 Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	Prohibiting employment agencies and employment businesses from recruiting exclusively in other EEA countries: consultation	
Lead Department/Agency	Department for Business, Innovation and Skills	
Stage	Consultation	
IA Number	BIS 0401	
Origin	Domestic	
Expected date of implementation		
Date submitted to RPC	31 July 2014	
RPC Opinion date and reference	6 August 2014	RPC14-BIS-2180
Overall Assessment	RED	
<p>RPC comments</p> <p>The IA is not fit for purpose. The Department must strengthen the IA in a number of areas, so that there is a robust evidence base to support the consultation. This includes: (i) setting out a clearer rationale for intervention; (ii) assessing a wider range of policy options for prohibiting overseas-only recruitment, including alternatives to legislation; and (iii) providing a fuller description of the impacts of the regulation on employment agencies, including on small and micro businesses.</p> <p>The Committee notes that the Department published the IA before the RPC had a chance to consider it, contrary to the better regulation framework put in place by this Government.</p>		
<p>Background</p> <p>What is the problem under consideration? Why is government intervention necessary?</p> <p><i>“The recruitment sector is regulated by the Employment Agencies Act 1973 and the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (both as amended). The current recruitment sector legislation does not regulate where job vacancies are advertised. This means that some employment agencies and employment businesses may be advertising vacancies in other EEA countries without giving workers in Britain the opportunity to apply.”</i></p> <p>What are the policy objectives and the intended effects?</p> <p><i>“The Government wants to create a level playing field for workers by requiring employment agencies and employment businesses to ensure that all job vacancies are advertised in Great Britain and in English.”</i></p> <p><i>“[The Government] believe this will expand the range of job opportunities open to</i></p>		

people in Great Britain and will also expand the range of people that businesses can choose from.”

Identification of costs and benefits, and the impacts on business, civil society organisations, the public sector and individuals, and reflection of these in the choice of options

The proposal aims to prohibit employment agencies from advertising exclusively overseas.

The policy rationale is that this will ensure a level playing field for UK-based workers.

However, the IA suggests that overseas-only recruitment is *“already potentially a breach of section 39 of the Equality Act 2010”* and that there is *“little evidence that many employment businesses or agencies only advertise overseas in the EU for jobs in Great Britain.”*

The Department must strengthen the rationale for intervention significantly. In particular, the Department must present further evidence that there is a problem, and provide an assessment of the need for new regulation given the possibility of greater enforcement of the powers in the Equality Act.

The Department should also seek to strengthen its estimates of the costs to business from the proposal, in particular the costs to employment agencies of creating UK advertisements. The IA would also benefit from further clarification on how the measure is likely to be enforced, and whether or not there will be any associated costs to employment agencies of demonstrating compliance, such as record-keeping.

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

The IA provides a SaMBA (page 19). This states that the Department has *“very little evidence that recruitment firms are exclusively advertising overseas jobs that are located in Great Britain.”*

“Therefore this policy is unlikely to have a negative impact on small and micro businesses. We also expect, prior to any information provided at the consultation stage, that the costs to affected businesses would be low.”

The Department must gather further evidence at consultation about the potential impacts on business to ensure that the SaMBA is fit for purpose. In particular, the consultation must seek evidence on the potential costs to small and micro businesses of prohibiting overseas-only recruitment, and whether or not any measures to mitigate these impacts for small and micro businesses are appropriate.

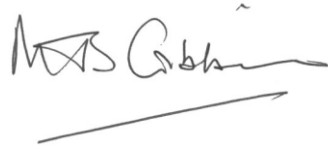
Comments on the robustness of the OITO assessment.

The Department says that this is a regulatory proposal that is in scope of OITO and will have a direct cost to business (an ‘IN’). Although there are likely to be costs to business associated with prohibiting overseas-only recruitment, the IA states that this

will only affect a small number of organisations.

Based on the evidence presented, the Department's assessment of the likely direction of impacts appears reasonable. However, the Department will have to strengthen the evidence supporting the OITO assessment and estimated equivalent annual net cost to business, so that the RPC can validate the estimate at final stage. In particular, the Department should seek to verify the number of employment agencies likely to be affected by the proposal, so that the costs to these businesses can be monetised.

Signed

A handwritten signature in black ink, appearing to read "Michael Gibbons", with a long horizontal line underneath it.

Michael Gibbons, Chairman