BETTER REGULATION FRAMEWORK MANUAL

Practical Guidance for UK Government Officials

MARCH 2015

Contents

Acronyms

BRDO:	Better Regulation Delivery Office
BRE:	Better Regulation Executive
BRU:	Better Regulation Unit
CCD:	Common Commencement Date
EDS:	Economic and Domestic Secretariat
EANCB:	Equivalent annual net cost to business
EU:	European Union
IA:	Impact Assessment
NPV:	Net present value
OIOO:	One-in, One-out
OITO:	One-in, Two-out
PV:	Present value
RPC:	Regulatory Policy Committee
RRC:	Reducing Regulation sub-Committee
SMBA:	Small and micro business assessment
SNR:	Statement of New Regulation
ZNC:	Zero net cost

Introduction

"We need to tackle regulation with vigour to free businesses to compete and create jobs, and give people greater freedom and personal responsibility ….I want us to be the first Government in modern history to leave office having reduced the overall burden of regulation, rather than increasing it."

Prime Minister's letter to all Cabinet Ministers, 6 April 2011

Purpose of this manual

I. This manual is intended for policy-makers, as well as economists, social researchers, lawyers and those specialising in better regulation. If you are developing or implementing policies that will regulate or deregulate business or civil society organisations (henceforth referred to as 'business'), this manual contains all the guidance you will need to comply with the regulatory framework.

II. The requirements set out within this manual together make up a framework that puts into practice the Government's Principles of Regulation.

The Government's Principles of Regulation

The Government will regulate to achieve its policy objectives only:

(i) having demonstrated that satisfactory outcomes cannot be achieved by alternative, self-regulatory, or non-regulatory approaches

(ii) where analysis of the costs and benefits demonstrates that the regulatory approach is superior by a clear margin to alternative, self-regulatory or non-regulatory approaches

(iii) where the regulation and the enforcement framework can be implemented in a fashion which is demonstrably proportionate; accountable; consistent; transparent and targeted.

There will be a general presumption that regulation should not impose costs and obligations on business, social enterprises, individuals and community groups unless a robust and compelling case has been made.

The Government will adopt a One-in, One-out approach [now a One-in, Two-out approach]

III. Part 1 introduces and provides practical guidance on each of the better regulation requirements. Part 2 is the Impact Assessment Toolkit, providing more detailed guidance for those undertaking impact assessments.

IV. There is a Glossary at the end of the document with definitions for key terms. It's important to refer to this: many key terms such as "regulation", "business" and "deregulatory" have specific meanings that you'll need to understand.

V. This document focuses on the explicit requirements of the better regulation framework, and aims to set these out in a clear way. However, it is also important to consider the principles and objectives of better regulation, and reflect these in the approach you take for an individual policy.

VI. If you have questions about any of the issues in the manual, the first source of advice is your Departmental Better Regulation Unit (BRU). They also have access to more detailed Q+A on some of the topics.

VII. Any updates to this guidance will be issued periodically to BRUs. These will be regularly consolidated into the manual, at least once every twelve months.

Using this manual

VIII. The requirements set out in this manual cover different stages of the policy process: planning, policy design, clearance, and review.

IX. At the earliest possible stage of planning policy delivery, you need to know whether you are going to use the fast track.

X. Fast track measures must reflect the Government's principles of regulation, including having a clear justification of the need for the measure and an understanding of its likely impacts. But there is less prescription in terms of specific better regulation requirements, and the policy design process should be faster and simpler. There is more discretion for Departments over what level of appraisal must be carried out, and you do not need a "fit for purpose" opinion from the Regulatory Policy Committee (RPC) before seeking clearance from the Reducing Regulation sub-Committee (RRC) – although RPC does validate the cost to business of any measure that is in scope of One-in, Two-out. Red Tape Challenge measures will usually automatically qualify for the fast track.

XI. Measures that don't qualify for fast track are normally larger regulatory measures. A greater number of better regulation framework requirements apply to these measures, including gathering evidence for an impact assessment, and considering the treatment of small and micro businesses. You'll need to invest time and effort in this: if you don't get the basic policy design right, or if you leave it too late, it is likely that you'll run into trouble when seeking clearance.

XII. Clearance of regulatory measures is also more challenging. Your impact assessment needs a fit-for-purpose opinion from the RPC before you can seek RRC clearance. You will need to understand how your measure is treated under One-in, Two-Out and fully offset any new burden on business. Significant regulatory measures are also subject to mandatory review, which you will need to plan for and deliver within the relevant statutory deadlines.

Which of the requirements apply to me?

XIII. The better regulation framework applies to measures that regulate or deregulate business or concern the regulation of business. If your measure is not regulatory or deregulatory, or if it only regulates or deregulates the public sector or individual citizens, the framework does not apply. However, impact assessments and other elements of the framework may also apply for other reasons: check with your BRU and consult the Green Book for further guidance.

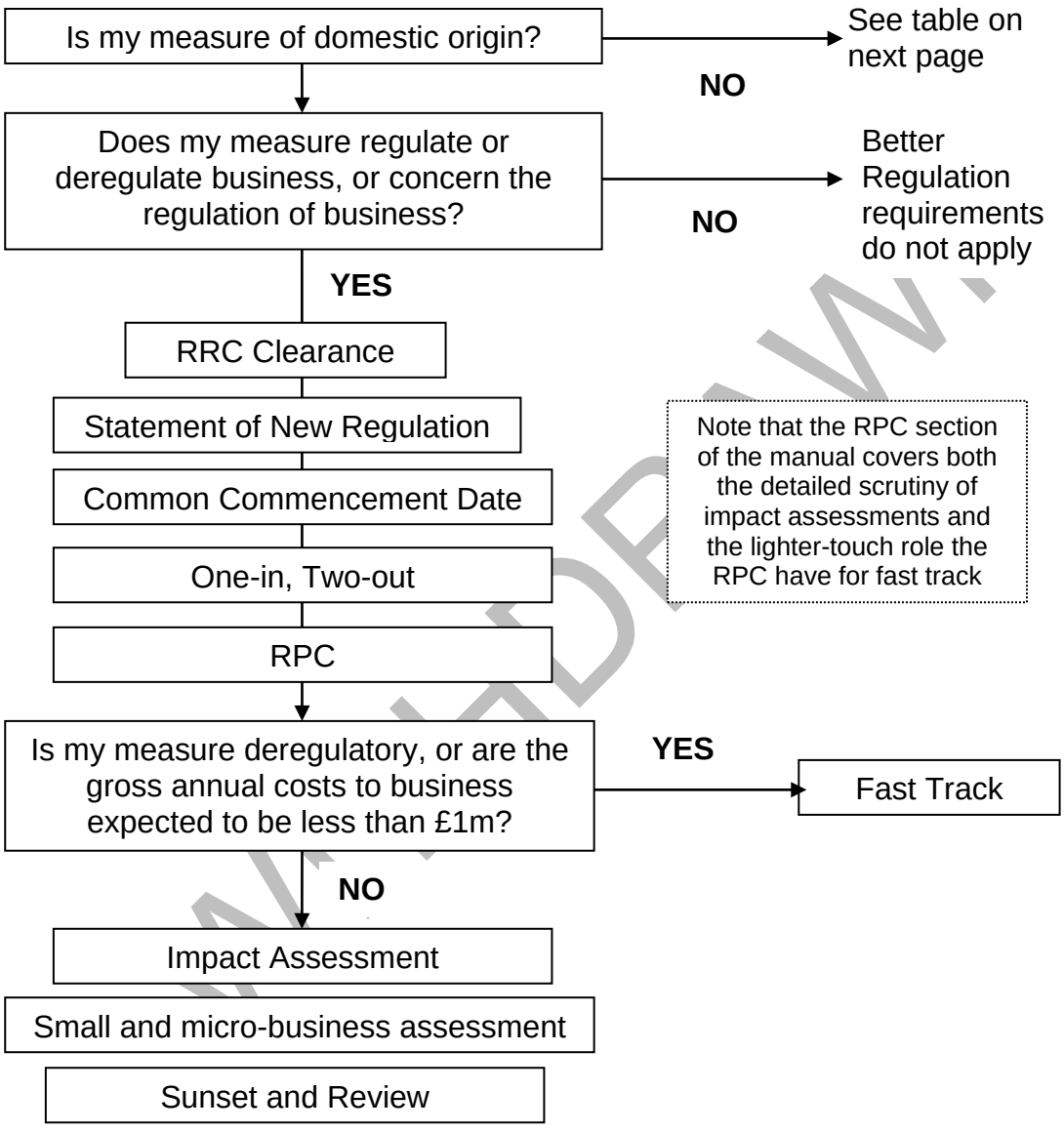
XIV. All measures that regulate or deregulate business need clearance from RRC, and they should generally be published in the Statement of New Regulation.

XV. However, the application of the other better regulation framework requirements vary according to two main parameters. These are:

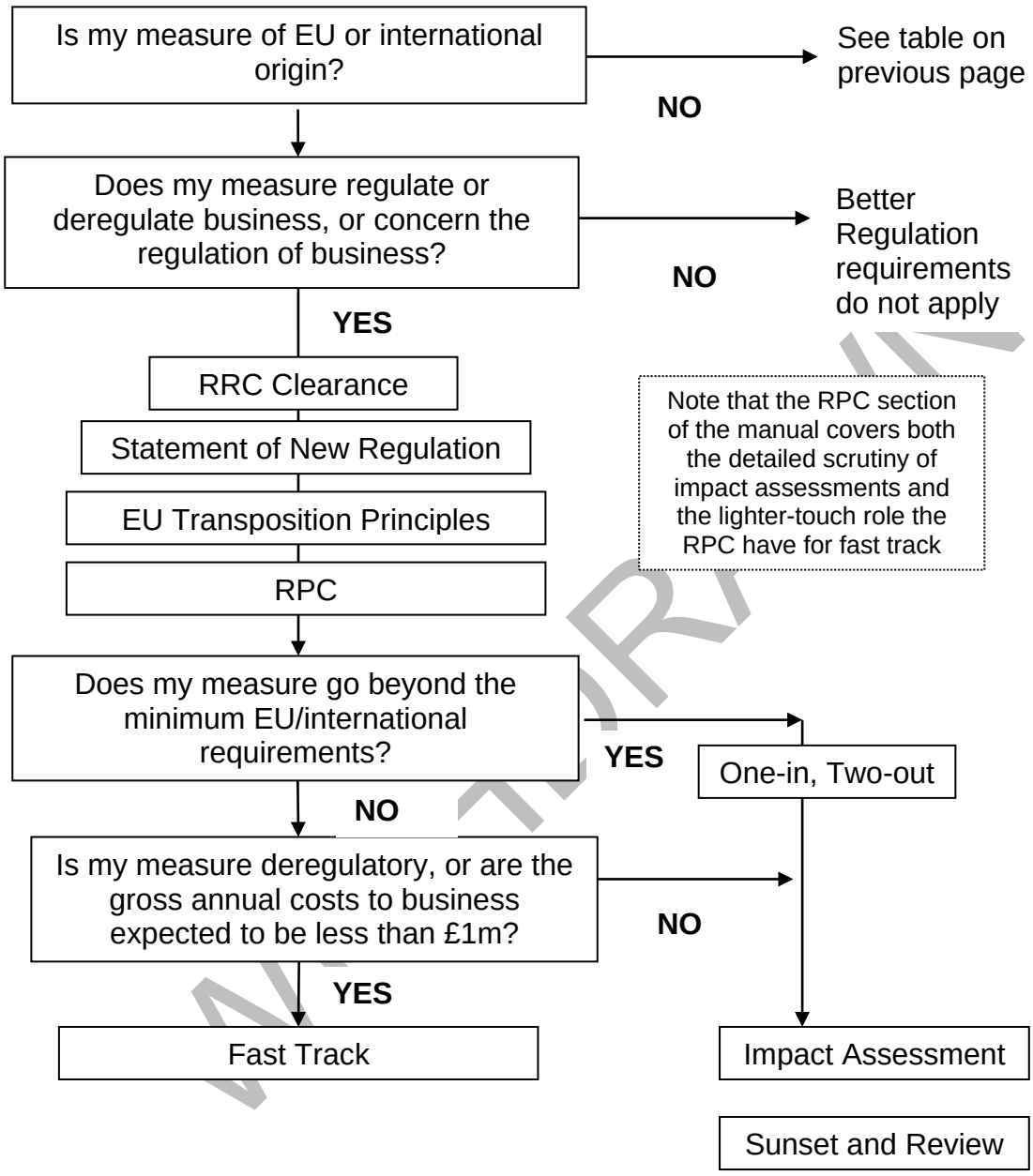
- whether your measure has significant cost to business.
- whether your measure is domestic or implementing international obligations (in particular, EU-derived measures).

