understand the real cost to business of regulation

1. The RPC has also been asked by ministers to provide a quality check of the figures for the government's 'One in, one out' policy. Under this policy each new regulation which imposes a cost to business must be balanced by the removal of existing regulation with at least as great a cost.
2. The RPC has been tasked with ensuring that the claimed costs and benefits of regulatory proposals are more than just 'claims', and that the costs and benefits to business have been identified and are a realistic and credible estimate of their potential impacts.

¹. <http://www.bis.gov.uk/assets/biscore/better-regulation/docs/i/10-1269-impact-assessment-guidance.pdf>

² http://www.hm-treasury.gov.uk/d/green_book_complete.pdf