

Regulatory Policy Committee - meeting minutes

Monday 8 June 2015
1 Victoria Street, London

Present: Michael Gibbons (Chairman), Jonathan Cave, Alexander Ehmann, Jeremy Mayhew, Martin Traynor, Sarah Veale, Ken Warwick; secretariat.

Apologies: Nicole Kar.

Also attending: Stephen Hodgson (items 1-4, Better Regulation Executive (BRE)), Liz Cooper (BRE), and Hiroko Plant (items 4 – 6, BIS analysis)

1. Minutes of the previous meeting, updates and matters arising

The minutes of the previous meeting were agreed, subject to minor drafting changes.

Alex confirmed notification of an amendment to the register of interests relating to his areas of responsibility as a councillor.

Update note – members requested more detail be provided in future on how the figures on performance are skewed by individual cases.

2. Chairman feedback on meeting with Anna Soubry

The Chairman explained it was positive and useful having such an early meeting with the new minister. The Chairman was able to talk through the RPC role and long-term aspirations– including the desire to be seen as something well beyond the ‘numbers only’ approach.

It would be beneficial for the government to set out why any exemptions are out of scope – as explained in our analytical paper for papers on the better regulation framework.

3. Update on Framework decisions

Stephen provided an update on the discussions so far, highlighting that a number of decisions were yet to be made by ministers.

Alex highlighted that aspects of tax being excluded from the BIT on the face of the legislation, does not mean that the government could not commit to the monitoring/scrutiny/reporting of those elements. There is a feeling amongst stakeholders that the existing tax admin process is not as robust as the regulatory scrutiny process.

4. Business Plan 2015/16 and Corporate Plan 2015/20

The secretariat introduced the paper on the business plan and related

documents (including the terms of reference). The paper proposed that an interim 6 month business plan, based on the previous year's, is put in place while decisions on the framework are made.

There was no appetite for significant new work on a short-term plan – however, a short document, with some amendments, could usefully be placed on the website. However, there would need to be something reflected about preparing for the potential regulator role, and reflecting the emphasis of the triennial review if confirmed as the independent validation body.

The secretariat went on to discuss the proposed vision for the RPC 2015 – 2020. Members wanted 'what actually happened', and effects on the wider economy, to be reflected –including reflecting PIRs in the objectives and activities. Members also flagged that:

- the language will need to reflect what things the RPC will actually look at – i.e. regulators; should specifically mention something on the numbers (while emphasising it is not the sole focus of the RPC role);
- it should explain what 'cases' are and refer to evaluation;
- remove reference to 'forthcoming enterprise bill';
- include some reference to potential repeals (and not just legislation).

Stephen questioned whether the two objectives set out in the corporate vision (advising ministers and ensuring government's claims were seen as credible) may, on occasion, result in potential conflict – and suggested that it may be helpful to clarify which has primacy. In response, members felt that the Committee's primary role related to ensuring the continued credibility of the system. The RPC's visible independence from government and hence having its own public voice was key to achieving this.

In considering any review of the Terms of Reference the secretariat should consider other bodies – such as for the Competition and Markets Authority, Office for Budgetary Responsibility, National Audit Office and others.

The Chairman highlighted that stakeholders – business and civil society – would find it very difficult to support a body that is not seen to be independent.

Stephen stated that there was no intention to fetter the independence of the RPC.

The secretariat will provide a note on the budgets for 14/15 and a forecast for 15/16. Members wanted to explore further the balance between workload and budget.

Members felt the current ToR did need some amendment, to include:

- PIRs;
- the reference to within scope needs to be expanded;
- take out challenger business references; and
- to say more about communicating effectively (and go beyond transparency).

The reference to culture change should be amended to emphasise the aim of improving the use of evidence, and that culture change should follow from actual activity. The language could be improved overall, and there are also references to a lack of statutory powers that would need to be amended. Members noted that the framework document also needs revising.

5. Europe update

The secretariat tabled a set of slides providing an overview of the key elements of the European Commission's better regulation package. There are a number of RegWatchEurope 'asks' that feature in the package. The package represents a good start in the right directions. There are a number of noticeable improvements. However, pressure needs to be maintained through RegWatchEurope to push for ongoing improvements to EU better regulation. Members questioned whether the composition of the Commission's Regulatory Scrutiny Board independent members/staffing was sufficient both in terms of size and independence. It was also asked whether there is a commitment to making IAs more comparable between areas and proposals.

Martin provided feedback on his presentation at the Eurochambres event. He highlighted that, since his previous appearance two years ago, there had been a significant step-change in the Commission's approach to better regulation in a positive way.

One issue flagged was that the process and better regulation proposals are still focused on the flow, rather than the stock.

The secretariat highlighted that elements of the reforms such as the number of independent members on the RSB shows the success of the RPC's influence. Members attention was also drawn to the range of NGOs that have established 'better regulation watch'.

6. Methodology

The secretariat introduced the methodology paper. The issues covered included:

- Identification of the correct counterfactual where it is not clear what the likely future will be. In general the activity as 'normal', as opposed to the extreme scenario, such as ceasing of activity, should be the counterfactual. Members felt that forecasting potential scenarios has a place within IAs but this does not mean the extremes should be used as a counterfactual.
- Gross vs. net profit – members recognised that there would be benefit from the RPC providing further guidance on the underlying logic for gross profits being the default treatment, and the types of case where the arguments may be different. This should be included in the case histories

and be an example of the kind of steer/standard the RPC should be providing to departments for where the different treatment might be right.

The conclusions of the methodology meeting will be circulated to all members.

The secretariat proposed amending the methodology process, so that the sub-group can agree summary outputs that will be circulated, on the 'easier' issues. Where the sub-group feel that there would be benefit of bringing the discussions to the main meeting this will still happen.

7. AOB

Papers for monthly meetings to be collated into a single pdf to help members with printing.