XVI. The flowcharts below sets out requirements for different kinds of measure, and which sections of the manual you will need to consider for your measure. Note that there is a specific set of requirements for Red Tape Challenge measures, set out in the Red Tape Challenge section of this manual

Flowchart A: Framework requirements for domestic measures



Flowchart B: Framework requirements for EU measures



1. Guidance

1.1 Reducing Regulation Sub-committee

Measures that regulate or deregulate business or civil society organisations must be cleared by Reducing Regulation sub-Committee, alongside any policy clearance.

1.1.1. The Reducing Regulation Cabinet sub-committee (RRC) has oversight of Government policy on regulation, including the Principles of Regulation. Scrutiny and clearance from the Reducing Regulation sub-Committee (RRC) is the central means by which better regulation concerns are reflected in the collective agreement process.

1.1.2. RRC also clear the contents of the Statement of New Regulation. This is a separate process covered in the next section.

Scope

1.1.3. If your measure requires collective agreement, and if it regulates or deregulates business (or concerns the regulation of business), then you must seek clearance from the RRC as well as any relevant policy committee (e.g. Economic Affairs, Home Affairs or European Affairs) where applicable.

1.1.4. Measures in scope can take different legal forms, including:

- statutory instruments;
- codes of practice and self-regulation which are backed by statutory force;
- guidance issued under statutory powers;
- by-laws made by central government; and
- primary legislation.

1.1.5. Some sources of regulation are not subject to RRC clearance even though they might regulate or de-regulate business. These include specific enforcement actions and other compliance-related activity, and court or tribunal cases (where conclusion of a case has resulted in a change in the interpretation of a regulation).

1.1.6. RRC clearance is not required for measures that regulate (or deregulate) only the public sector or the individual citizen. In addition, there are a variety of other measures that affect business but are outside the scope of what counts as regulation, and therefore are not subject to RRC clearance. These include:

- tax - central and local;
- tax administration;
- environmental tax - environmental measures which have been classified by the Office for National Statistics as environmental tax and not regulation;

- spending decisions – except where the spending decision contains significant regulatory aspects, which do require RRC clearance;
- contractual obligations associated with procurement decisions.

1.1.7. New regulatory proposals from national regulators that are not statutory in nature should be accounted for according to the separate Accountability for Regulator Impact policy.

1.1.8. If a measure is considered 'trivial or mechanical', for example where errors in a previous measure are being corrected, in line with the original policy intent, it may not require collective agreement. The Economic and Domestic Secretariat (EDS) can advise on such cases.

1.1.9. Measures that qualify for the fast track also require RRC clearance: however, they may be eligible for a streamlined clearance process that removes the need for final stage clearance under certain conditions. Further details can be found in the fast track guidance.

What do I have to do?

1.1.10. RRC clearance is conducted through Ministerial correspondence. Allow at least six clear working days (nine working days in recess) for other Ministers to comment or respond, plus 3 days for the clearance letter, or 4 during recess.

1.1.11. Letters seeking clearance should set out how relevant better regulation principles and requirements have been applied to the policy, and must provide in addition to any documents relevant for policy clearance:

(i) documentation of any impact assessment and Regulatory Policy Committee (RPC) opinions; **or**

(ii) RPC confirmation that the measure qualifies for the fast track also attaching the regulatory triage assessment; **or**

(iii) confirmation that this is a Red Tape Challenge measure (and therefore automatically qualifies for the fast track).

1.1.12. Where a waiver from any better regulation requirement is being sought, the justification must be clearly set out in the letter.

1.1.13. RRC will not usually give final stage clearance unless a measure has been cleared for inclusion in the relevant Statement of New Regulation.

Advice for drafting clearance letters

1.1.14. Remember that RRC Ministers may not be familiar with your policy. You should therefore draft your clearance letter at a level that gives the reader enough information that explains what the wider policy context, the problem and what you are intending to do about it. The beginning of the letter should clearly explain what it is you are seeking clearance for, such as to consult, to publish a Government Response or to lay legislation.

1.1.15. The Cabinet Office has issued guidance on the clearance process which you must take into account when seeking RRC's clearance for your measure: speak to your Better Regulation Unit (BRU) or the Economic and Domestic Secretariat (EDS) for a copy. There are a number of other specific points for you to consider when drafting your letters that will help facilitate clearance. These are:

- **Give a full picture** – Many measures are changes to only a part of a regime, or a stage in a complex process of changes. It will help Ministers if clearance requests give a clear explanation of how specific changes fit in with the bigger picture. For example if the individual clearance is only the second of a tranche of four regulatory measures to bring into effect a larger programme. But remember to be concise, clearance letters should ideally be no more than two sides.
- **Timing and delivery** – The Government has put greater focus on implementation and delivery for the second half of the Parliament, particularly for deregulatory and Red Tape Challenge measures. You will need to assure Ministers that you are using all means to bring measures into effect as quickly as possible. Ministers will challenge you where they feel this is not being demonstrated. Your letter should also detail the legislative vehicle being used for implementation, time length for consultations and why, and the expected coming into force date. If there is a risk of delay this should be clearly explained.
- **Is it really deregulatory?** – Ministers will look very closely at clearance letters described as deregulatory and will challenge Departments if they have doubts. They will want to see evidence of removal of regulatory procedures, statutory obligations or lighter touch inspection regimes for example. Where measures claim simplification through bringing together disparate laws into a single, clearer rule, any claimed deregulatory effect should be clearly explained in the clearance letter.
- **Fees and Charges** – Ministers will look very closely at letters that seek clearance to either raise or introduce new statutory fees and charges. Whilst Ministers are not questioning the policy for charges to be set at levels to recover costs, they do want to see evidence that the charging authority is doing all it can to control its own costs and to operate more efficiently. You should also demonstrate evidence of engagement with the regulated sector to improve the working of the regulatory regime, including proposals to reduce the regulatory footprint of the charging authority.
- **Regulation at the local or national level?** – Where a measure is removed at the national level in order to be dealt with at the local level, Ministers will want to be assured that regulatory regimes will not simply be replaced by the introduction of blanket regulation by local authorities. You should therefore explain how local enforcement or regulation will work in practice. If the enforcement of the regulation will be undertaken by local authorities, consideration should be given as to whether the measure should be brought into scope of Primary Authority. Please refer to the Better Regulation Delivery Office's Primary Authority handbook for more details.

- **Primary Legislation conferring Enabling Powers** – Ministers will consider carefully new enabling powers, particularly those that confer powers to introduce new regulatory regimes (including the setting up of new regulatory bodies). Whilst actual costs and burdens on business usually arise from the resulting secondary legislation, Ministers will want to be assured that there is a clear justification for the proposed intervention, and the supporting evidence regarding likely overall impacts of the proposed measure (including both primary and secondary legislation) is set out in the Impact Assessment at the primary legislation stage. This includes how the regulations will be enforced and by whom, and some identification of the scale of costs and on which businesses they fall and how. As well as facilitating clearance, this information will also help Departmental Ministers in justifying and defending the taking of enabling powers in Parliament.
- **Guiding Principles for EU Legislation** – Ministers want to be assured that each of the Government's general principles for transposition have been applied which you should cover in the clearance letter. Not doing so will delay your clearance request. Ministers are particularly keen to ensure that there is no gold-plating, and that any costs to business are kept to a minimum – where this is not the case your letter must explain and justify the case. Clearance letters should also explain any reason where transposition deadlines are not met, particularly where there is a risk of infraction.

1.2 Statement of New Regulation

The Statement of New Regulation informs business of regulatory changes and tracks the Government's performance against its deregulatory targets. Each Statement contains all measures that are agreed for inclusion by the RRC within each SNR period, with any costs requiring validation by the Regulatory Policy Committee before they can be published. Individual Departments are responsible for the accurate and complete reporting of the measures for inclusion in each SNR.

1.2.1. The Statement of New Regulation (SNR) is published every July and December. It informs business of changes to regulation with which they have to comply in the subsequent six-month period (July-December and January-June respectively).

1.2.2. The SNR also reports on whether the Government is hitting its deregulatory targets and how Departments are performing against One-In, Two-Out (OITO).

1.2.3. Contributions to the SNR are managed by Better Regulation Units (BRUs) within Departments. If you follow the rest of the framework set out in this manual, it should minimise any additional work for the SNR itself.

Scope

1.2.4. The SNR contains the following:

- all measures that are in scope of OITO;
- all Red Tape Challenge measures that are being scrapped or improved;
- all EU-derived measures which regulate or deregulate business;
- a summary of changes made by national regulators that have been assessed under the Accountability for Regulator Impact policy

What do I have to do?

1.2.5. Information for SNR is provided on a Departmental basis. This is managed by your Department's BRU who will able to advise you on the data you need to provide, and timings. You will also need to provide supporting documentation - Regulatory Policy Committee (RPC) opinions, impact assessment and the final policy clearance letter from the lead committee.

1.2.6. Your BRU will co-ordinate the Departmental submission of measures to be included in SNR. This is then formally cleared by the Reducing Regulation sub-Committee (RRC).

SNR timings

1.2.7. SNR is published on a rolling six-monthly timetable – at the beginning of July and mid-December. This enables Departments to comply with the Government's commitment to publish guidance 12 weeks before measures with an impact on business come into effect on the common commencement date (CCD).

1.2.8. Each SNR covers measures within scope of OITO that are expected to come into force in the six month operating period immediately after publication. This will either be 1 January to 30 June or 1 July to 31 December.

1.2.9. Each SNR reports on the cumulative position since One-in, One-out (OIOO) commenced on 1 January 2011, and OITO commenced on the 1 January 2013.

1.2.10. To provide greater transparency, SNR also includes the following measures that are outside the OITO policy:

- a list of EU-derived measures expected to come into force during the SNR's operating period. These EU-derived measures are only included in Departments' OITO totals if they are in scope of OITO (i.e. if they go beyond the minimum EU requirements, or remove existing gold-plating).
- a list of Red Tape Challenge (RTC) measures that are due to be scrapped or improved during the Statement's operating period. If an RTC measure introduces a saving to business, this can be counted toward a Department's OITO balance, once it has been validated by the RPC.

RRC clearance of Departmental contributions to the SNR

1.2.11. The contents of the published Statement for each Department are subject to Reducing Regulation sub-Committee (RRC) clearance. This is in addition to the RRC clearance of individual measures.

1.2.12. In order for measures to be included within the SNR, the Better Regulation Minister within each Department must write to the RRC listing all the measures the Department intends to introduce during the SNR's operating period.

1.2.13. The RRC will focus on the cross-Whitehall picture to ensure that the Government's goal for reducing the burden of regulation is being met. The RRC can only perform this function if it has complete information on time submitted by Departments.

Preparing Departmental contributions to the SNR

1.2.14. Measures that Departments wish to include within the SNR are also subject to the usual scrutiny process and collective agreement. This means final stage policy clearance from the relevant cabinet committee (usually Economic Affairs or Home Affairs) is needed before measures can be included, unless explicit agreement has been given that measures can be included without this.

1.2.15. Departments must ensure that all regulatory measures are ready for introduction by the time of publication of the SNR. As part of this, impact assessments must receive fit-for-purpose final stage opinions from the RPC, and comply with other better regulation requirements set by the RRC. Measures must also have received final stage policy clearance from the RRC and other applicable cabinet committees.

1.2.16. The requirements for fast track measures being included in SNR are less demanding, depending on the precise type of measure, as outlined below.

- Red Tape Challenge measures do not require RPC confirmation for SNR (as they do not require it to access the fast track), and can be put forward for SNR without final stage policy clearance or EANCB validation.
- Other deregulatory fast track measures need RPC confirmation but can be included in SNR without final stage policy clearance or EANCB validation.
- Low-cost regulatory fast track measures need RPC confirmation and final stage policy clearance but can be included in SNR without EANCB validation

1.2.17. Please note that you should always seek to have final policy clearance and EANCB validation if possible, and if your Department is likely to be going into deficit during the current SNR period it becomes especially important to get deregulatory measures validated in time for publication of the SNR. This avoids the risk of unnecessary reputational damage to your Department.

1.2.18. Departments should be working to achieve their OIOO and OITO targets. Any Departments in deficit on either of these policies when the SNR is published will be expected to report to the RRC its plans to achieve these targets.

1.2.19. Whilst the SNR focuses on measures coming into force in the relevant six month operating period, Departments should ensure they have a good view of measures scheduled for introduction as far in advance as possible. This is an essential element of the prioritisation process to manage OITO over the remainder of this Parliament.

1.2.20. Measures in scope of OITO that don't have EANCB figures validated by the RPC at the time of publication will need to obtain this validation and update figures provided in the next SNR at the end of the reporting period. These measures will need to be prioritised; otherwise they run the risk of clashing with the final cut off point for the next SNR period.

1.2.21. BRE leads the development and the publication of the SNR. The Minister for Business and Enterprise will review Departmental readiness and update RRC at appropriate points. Officials in the BRE agree with Departments a framework for providing the necessary information for these updates.

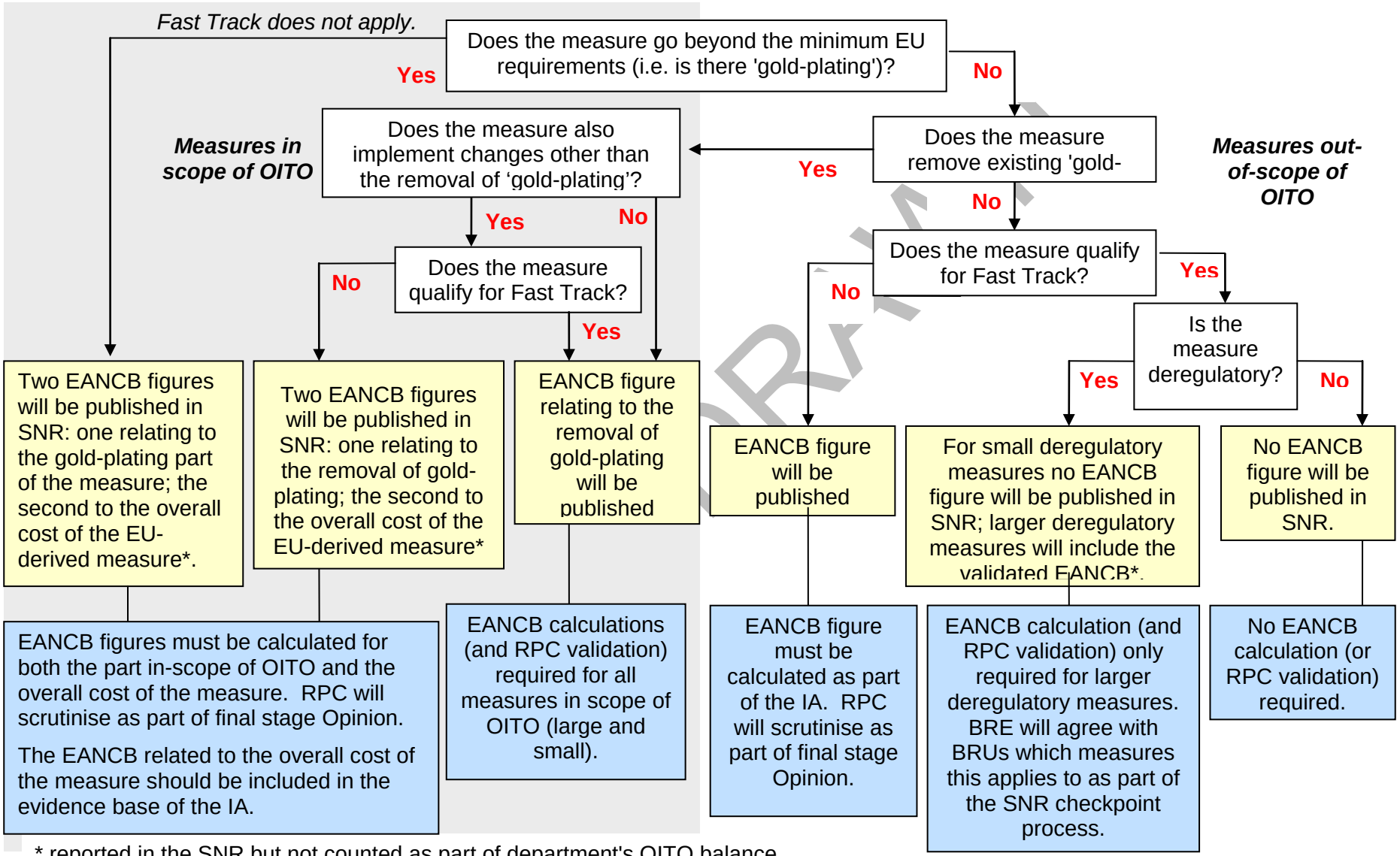
Top tips

1.2.22. In general, RRC will only give clearance for inclusion in the SNR if measures have final policy clearance and have fulfilled all better regulation requirements, or else are deregulatory and qualify for the fast track. If a measure has not completed due process, a case will need to be made at the RRC for its inclusion in the statement as an exception.

1.2.23. Engage with your BRU. They will guide you through the clearance process for the SNR and associated timeframes.

1.2.24. Make sure you keep your BRU up to date on the development of measures that are being put forward for SNR, particularly if the assessment of the EANCB of your measure changes. You should also ensure that you have a record of how the policy and analysis have developed.

Flowchart C: SNR treatment of UK measures that implement EU obligations



* reported in the SNR but not counted as part of department's OITO balance

1.3 Fast Track

Deregulatory measures and regulatory measures that have a very low cost to business may be eligible for the fast track, which provides light-touch scrutiny, greater Departmental discretion over appraisal, and exemption from some other requirements.

1.3.1. The fast track system is intended to :-

- speed up the implementation of deregulatory measures, including those that have been agreed through the Red Tape Challenge process; and
- strengthen proportionality and reduce the burdens on Departments by focusing appraisal and scrutiny on regulatory measures with the most significant impacts.

1.3.2. If your measure is on the fast track you have greater discretion over what level of appraisal should be carried out, have a lighter-touch process of RPC scrutiny and are exempt from certain requirements of the better regulation framework, including the small and micro business assessment and post-implementation review. However, Green Book and specific Departmental requirements (where applicable) still apply.

Scope

1.3.3. Red Tape Challenge measures automatically qualify for the fast track. Other deregulatory or low-cost regulatory measures can also apply for the fast track. A measure is low-cost if its gross cost to business in any year is under £1m. EU measures which have been gold-plated cannot use the fast track, even if they are low cost.

How do I access the fast track?

1.3.4. Your Department may have its own arrangements for determining whether a measure is suitable for fast track treatment, for example through an early stage triage process. The purpose of this Departmental triage is to:-

- identify which measures qualify for fast track treatment;
- determine the approach to appraisal for fast track measures; and
- identify which fast track measures are likely to be in scope for One-in, Two-out (OITO)

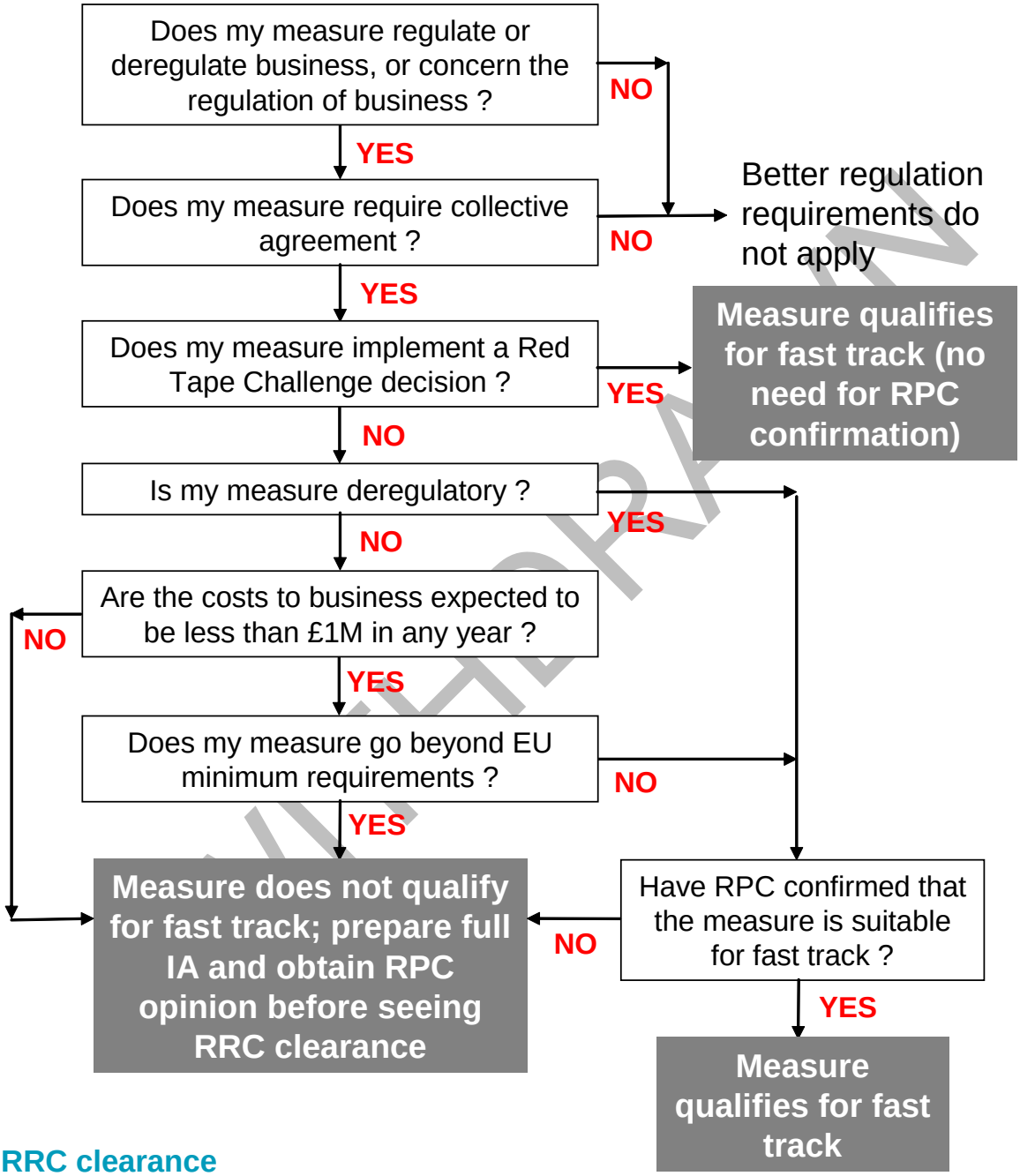
1.3.5. If you think that your measure might be suitable for fast track, you should contact your Departmental Better Regulation Unit (BRU) for further details.

1.3.6. If you believe your measure might qualify as low cost, you should take into account the margin of error attached to early stage estimates of impact. The cost to business is not the same as equivalent annual net cost to business (EANCB): it is calculated on a gross basis rather than net, and includes indirect impacts as well as direct impacts. Bear in mind that if the measure is being delivered through a combination of primary and secondary legislation then the impact of both both needs to be considered in the assessment of whether a measure is low-cost.

1.3.7. Except for RTC measures, RPC confirmation of suitability for the fast track is required: details can be found in the RPC section of this manual

1.3.8. Use the flowchart below to identify if your measure qualifies for the fast track.

Flowchart D: Qualifying for the fast track



RRC clearance

1.3.9. All fast track measures still need collective agreement through RRC (as well as any relevant policy committee) at consultation and final stage, unless it has been explicitly agreed that this is unnecessary as set out below. If this is a Red Tape Challenge measure, you should clearly state this on your clearance letter. Otherwise, you will need to provide RPC confirmation of the regulatory triage assessment, and analysis that is proportionate to the scale and likely impacts of the proposal, also taking into account whether it is novel or contentious.

1.3.10. Clearance requests for fast track measures must still set out the rationale for intervention, how the Government's principles of regulation have been applied, the options considered, and the expected impacts (costs and benefits). Where an impact assessment has been prepared, it should be circulated with the clearance letter; in other cases relevant information concerning impacts should be annexed to the clearance letter.

Accessing the streamlined RRC clearance process

1.3.11. When you seek clearance from RRC to consult on a fast track measure which clearly states a preferred option, you can at the same time seek agreement from RRC that final stage clearance will not be required. The letter should be explicit that you do not plan to write for clearance again if certain conditions are met. RRC agreement will be conditional on there being no significant concerns raised by the consultation, or substantive changes to the proposed measure as a result of the consultation. You may specify further conditions or RRC ministers may in their responses set out other conditions that must be met.

1.3.12. It is important in these cases that the consultation stage letter seeking RRC clearance contains all the information needed to clear the proposal, as outlined in this section. For example RRC are unlikely to agree to a case proceeding without final stage clearance if there is significant uncertainty over the expected costs and benefits of the proposal, or if the measure is contentious.

1.3.13. If this agreement is granted, you should contact EDS secretariat at final stage to seek their agreement that your measure has met the conditions (i.e. that it has not raised significant concerns and that the preferred option has not substantially changed). If they are content, you may proceed at final stage without writing for RRC clearance.

Non-fast track measures

1.3.14. Any measure that does not qualify for the fast track will continue to require a full impact assessment and RPC opinion before collective agreement, at both consultation and final stage.

Implementation

1.3.15. The fast track is operated on the principle of Departmental earned autonomy. Where Departments demonstrate a strong track record in the operation of triage, the requirement for RPC confirmation for those Departments will be reviewed. Where Departments fail to operate the new system effectively, or where it is persistently abused, access to the fast track will be withdrawn.

Top tips for fast track

1.3.16. Work out if your measure is likely to qualify for fast track in early policy development.

1.3.17. Seek RPC confirmation at the earliest possible time, and do not seek RRC clearance until it has been obtained.

1.3.18. Even if your policy qualifies for fast track, you still need to judge what level of appraisal and scrutiny is needed to ensure good policy making and meet the expectation of stakeholders, Ministers and Parliament.

1.4 Regulatory Policy Committee scrutiny

RPC opinion: Where a new regulatory measure does not qualify for the fast track, its impact assessment must be assessed as "fit for purpose" by the Regulatory Policy Committee before clearance is sought from the Reducing Regulation sub-Committee.

RPC confirmation: measures must have a regulatory triage assessment considered by the Regulatory Policy Committee before they can access the fast track (except Red Tape Challenge measures, which automatically qualify for the fast track).

RPC validation: final stage fast track measures must have their equivalent annual net cost to business (EANCB) validated by the Regulatory Policy Committee.

1.4.1. The Regulatory Policy Committee is an independent non-departmental public body whose purpose is to contribute to a cultural change in the Government's approach to regulation and support better and smarter regulation, through improving the use of evidence and analysis in regulatory policy-making.

1.4.2. To achieve that goal it scrutinises impact assessments for new regulatory proposals to advise the Reducing Regulation sub-Committee (RRC) on whether they are fit for purpose. It also assesses regulatory triage assessments (RTAs), and validates One-in, Two-out (OITO) figures calculated by Departments.

1.4.3. These processes are known, respectively, as RPC opinion, RPC confirmation, and RPC validation.

Scope

1.4.4. If your measure requires RRC clearance, unless your measure qualifies for the fast track you must obtain a "fit for purpose" **opinion** from the RPC on the impact assessment before writing to RRC.

1.4.5. Exceptionally, at consultation stage you may seek RRC clearance even if you receive a not fit for purpose opinion from the RPC. However, RRC are likely to look critically on such proposals, and if clearance is granted the RPC will publish its opinion after the publication of the consultation impact assessment.

1.4.6. If you believe your measure can use the fast track, unless it is a Red Tape Challenge measure you must obtain **confirmation** from the RPC that it is suitable through the scrutiny of a RTA.

1.4.7. If your measure has used the fast track process and is in scope of OITO then it will require **validation** (even if it is a Red Tape Challenge measure).

What do I have to do?

RPC Opinion: scrutiny of impact assessments

1.4.8. When your impact assessment has been signed off within your Department, it should be submitted to the RPC for its assessment. Consult your Better Regulation Unit (BRU) on the process for doing this in your Department.

1.4.9. You should attach the relevant RPC opinion when seeking RRC clearance, along with the relevant impact assessment. You will therefore need an RPC opinion on the impact assessment being cleared at each stage by the RRC: usually consultation stage, final stage and review stage.

1.4.10. Your Department must publish the final stage RPC opinion at the same time as the impact assessment to which it relates.

Content

1.4.11. Make sure you understand and have addressed the criteria on which the RPC bases its opinions – these are set out in the RPC's regular reports and this manual. Consult your BRU and/or others with experience of RPC scrutiny. If your impact assessment receives an 'amber' rating, address any recommendations before seeking RRC clearance.

1.4.12. The RPC has produced recommendations based on the common themes from scrutinising impact assessments. These are:

Recommendation 1: Don't presume regulation is the answer

Recommendation 2: Take time and effort to consider all the options

Recommendation 3: Make sure you have substantive evidence

Recommendation 4: Produce reliable estimates of costs and benefits

Recommendation 5: Assess non-monetary impacts thoroughly

Recommendation 6: Explain and present results clearly

Recommendation 7: Understand the real cost to business of regulation

Timing

1.4.13. The RPC aims to complete scrutiny of impact assessments within 30 working days. However, the RPC has no control over the volume of assessments submitted to it and can experience peaks in the number of references (for example, when approaching parliamentary recess periods, common commencement dates, or publication of Statements of New Regulation).

1.4.14. You can help the RPC to manage workflows by providing advance notice of submission of impact assessments which contain complex analysis, or where a number of impact assessments (perhaps related) are likely to be submitted at about the same time. Exceptionally, if your proposal or the analysis of its impact is likely to be complex, you may wish to consider requesting a meeting with the RPC secretariat to acquaint the Committee with the proposals, issues and analysis in advance of submission of the impact assessment.

Criteria for RAG ratings

1.4.15. While the RPC will comment on all aspects of an impact assessment, it has been asked by RRC to base its rating on certain criteria depending on the stage of the impact assessment.

1.4.16. At consultation stage the impact assessment will receive a Red, Amber or Green rating based on its overall quality.

1.4.17. At final stage the impact assessment will receive either a Red or Green rating. This will be based on the assessment of the direct cost to business, including the One-in Two-out classification (where applicable), and the small and micro business assessment. As part of a Green rating, the RPC may still make comments about the overall quality of the impact assessment, in their opinion, that need to be addressed in order to make it fit for purpose. These should be addressed before going to RRC.

Receipt of an RPC red-rated opinion

1.4.18. The RPC secretariat is always happy to answer questions regarding opinions that the Committee has issued. Send an e-mail and/or request a meeting. When submitting an impact assessment which has been adjusted in response to an RPC red-rated opinion, draw attention to changes made.

1.4.19. More information on the content of RPC opinions and how to react to a red-rated opinion is available on the RPC website.

Receipt of an RPC amber-rated opinion

1.4.20. An IA that receives an amber-rated opinion is considered to be fit-for-purpose subject to the issues raised in the opinion being addressed. On receipt of an amber-rated opinion you should consider the points the RPC has made and make any necessary changes to the IA. When writing to the RRC seeking clearance, the letter should explain how the issues raised in the opinion have been addressed.

1.4.21. As with a red-rated opinion the RPC secretariat is always happy to answer questions regarding opinions the Committee has issued and, where it would be helpful, can meet teams to discuss the points in detail.

RPC Confirmation: scrutiny of regulatory triage assessments

1.4.22. Where you believe that a measure is likely to qualify for the fast track, you need to get RPC confirmation. This should be done at an early stage of policy development, and well before seeking collective agreement.

1.4.23. RPC confirmation provides independent assurance that the fast track routes are being applied correctly and consistently. If RPC does not agree that your measure qualifies for fast track, a full impact assessment and RPC opinion will be required before you can seek clearance from RRC.

Content

1.4.24. Relevant details of measures put forward for fast track should be provided to RPC on the regulatory triage assessment form (RTA). As part of the triage

confirmation, RPC will indicate whether measures are likely to be in scope of OITO and therefore require RPC validation later.

1.4.25. The RTA is not an impact assessment, and need not cover all the issues that would normally be covered in an impact assessment. Its purpose is to enable the RPC to assess whether your measure meets the fast track criteria that have been set by RRC. You should be clear whether you believe your measure is deregulatory or low-cost regulatory, and tailor the information included on the RTA according to the criteria for the fast track route you are seeking to access.

1.4.26. For deregulatory measures, the RTA should explain in narrative form the scope and effect of the current regulation, and the change created by the proposed measure. It does not need to provide details of costs and benefits: provide these when applying for EANCB validation later on in the process.

1.4.27. For low cost measures, the RTA should set out an assessment of the impact, to support the Department's triage assessment that the proposal would be low cost. The RTA should identify the number of businesses that are likely to be affected, together with the scale of the likely costs (and their derivation), and make clear why the total gross cost (direct and indirect) to business is not likely to exceed the low cost threshold. The RPC is required to confirm that it is likely this threshold will not be exceeded. Therefore, provide some underlying supporting analysis and explanation of the cost estimates, and describe the likely margin for error. More supporting information and detail will be required for measures with costs close to the £1M threshold than for measures where the costs are in the £000s range.

1.4.28. RTAs should state the Department's view of the measure's OITO classification.

1.4.29. Ensure your RTA is clear, concise, and focused on the relevant information. An RTA with irrelevant or superfluous information will take longer for RPC to process, delaying the response and slowing down the system for everyone. Your BRU should be able to provide you will examples of good quality RTAs.

Timing

1.4.30. The RPC aims to respond to regulatory triage assessments within 10 working days. However, it has no control over the volume of assessments submitted and can experience peaks in caseload (e.g., when approaching parliamentary recess periods, common commencement dates, or Statements of New Regulation).

RPC validation: verifying EANCB for fast track measures

1.4.31. Where you have prepared a final stage impact assessment for a fast track measure that is in scope of OITO, this should be submitted to RPC for validation before or in parallel with final stage RRC clearance. RPC will use the information contained in the impact assessment to validate the EANCB and OITO status. It will not comment on other aspects of the impact assessment, or issue a formal "fit for purpose" opinion.

1.4.32. If you have not already prepared a final stage impact assessment and your measure is in scope of OITO, you will need to prepare a simplified “validation stage” impact assessment before seeking final clearance. The validation stage impact assessment is a simplified final stage impact assessment providing a summary of the proposed measure with supporting analysis of business costs and benefits, and a calculation of the EANCB. That should be submitted to the RPC for validation in the same way as a final stage impact assessment.

1.4.33. Once the final (or validation) stage impact assessment has been submitted to the RPC, you do not need wait for RPC validation before seeking final stage clearance, implementing the measure, or publishing the impact assessment. Where an impact assessment is published before RPC validation, you should highlight that the OITO status and EANCB are subject to RPC validation.

1.4.34. If you are consulting on a fast track measure and RRC has agreed that final stage clearance is not necessary, the final (or validation) stage impact assessment should be submitted to the RPC for validation within one month of the end of the formal consultation period.

Top tips

1.4.35. Make clear in covering e-mails the stage of policy development, what you are asking the RPC to consider, and details of any previous related submission including the RPC reference number and the then title of the assessment if it has since changed. This saves time and assists speedier progress of assessments through the scrutiny process.

1.5 Impact Assessment

For measures that do not qualify for fast track, requests for policy clearance must be supported by an impact assessment setting out the expected effects of the proposal, including costs and benefits, and scrutinised by the Regulatory Policy Committee.

1.5.1. Understanding the costs, benefits, and risks of any new measure or proposal is fundamental to better regulation and better policy making.

1.5.2. An impact assessment summarises the rationale for Government intervention; the options considered (including non-regulatory options); and the expected costs and benefits. It also sets out the net cost to business, as required under One-in, Two-out (OITO).

Scope

1.5.3. All measures that require Reducing Regulation sub-Committee (RRC) clearance must be accompanied by an impact assessment, unless they qualify for the fast track. Fast track measures, or measures out of scope of RRC, might also require impact assessments for other reasons: check with your Better Regulation Unit (BRU) and consider if an impact assessment should be prepared for other audiences such as Parliament, or to support policy making.

1.5.4. New regulatory proposals from national regulators that are not statutory in nature should be assessed according to the Accountability for Regulator Impact policy.

What do I have to do?

1.5.5. The Impact Assessment Toolkit, provided as part 2 of this manual, is the main guidance on how to carry out an impact assessment. It should be read alongside the Green Book, which provides methodological guidance for policy appraisal and evaluation.

1.5.6. You should present the analysis you have done using the IA template.

Stages of the impact assessment process

1.5.7. The stages of the impact assessment process are closely aligned with the ROAMEF policy cycle. These stages are: development, options, consultation, final, enactment, validation and review. Not all of these stages may be applicable to your policy.

1.5.8. The content of an impact assessment varies depending on the stage at which it is produced but should generally set out: the problem being addressed, rationale for intervention, policy objectives and the options considered.

1.5.9. For each option, an assessment should be made of the likely impacts that are likely to result, monetised where possible and proportionate. The impact assessment should consider the full range of possible impacts, including economic, social and environmental impacts, not just impacts to business. Risks and assumptions should be clearly stated.

1.5.10. This analysis should support the estimation of a Net Present Value (NPV) and an Equivalent Annual Net Cost to Business (EANCB) for use in OITO and for other measures that are included in the Statement of New Regulation.

European regulation

1.5.11. The analysis of EU proposals should commence well before the proposal is agreed in Brussels. Analysis should be undertaken to support the UK's position in the negotiation of new regulatory proposals and may be helpful in influencing the Commission at the early stages of policy development.

International regulation

1.5.12. Impact Assessments for measures intended to meet international commitments and obligations must show how better regulation principles, in particular the need to minimise unnecessary costs to business, have been considered in the implementation of these measures.

Proportionality

1.5.13. You should ensure that the resource you invest in undertaking an impact assessment is proportionate. Some of the factors that should be considered when deciding what level of analysis would be appropriate include: the scale of the expected impact, stage of the policy, sensitivity of the policy and the ability and cost of doing further analysis relative to the benefits this analysis may yield.

External scrutiny and publication

1.5.14. Impact assessments should be published at 4 stages in the process: consultation stage, final stage, enactment stage (if changes are made through the parliamentary process) and review stage.

1.5.15. If your measure does not qualify for the fast track then your impact assessment will be subject to external scrutiny by the RPC at both consultation and final stage. Where RPC scrutiny is required, you must obtain a "fit for purpose" opinion from the RPC prior to seeking RRC clearance.

1.5.16. Impact assessments should be uploaded to the legislation.gov.uk website at the same time as of the relevant legislation, or (for consultation stage IAs, or IAs related to draft legislation) at the same time as the relevant consultation document is published.

Top tips for impact assessments

1.5.17. Start gathering evidence and drafting the impact assessment early in the policy development process. If you leave it until the last minute it is more likely that your basic policy design will not meet better regulation requirements, and clearance will be refused or delayed.

1.5.18. Impact assessments are documents used by a range of stakeholders – including Parliament. The analysis should be accessible to those without a technical background or in-depth knowledge of the policy area.

1.6 Small and Micro-business Assessment

Regulatory measures should only extend to small and micro-businesses where any disproportionate burden is fully mitigated

1.6.1 Small businesses (up to 49 FTE employees) - including micro-businesses (up to 10 employees) - suffer disproportionately from the burden of regulation.

1.6.2 The small and micro-business assessment (SaMBA) is intended to ensure that all new regulatory proposals are designed and implemented so as to mitigate disproportionate burdens. The assumption is that there will be a legislative exemption for small and micro-businesses where a large part of the intended benefits of the measure can be achieved without including them.

1.6.3 Analysis of small business impacts will form part of the impact assessment, and will be scrutinised by the Regulatory Policy Committee (RPC) in its opinions.

Scope

1.6.4 You must apply the SaMBA for all domestic measures that regulate business, except if they qualify for the fast track.

What do I have to do?

Principle

1.6.5 The default option is for small and micro businesses to be exempted from new regulatory measures. If your assessment is that full exemption is not viable (or compatible with achieving a large part of the intended benefits of the measure), this must be supported with appropriate analysis. You must also consider options for mitigating the burdens on these businesses.

1.6.6 SaMBA is not a prescribed process. It is for you to determine how far burdens can be mitigated while delivering a large enough part of the intended benefits.

Detail

1.6.7 At the earliest stages in the policy-development process you should make a preliminary assessment of the businesses likely to be in scope of your proposed measure. That will differ depending on the objectives of your measure, what it is that is being regulated, and the sector(s) that will be affected.

1.6.8 If your measure does not affect micro and small businesses, you should make this clear when seeking RRC clearance and in the relevant analysis in the impact assessment. But no further action is required.

1.6.9 If your measure does affect micro and small businesses, you will need to consider how burdens on small and micro businesses can best be mitigated and reflect this in the detailed design of your measure. The list below sets out some of the approaches you should consider.

- ***Full exemption (default option)***: where a sufficient proportion of the intended benefits from regulation can be achieved without including small and micro businesses in the scope of the regulation.

- ***Partial exemption:*** where small and micro businesses are exempt from specific requirements within the regulation, or where only some businesses are fully exempt. In the former case that might include, for example less onerous compliance requirements (e.g. issuing warnings to smaller businesses rather than applying sanctions where non-compliance is identified), or by deeming a certain subset of rules not applicable to smaller business. In the latter case, that might involve limiting the exemption to small businesses that are also micro-businesses
- ***Extended transition period:*** where all businesses of a defined size are given a fixed extension to when they are required to comply compared to larger business, reducing the costs associated with implementation of new regulatory requirements. For example, the tobacco display ban gave shops below the Sunday Trading threshold an additional 3 years to comply
- ***Temporary exemption:*** where smaller businesses can apply for a temporary extension where immediate compliance would harm their business: an example might be where a service or product needs to be redesigned to be compliant which might take some smaller businesses longer to do (for capacity or financial reasons) than larger businesses
- ***Varying requirements by type and/or size of business:*** where businesses below a certain size are, for example, only required to register but not to be fully licensed or by exempting smaller businesses from having to register or from registration or other licensing fees. This might also apply to charges for inspection (although HMT rules on cost recovery and avoiding cross-subsidy will need to be considered). This might also be done through simplifying reporting requirements for smaller businesses, less frequent/less onerous inspection etc
- ***Specific information campaigns or user guides, training and dedicated support for smaller businesses:*** providing good information and support tailored to the specific needs of smaller businesses may mitigate the disproportionate demands in respect of understanding what compliance looks like and what is required (where larger businesses have staff already in place to deliver against new or changed regulation where smaller businesses do not)
- ***Direct financial aid for smaller business:*** for example the ability of smaller businesses to obtain financial re-imbursement of costs associated with compliance (particularly around transition, where new or substantially changed regulation places significant new financial costs on business)
- ***Opt-in and voluntary solutions:*** where businesses below a certain size are allowed to voluntarily “opt-in” to the full regulatory regime, or where they agree to an industry-led voluntary scheme.

1.6.10 These options are provided for guidance only. They are not exhaustive. Where the default option – full exemption – is not adopted, the application of the other options will depend upon what is most effective in achieving the maximum mitigation of disproportionate burdens, taking into account the nature of the regulatory proposal and the businesses affected. For example:

- Which characteristics of small businesses likely to be affected are relevant (e.g. number of employees vs. size of turnover)?
- How serious is the policy problem addressed by the proposal in relation to micro and small businesses?
- Where is the impact on the operations and performance of micro and small business likely to be disproportionate compared to larger businesses: for example, if changes to equipment and processes are required then an extended transition period may be appropriate.
- Are there any potential unintended effects associated with alternative approaches for smaller firms, and how might these be mitigated?

1.6.11 If you believe that no mitigating options are necessary because there is no disproportionate burden then this should be fully evidenced in the supporting analysis.

Analysis needed to underpin the proposed policy

1.6.12 If a full exemption (for both small and micro businesses) is applied, there is no additional analysis required. The effect of the exemption will already be included in the analysis of the overall policy impacts.

1.6.13 If an exemption is not applied, or only partially applied, a proportionate analysis of the affected business population should be presented as part of the impact assessment to justify why a full exemption is not compatible with the relevant policy objectives. That might include, for example, a description of the business population affected by the measure and the distribution of costs and benefits.

1.6.14 In addition, the impact assessment should include an analysis of the impact of mitigating options proposed, their effect and their rationale. This could be either a qualitative or quantitative assessment. Where no mitigating options are proposed because it is considered that there is no disproportionate burden this must be evidenced in the impact assessment.

Top tips

1.6.15 Make sure you understand the characteristics of the businesses that are likely to be affected by your measure.

1.6.16 Think critically about whether it is necessary to include micros and/or small businesses in regulatory measures at the very outset of policy development. It may often be possible to achieve the majority of the benefits of your measure even though smaller businesses are exempted – for example where larger businesses account for the majority of the regulated activity.

1.6.17 Consult enforcement bodies and business representative groups, to identify how to mitigate disproportionate burdens on smaller businesses.

1.7 Sunset and Review clauses

Regulatory measures that do not qualify for fast track must include a review clause (and, where applicable, a sunset clause) in the relevant legislation.

1.7.1 By ensuring that regulatory measures are regularly reviewed, sunset and review clauses help control the level of regulation. In cases where a measure is no longer needed, or where it imposes disproportionate burdens on business, the inclusion of such clauses helps ensure that it is removed. In other cases, they can help keep effective measures up to date, and support improvements.

1.7.2 Review clauses impose a statutory duty to carry out a review of the measure in a specified timescale, usually within five years of it coming into force. Sunset clauses provide for automatic expiry of the measure on a specified date.

1.7.3 Sunset and review provisions complement and strengthen existing processes for monitoring the impact of regulation, such as Parliamentary scrutiny and feedback from affected businesses.

Scope

1.7.4 A review clause is mandatory for all measures that regulate business (including both domestic and EU-derived measures), except for fast track measures, and time-limited measures that are subject to an existing sunset clause causing them to expire within one year of coming into force. This includes domestic measures and international or EU-derived measures. In some cases, sunset clauses are also mandatory – this is explained in the section below.

1.7.5 You should also consider the application of review and sunset clauses to measures outside the scope of this guidance. Bear in mind that the objectives, nature, and policy implications of using such provisions in those cases may be different from those that fall within the scope of this guidance.

What kind of provision should I apply?

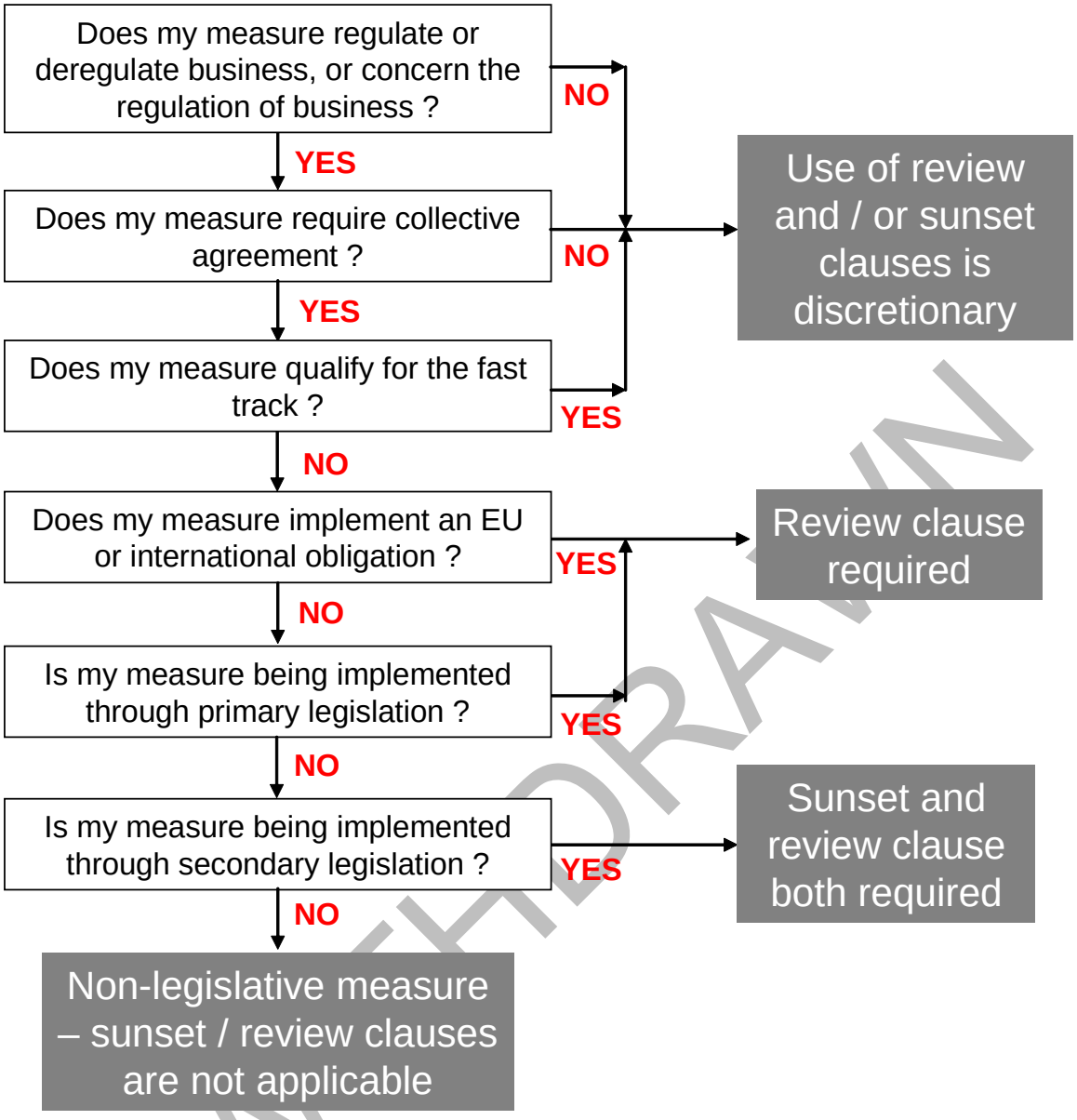
1.7.6 If your measure is domestic in origin, and is being implemented through secondary legislation, the legislation must include both a review and a sunset clause.

1.7.7 For all other measures (including proposals implemented through primary legislation, and proposals of EU or international origin), a review clause must be used.

1.7.8 This guidance principally covers the process for primary and secondary legislation (including legislation that implements EU or international obligations). However, the same principles should be applied to other regulatory measures.

1.7.9 The flowchart below should help you identify whether you should include sunset and/or review clauses in your policy.

Flowchart E: sunset and review clauses



Application of sunset and review clauses

1.7.10 As a minimum, the sunset or review clause should apply to the elements of the legislation that give rise to the regulatory burden on business. You will need to consider whether, if the measure amends an existing regulatory scheme, it would be more appropriate to apply the clause to the whole scheme rather than just the amendment alone.

1.7.11 Except in exceptional circumstances the date specified in the review clause for the publication of the first statutory review should be no later than five years after the measure comes into force. That is consistent with the timescales for post-legislative scrutiny and post-implementation review (see scenario A, Figure 1.7.A). Where there is no sunset clause, the review should be repeated on a five year cycle

1.7.12 It might sometimes be appropriate to set an earlier date for a statutory review – for example to co-ordinate with a planned review of related measures, or where

uncertainty regarding the effect of the measure at the time of introduction means that an early post-implementation review is planned (see scenario B, Figure 1.7.A).

1.7.13 Where the implementation of regulatory changes resulting from the review is likely to be a particularly complex or lengthy process, it may be appropriate to carry out the review at an earlier stage to allow time for any changes to the legislation to be made and brought into force before any specified expiry date (see scenario C, Figure 1.7.A).

1.7.14 Where a sunset clause is used, the expiry date should be no later than seven years after the measure comes into force.

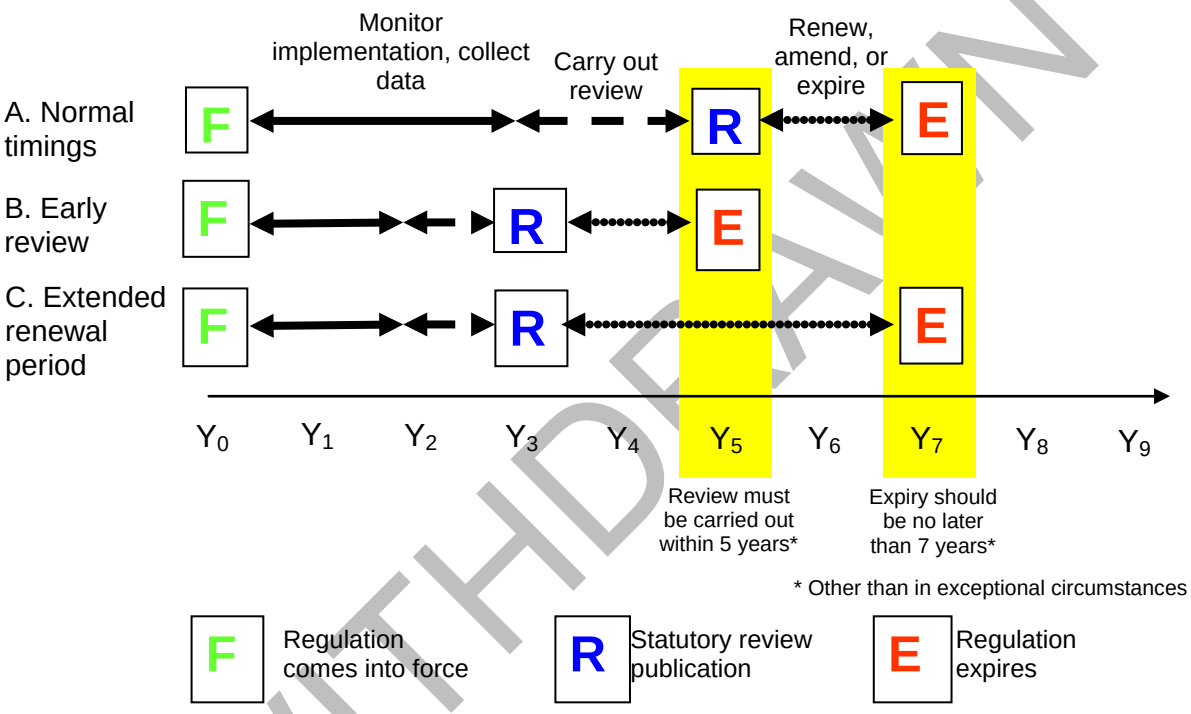


Figure 1.7.A: Indicative review and expiry timings for secondary legislation with sunset clause

1.7.15 You must allow sufficient time between the statutory review date and the expiry date for new regulations to be made to replace the set that are due to expire (where applicable), whilst also allowing those affected by the measure an adequate period to plan for any changes required. Where an early statutory review date is proposed (i.e. less than five years), the expiry date should in most cases also be brought forward, unless the reason for carrying out an early review is the requirement for additional time to implement any potential changes to the measures arising from the review.

Practical Application

1.7.16 The general principles and guidelines set out above are not exhaustive. You will still need to decide upon the best approach to implementation on a case by case basis, taking into account the Government's objectives for reviewing regulation, and any technical advice from your lawyers. For example :-

- where your measure is introduced through the amendment of existing legislation, it may be appropriate to insert the sunset or review clause in the legislation that is being amended (where there is no pre-existing provision) rather than in the amending instrument;
- where the potential future expiry of the measure would give rise to significant uncertainty for those affected, you should consider including provisions intended to deal with those consequential issues as part of the implementing regulations; and
- where sunset or review clauses are being considered for legislation in a devolved area (whether wholly or partially devolved), you will need to consult colleagues in the relevant administration in the usual way, with agreement to legislate obtained as necessary through the applicable process. You should also bear in mind the possibility that the review of implementation in the different nations may potentially generate different policy proposals for legislative changes.

Top tips for sunset and review clauses

1.7.17 Talk to your lawyers at an early stage to ensure that they are aware of the need for a review and (where applicable) sunset provision in the legislation. They will also be able to help you with the drafting of the review or sunset provision, following the standard wording agreed by the Reducing Regulation sub-Committee.

1.7.18 Think about the scope and timing of the statutory review, and how this fits with any other planned or existing reviews.

1.7.19 Take the opportunity to address any misconceptions about sunset or review clauses amongst stakeholders. The principle behind such clauses is that if a measure is found to be effective, it will be renewed.

1.7.20 Ensure that arrangements are in place for collecting the evidence you will need to carry out the statutory review.

1.8 Reviewing Regulation

Measures that include a statutory review provision in the relevant legislation must be formally reviewed within five years of the date the measure came into force, and then regularly on a five year cycle

1.8.1 Better regulation relies on the effective review of how regulatory measures work in practice. The sunset and review clause chapter sets out the situations in which you must include review clauses and sunset clauses. This chapter explains how these reviews should be carried out, and what actions should be taken after a review.

1.8.2 The purpose of a review carried out to fulfil a statutory review provision is to establish whether, and to what extent, the measure has achieved its original objectives. The review must also consider whether the objectives are still valid, whether the measure is still required and the best option for achieving those objectives, and if so whether it can be improved to reduce burdens on business.

1.8.3 Reviews of EU-derived measures should focus on improving transposition and enforcement, to ensure UK businesses are not put at a competitive disadvantage.

Scope

1.8.4 Whether a policy area is in scope for review is decided at the point the legislation is passed, by the inclusion of a sunset and/or review clause.

1.8.5 In additional, measures that include a public commitment to a review are also in scope for review. That commitment will normally have been made in the published final stage impact assessment. You might also carry out a review for other measures, where there are good policy reasons for doing so.

What do I have to do?

1.8.6 You need to identify whether there are any pieces of legislation for which you have responsibility that contain a statutory review provision, and plan for how the review will be carried out.

1.8.7 You will need to produce a report of the review, including a post-implementation review impact assessment.

1.8.8 In the light of the findings from the review, you will need to decide whether the measure should be removed, renewed without changes, or amended. How this is done in each case will depend on whether the legislation contains a sunset clause (as well as the review clause).

1.8.9 The report on the statutory review, setting out the conclusions reached, must be cleared by the Reducing Regulation sub-Committee (RRC) and the relevant policy committee before publication. A fit for purpose opinion from the Regulatory Policy Committee (RPC) on the post-implementation review impact assessment must be obtained before seeking RRC clearance.

What should the review address?

1.8.10 For domestic measures, the review must address three related questions:

a) are the policy objectives that led to the introduction of the measure still valid and relevant?

b) if the objectives are still valid and relevant, is regulation still the best way of achieving those objectives, compared to the possible alternatives?

c) if regulation is still justified, can the existing measure be improved?

1.8.11 For EU-derived measures, the review should focus on how implementation and enforcement could be improved to reduce burdens on UK business, learning from the practical experience both in the UK and in other European countries, and ensuring that British businesses are not put at a competitive disadvantage. However, you should also consider whether there is evidence, and potential for an alliance with other EU member states, that would support taking a request for a wider review of the objectives of the underlying EU legislation to the European Commission.

1.8.12 For domestic measures where the original policy objectives have changed or are no longer relevant, the measure should be allowed to expire (or be repealed). Equally, if the measure has not had a significant beneficial impact in line with the original policy objectives, the presumption should be that it is allowed to expire (or is repealed).

1.8.13 If the review reveals unintended consequences of regulation, higher than expected costs, or low levels of compliance this should prompt significant re-design of the measure, or a move to address the policy objectives through alternative approaches.

1.8.14 If a measure is shown to be successful and is retained, the review should still consider how the measure can be improved, for example by reducing the costs to business, or improving enforcement. When considering possible improvements, associated transitional costs should be taken into account.

The Review Stage

Carrying out the review

1.8.15 The central evidence for a review should be a post-implementation review (PIR), planned and carried out in line with the guidance provided by the Magenta Book and its supplementary guidance, set out in an impact assessment and scrutinised by the Regulatory Policy Committee (RPC).

1.8.16 In carrying out a PIR you should consider the views of stakeholders on the effectiveness of policy implementation. However, you need not re-examine the original policy intent

1.8.17 During an evaluation, the following questions should be considered (guidance on evaluation questions can be found in the Magenta Book):

- To what extent has the policy achieved its objectives?

- To what extent have the success criteria been met?
- To what extent have there been unintended consequences?
- What are the costs and benefits, in hindsight and going forward?
- Is government intervention still required? Or has the market changed as a result of the policy?
- Hence, what scope is there for simplification, improvement or deregulation?
- Do compliance levels indicate that the enforcement mechanism chosen is appropriate?

1.8.18 Consider proportionality when deciding which question to answer, though all reviews are expected to cover the first three questions. Details on what could influence the scale of review can be found in the Magenta Book and its supplementary guidance.

1.8.19 Resources devoted to PIR are expected to fall along a wide spectrum from full PIRs for high-impact measures to desktop reviews. You should identify clearly in your report and impact assessment which kind or kinds of evaluation you used. The main types, from most rigorous to least, are

i) Economic Evaluation: Including Cost Benefit Analysis or cost-effectiveness analysis. Economic evaluation will ideally be based on results of an impact evaluation or an outcome based evaluation.

ii) Impact evaluation: This is an outcome based evaluation that identifies both what changes have occurred and the extent to which these can be attributed to the policy

iii) Outcome evaluation: identifying changes in key outcomes before and after the intervention, this type of evaluation can provide information on association but not necessarily attribution

iv) Process evaluation: assessing how a policy is being implemented as intended, and whether there any unforeseen effects

v) Light touch review: possibly including a re-run of the original impact assessment, with little systematic new evidence.

1.8.20 Light touch reviews should be quick and efficient, collating previously-available evidence, including the known views of stakeholders and enforcers. At a minimum you should establish whether a policy has achieved its objectives, to what extent it has met success criteria and whether there have been unintended consequences. Information collected during monitoring should be collated and stakeholder views sought.

1.8.21 Where potential benefits arising from a PIR are assessed as high (e.g. where the policy being reviewed has impacts of over £50m), a substantial review is expected, at least at the level of outcome evaluation.

1.8.22 As well as drawing on the PIR, the statutory review can be coordinated with and reflect other related activities, including for example:-

- statutory reviews of other related measures
- the post-legislative scrutiny of primary legislation; a “stock review” of existing regulation
- a formal evaluation of the relevant policy area
- a review led by the European Commission, either of a specific piece of legislation, or legislation in a particular field

1.8.23 Coordinating a statutory review with a more general policy review reduces duplication and could improve the quality of policy development going forward, including identifying where Government may no longer wish to intervene.

1.8.24 Where a repeat review is being carried out – for example in the case of primary legislation where the measure is not subject to a sunset clause – you should draw on and update as necessary the analysis carried out during the earlier review exercise. This should therefore be a more streamlined process.

Planning, co-ordination, and consultation

1.8.25 You must ensure that the statutory review obligations are discharged as efficiently and effectively as possible. All Departments are encouraged to have some form of internal tracking and co-ordination to assist with this process. ***Departments should publish a forward regulatory review programme on an annual basis, for example covering the next five years.***

1.8.26 Because they must be completed before the statutory deadline, reviews must be carefully planned in advance. You will need to consider :-

- how best to gather information and views from businesses, civil society organisations, and others affected by the measure (including through formal consultation where proportionate)
- the need to involve Departments for whom the removal or amendment of the measure may have implications, including for their legislation;
- the need to consult the relevant devolved administrations at an early stage where the subject matter of the measure is wholly or partially devolved, or where the Westminster legislation has amended or repealed devolved legislation
- the time required to clear and finalise the report before publication.

Publication

1.8.27 When clearance has been obtained from RRC, you must publish the report of the review in a Command Paper, to be laid before Parliament before the relevant statutory deadline.

1.8.28 The relevant PIR impact assessment should be published alongside the report on the statutory review. Where the review has fed into a wider policy review, or where it has identified a need for amendments to existing measures, you may publish the conclusions from the review as part of another policy document.

The Removal / Renewal Stage

1.8.29 The removal / renewal stage covers the actions that are taken following the statutory review. In principle, there are three possible actions :-

- removal of the measure
- renewal of the measure, without any changes
- amendment of the measure.

Removal (Expiry)

1.8.30 Where the measure includes a sunset clause, it will cease to have effect as of the date specified in the legislation. Although the expiry of the measure is automatic, you must consider any consequential changes to existing legislation, and practical implications. The change will need to be communicated to businesses and others affected by expiry, and guidance material updated. See scenario A, 1.8.B.

1.8.31 Where the measure includes only a review clause, there is no automatic expiry. You will therefore need to prepare new legislation to repeal the measure.

1.8.32 For EU-derived measures, the process for removal is likely to be much more complex. Where there is a planned or current review of the underlying obligation at an EU level, you should ensure that the conclusions of the statutory review carried out under the domestic implementing legislation are fed into that process, with a view to reaching agreement with other member states on amendment or removal of the measure. Otherwise, if you believe there is a case for removal or amendment you are encouraged to make the case for a review at the EU level with the European Commission.

Renewal

1.8.33 Where a measure has a review clause, no action is required to renew the measure because it will (in the absence of any action) continue to remain in force. Where a sunset clause has been used, new legislation will be required to renew the existing measure before the existing legislation ceases to have effect. When such legislation is renewed, the existing sunsetting provisions should be amended to reflect the start of a new cycle of review and expiry. See scenario B, 1.8.B

Amendment

1.8.34 Amending a measure will require new legislation. As part of the process of amendment, the existing sunsetting provision should be amended as necessary, reflecting the start of a new cycle of review and (as applicable) expiry when the amended measure comes into effect. See scenario C, 1.8.B.

1.8.35 Where the measure implements EU obligations, Departments will need to consider whether any amendments can be made within the scope of the underlying EU legislation. Where amendments would require changes to underlying legislation, Departments will need to seek to negotiate and agree any changes at an EU level.

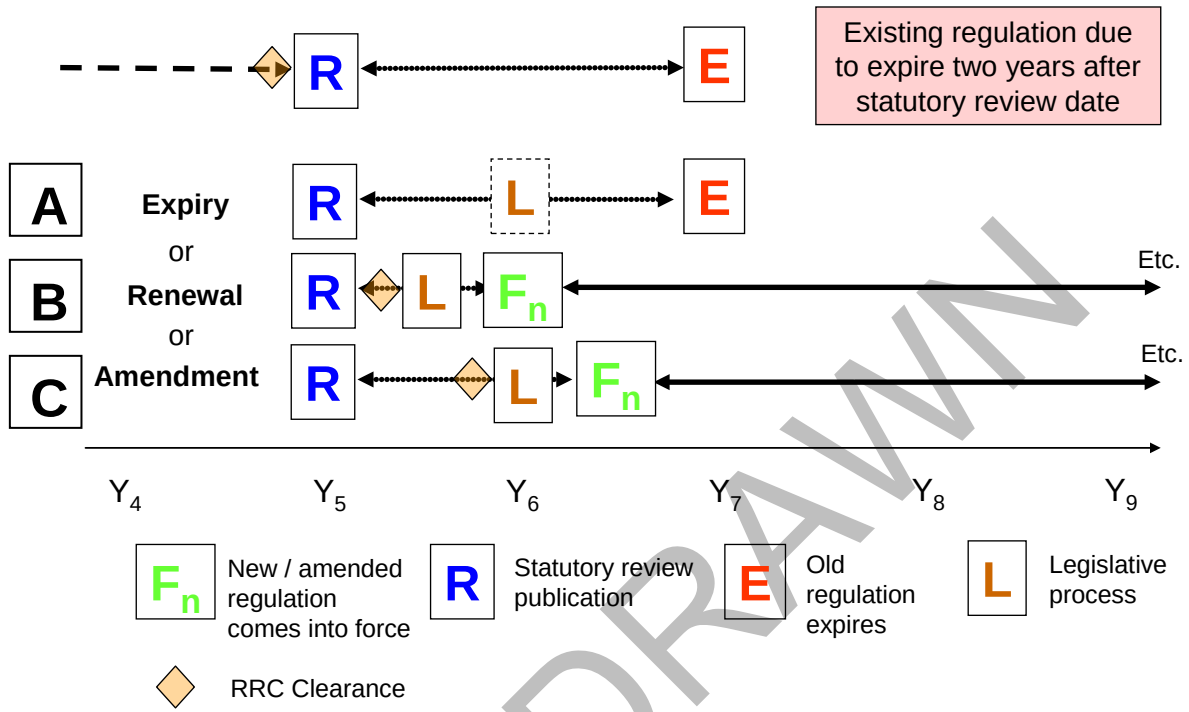


Figure 1.8.A: Expiry, Renewal, or Amendment: Indicative timescales for domestic secondary legislation with sunset clause

Legislative process

1.8.36 Any new legislation that is required, including legislation that renews existing legislation, should be introduced through the normal legislative and parliamentary processes. An updated impact assessment should be prepared, drawing on the results of the statutory review, with the reasons for the proposed legislative action set out clearly in the explanatory memorandum or explanatory notes.

1.8.37 In the case of new secondary legislation, you should ensure that the relevant instrument is presented at least three months in advance of the date that the renewal is to take effect. To facilitate efficient use of parliamentary time, it is possible to seek to combine debates on related affirmative instruments that are subject to renewal.

1.8.38 Where the statutory review recommends changes to primary legislation, you will need to identify a legislative vehicle for effecting any changes, including the use of a legislative reform order where appropriate.

Consequential changes

1.8.39 Where a sunset clause is to be included in a measure, you should consider as part of the legislative drafting the consequences of its potential future expiry, and what legislative provision it is appropriate to include to address any associated risks or sources of uncertainty to those affected by the measure,

including provisions that may be helpful in minimising any potential adverse effect on business confidence. When the measure is to be revoked or is due to expire, you will again need to consider what, if any, further savings or consequential provisions may be required.

1.8.40 Consult your lawyers on this at an early stage in planning the process of revocation or expiry. They will need to consider what needs to be provided for in legislation in the light of those sections of the Interpretation Act 1978 which deals with the effect of repeals (sections 15-18). These may include saving provisions that relate to things done during the period when the measure was in force. In addition in a measure that is due to expire under a sunset clause prospective amendments may be required to other legislation that is linked to the measures that are to be revoked (or which are due to expire).

1.8.41 Where legislation covering matters that are wholly or partially devolved is amended, repealed, or allowed to expire, there may be significant consequential implications for Scottish, Northern Irish, or Welsh legislation which has been amended or enacted in reliance on, or in consequence of, the relevant legislation. Early consultation with the devolved administrations is important to ensure that consequential effects are not inadvertently missed.

Reducing Regulation sub-Committee Clearance

1.8.42 In parallel with clearance from any relevant policy committee, you must obtain RRC clearance. You must demonstrate to RRC that the conclusions reached in the review report are robust and have an adequate evidence base. For example where it is proposed that a regulatory measure should be retained, RRC will expect to see appropriate evidence that improvements to the existing measure, such as non-regulatory options or improvements to enforcement such as bringing the regulation into scope of Primary Authority, have been considered, and (in the case of EU obligations) that British businesses are not at a competitive disadvantage relative to their competitors.

Top tips for reviewing regulation

1.8.43 Reviews should be proportionate, taking into account the scale of the impacts on business.

1.8.44 Early action on reviews is crucial, particularly around gathering monitoring data. Gathering data ahead of the review date ensures baseline data is available.

1.8.45 Allow time for RPC scrutiny and RRC clearance of the published report.

1.9 One-in, Two-out

Any measure which regulates or deregulates business and is expected to result in a direct net cost to business must be offset by measures that deregulate business and provide savings to business of at least double that amount.

1.9.1 One-in, Two-out (OITO) requires that for every pound of additional net cost imposed on business by new measures that regulate or deregulate business, Departments must find two pounds of net savings from deregulatory measures (savings from regulatory measures may not be counted).

1.9.2 This chapter provides officials with methodological guidance to operate OITO, which applies to measures that come into force from January 2013.

1.9.3 The OITO methodology builds on the Green Book and the impact assessment toolkit. Evidence for OITO (INs and OUTs) is provided by impact assessments.

1.9.4 Departments will be held to account for their overall performance under the OITO rule in the six-monthly Statement of New Regulation, and at the end of this Parliament (assessed from January 2013). Departments who were in One-in, One-out deficit at the end of 2012 will also need to ensure they achieve One-in, One-out when considered over the entire Parliament.

Scope

What is in scope of OITO?

1.9.5 OITO applies to all changes in, or introduction/removal/expiry of, measures that require clearance from the Reducing Regulation Committee (RRC). This is subject to applicable out-of-scope exemptions, set out in the next section.

What is out of scope of OITO?

1.9.6 Measures that are not in scope for RRC clearance are not in scope for OITO. Details are provided in the RRC guidance.

1.9.7 New regulatory proposals from national regulators that are not statutory in nature are not in scope for OITO and should be accounted for according to the Accountability for Regulator Impact policy.

1.9.8 There are some measures that require RRC clearance, but which are out-of-scope of the OITO rule. Impact assessments for measures out-of-scope of OITO must still show how better regulation principles, in particular the need to minimise unnecessary costs to business, have been considered in the assessment and implementation of these measures.

1.9.9 Measures requiring RRC clearance but that are out-of-scope of the OITO rule are outlined below, and a flowchart is provided:

i. Measures where impacts on business are purely indirect, i.e. no direct impacts on business.

ii. European Union Regulations, Decisions and Directives, except in cases of

gold-plating: as defined by the EU Transposition Guidance.

Failure to derogate: if you are introducing or recasting an EU Directive that (i) fails to take available derogations which would reduce costs to business or (ii) uses a derogation which imposes increased costs on business.

Early implementation of an EU directive.

iii. Measures to implement international commitments and obligations. All aspects of implementing measures must be consistent with, and directly related to, the commitment or obligation. Where there is a clearly prescribed minimum requirement or standard and the UK is implementing in a way that goes beyond this, that is treated as in scope of OITO, in the same way as EU measures.

iv. Civil emergencies regulation

Applies to those measures which would be classified as an emergency under the Civil Contingencies Act 2004. This Act forms the basis of the COBRA powers to deal with emergency situations in the UK (e.g. a foot and mouth outbreak);

v. Financial systemic risk

Measures which deal with issues falling under the OECD (2004) definition of financial systemic risk. However, the OITO rule does apply to all other areas of financial services regulation, including financial crime regulation (such as anti-money-laundering) and conduct of business regulation;

vi. Regulations that have a temporary and short lifespan, specifically, those that are in place for up to 12 months and include an automatic sunset clause.

vii. Fees and charges - related to regulatory enforcement and compliance activity - including the annual uprating of any fees or charges. The exemption does not apply in the following case:

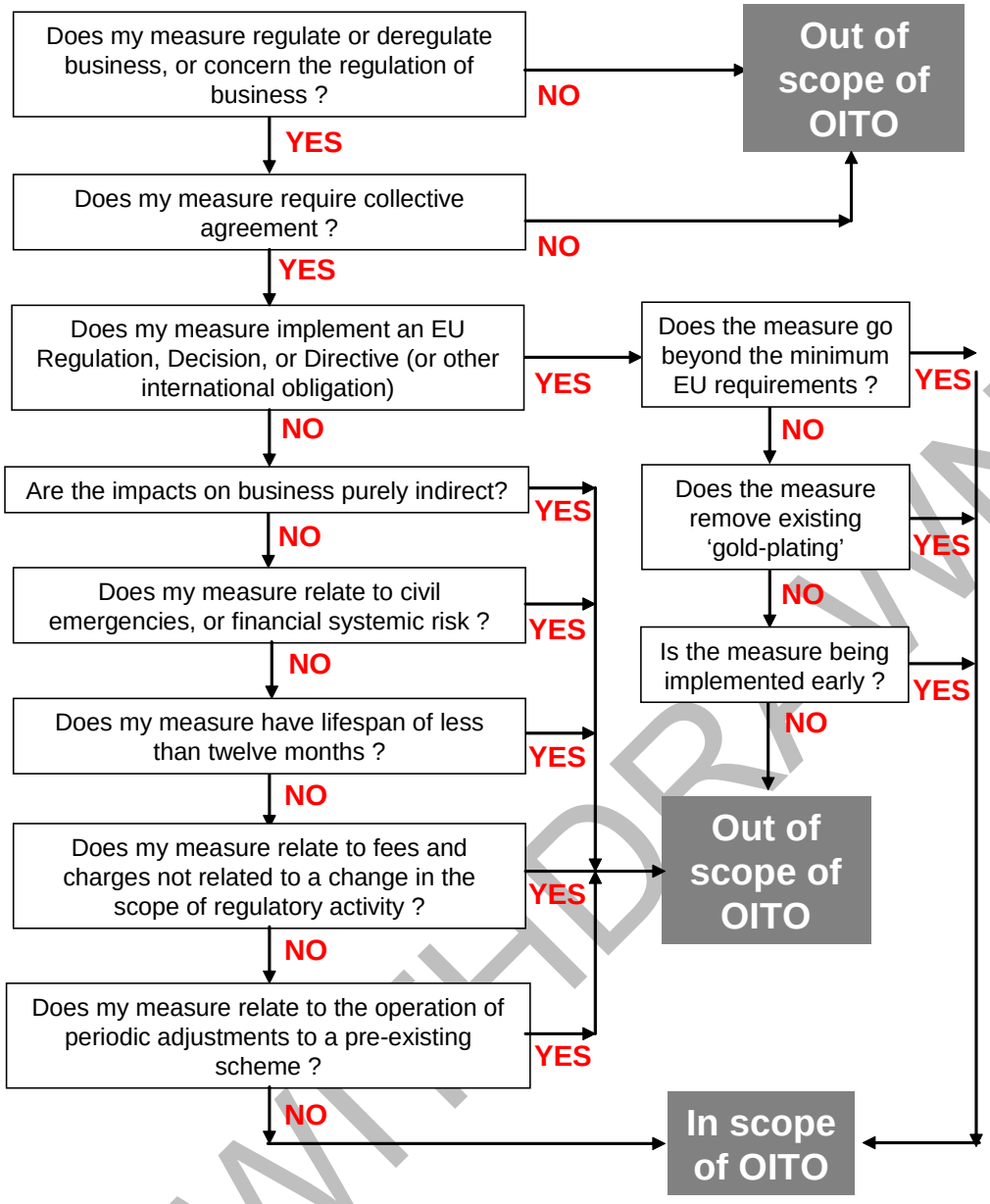
When the change in the level of fees and charges results from an expansion or reduction in the scope of regulatory activity.

viii. Operation of periodic adjustments to an existing regulation or regulatory regime that are intended to maintain the current level of regulation in the face of general wage and price inflation – the adjustment must be provided for in existing legislation, either directly or, for example, through the recommendations of the relevant independent statutory body as set out in that legislation, for instance the Low Pay Commission for the National Minimum Wage.

ix. Fines and penalties – even if these are levied on a regulated entity for non-compliance with a regulation

x. Regulatory measures that are a necessary part of a significant spending decision (e.g. some infrastructure projects)

Flowchart F: scope of One-in, Two-out



Classification of Measures under OITO

1.9.10 There are three classifications under OITO: IN, OUT or Zero Net Cost.

1.9.11 INs - an IN is applicable if:

- The direct incremental economic cost to business of a measure exceeds the direct incremental economic benefit to business.

1.9.12 OUTs - an OUT is applicable if:

- The change is deregulatory (in addition to the glossary definition, where Departments recast measures in order to reduce burdens on business will be included as deregulatory for the purposes of OITO); and
- The direct incremental economic benefit to business exceeds the direct incremental economic cost to business.

1.9.13 Zero Net Cost – a measure should be classified as Zero Net Cost (ZNC) if:

- it is regulatory and the direct incremental benefit to business exceeds the direct incremental cost to business;
- the direct incremental cost to business of the measure equals the direct incremental benefit to business; or
- neither direct net incremental cost to business nor the direct net incremental benefit of the measure can be monetised at final stage.

Specific Treatments

When should measures be scored under OITO?

1.9.14 The IN, OUT or Zero Net Cost attributed to the change in regulation (for both primary and secondary legislation) is scored under OITO from the date the relevant legislation (or other implementing mechanism) comes into force, or (if applicable) expires or is revoked. Therefore:

- Direct impacts on business from regulatory (or deregulatory) provisions contained in primary legislation should be scored for OITO on the date the relevant provisions come into force
- Direct impacts on business from regulatory (or deregulatory) provisions contained in the secondary legislation should be scored for OITO on the date that secondary legislation comes into force.

Pro-competition measures

1.9.15 Measures which increase competition can reasonably be expected to drive economic growth and benefit society. Therefore, where such measures are primarily intended to promote competition, any impacts related specifically to the competition aspects of the proposals should be scored as a zero net cost for the purposes of OITO.

1.9.16 In assessing whether a measure can be classified as pro-competition, you must provide positive responses to ALL of the following questions:

i. **Is the measure expected to promote competition? Promoting competition can be achieved through any of the following mechanisms:**

   Directly increasing the number or range of sustainable suppliers

   Indirectly increasing the number or range of sustainable suppliers

   Strengthening the ability of suppliers to compete

   Increasing suppliers' incentives to compete vigorously

ii. **Is the net impact expected to be an increase in competition (i.e. if a policy fulfils one of the criteria but results in a weakened position against another)?**

iii. **Is promoting competition the primary expected impact of the policy?**

iv. **Would it be reasonable to expect a net social benefit from the policy (i.e. benefits to outweigh costs), even where all the impacts may not be monetised?**

1.9.17 Departments wishing to apply this pro-competition treatment to a measure will need to address the above questions in their impact assessment.

1.9.18 The impacts related to the pro-competition purpose of the measure will need to be recorded separately within that impact assessment when it is sent to the RPC. The RPC will then be required to validate the 'pro-competition' assessment as well as the calculation of the impacts related to the pro-competition aspects of the proposal.

1.9.19 Departments will need to identify and score for OITO any impacts not related to the pro-competition purpose of the measure.

1.9.20 Validated impacts related to the pro-competition purpose of the measure will be excluded from the OITO figure recorded in the impact assessment and Statement of New Regulation.

Permissive Changes

1.9.21 Regulatory changes are permissive in nature where they allow, but do not force, businesses to do something.

1.9.22 If there is a reasonable expectation that business will only adopt these changes where they lead to net benefits for business, the analysis in the impact assessment can assume that benefits are at least equal to costs, even if it is not proportionate or possible to quantify or monetise the benefits.

Regulated Transfer of Assets

1.9.23 Where a measure transfers an asset to the private sector this results in a direct benefit to business (the value of the asset on transfer). In general:

- The value of the transferred assets is a direct benefit. You should use market values where possible. Where there is no open market for the transferred asset alternative approaches will have to be adopted;
- If the asset is transferred in dilapidated state, the cost of maintenance/remedy is categorised as a direct cost.

1.9.24 In economically regulated markets, where there is no market valuation for the assets that are transferred, you can use an estimate using the present value of the regulated return from the asset. This applies even if the value to the company or companies may come through future changes in prices.

Expiry of time-limited measures

1.9.25 The expiry of a time-limited measure that has been costly to business is treated as an OUT, and the expiry of a measure that benefits business as an IN, under the OITO methodology.

1.9.26 This principle applies to all time-limited measures implemented before and during the current parliament, including sunsetted measures, with the exception

of measures with a duration of less than 12 months (which are out of scope of OITO). The same principle is applied to any IN or OUT related to the early implementation of EU regulation.

1.9.27 Where the measure expiring was introduced before OIOO was introduced, you must undertake an assessment of the actual costs to business arising from the expiry to establish the IN or OUT.

1.9.28 Where a measure introduced under OIOO or OITO expires or is revoked, the costs to business should be scored by removing the original IN or OUT for that measure. If it is partially revoked, the value of the partial revocation cannot exceed the value originally scored for OIOO/OITO, and where possible should be quantified in the same way as the original IN or OUT. This ensures that a measure being introduced and then removed does not artificially register as creating a net cost or saving for business.

Scoring Measures under OITO

Equivalent Annual Net Cost to Business

1.9.29 You should calculate the value of INs and OUTs under OITO using Equivalent Annual Net Cost to Business (EANCB).

1.9.30 The EANCB of a measure is defined as the annualised value of the present value of net costs to business, calculated with reference to the counterfactual.

1.9.31 The EANCB is applicable from the date the measure comes into force.

1.9.32 The EANCB is calculated as part of the impact assessment. Departments should quantify impacts in accordance with Green Book guidance, with direct impacts identified and separated. The NPV of direct costs to business is used to calculate the EANCB. EANCB is calculated as follows:

One discount rate (Green Book - time period less than or equal to 31 years)

$$EANCB = \frac{PVNCB}{a_{t,r}}$$

Where $a_{t,r}$ is the annuity rate given by:

$$a_{t,r} = \frac{1+r}{r}\left[1 - \frac{1}{(1+r)^t}\right]$$

Where:

Equivalent Annual Net Cost to Business	EANCB
Present Value of Net Costs to Business	PVNCB

Annuity Rate	$a_{t,r}$
Time period over which the policy is active in the appraisal	t
Discount rate	r

Direct and Indirect Impacts

1.9.33 Only direct impacts on business should be scored for OITO.

1.9.34 A direct impact on business is defined as

"an impact that can be identified as resulting directly from the implementation or removal/simplification of the measure".

1.9.35 Subsequent effects that occur as a result of the direct impacts, including behaviour change, are indirect. These are not scored for OITO.

Time periods

1.9.36 The time period used in the calculation of an EANCB should be the time period in which the policy is active in the appraisal. As a default, a 10 year time period should be used.

1.9.37 If a proposal is time-limited and going to be active for less than 10 years, then the shorter time period which the policy will actually be active should be used to annualise costs and benefits to business in the EANCB calculation.

Direct/Indirect Impacts on New Entrants

1.9.38 Categorisation of direct and indirect impacts should be the same for existing business and new entrants. Direct and indirect impacts should be determined with reference to the existing business. Subsequently, the same categories of impacts (e.g. familiarisation costs) should be applied to new entrants.

Other Technical details

De Minimis

1.9.39 There is no de minimis for OITO.

Unit of costs

1.9.40 EANCB takes account of both transitional and annually recurring costs and benefits to business.

Price and Present Value Base Year

1.9.41 You should use 2009 as the price base year, and 2010 as the present value base year when calculating the EANCB.

1.9.42 Quantified and monetised impacts within impact assessments should be based on the most appropriate price base year (in constant prices). You should then inflate / deflate the impact assessment numbers (based on HMT's GDP deflator series) within impact assessment s, to the price base year to produce consistent data to measure delivery against OITO.

Exchange rate issues

1.9.43 EANCB will operate in UK GBP (£) and IAs should be calculated and adjusted accordingly, using UK data wherever possible. In addition, all cost estimates should be based on the impact to the UK economy.

Non-Compliant Companies

1.9.44 When calculating the EANCB, you should not include any costs (fines and penalties) incurred by companies for non-compliance with the regulation.

Tax and Pass-Through

1.9.45 You should calculate the impact of a measure on a gross (pre-tax) basis (excluding NIC – see details below).

1.9.46 Other forms of pass-through should also be excluded for the calculation of the EANCB (e.g. expected price increases).

Wage Rates

1.9.47 In line with the Green Book, non-wage labour costs, such as employer's national insurance and pension contributions, should be added to the basic wage rate.

Enforcement and Accountability of OITO

Reducing Regulation sub-Committee

1.9.48 The RRC has responsibility for enforcing the OITO rule and, in exceptional circumstances, has the power to make individual exemptions.

Regulatory Policy Committee

1.9.49 The Regulatory Policy Committee (RPC) is responsible for the validation of EANCB figures. This provides consistency of cost-benefit analysis across government.

Accountability

1.9.50 Accountability for ensuring the Coalition Government meets its OITO obligations rests with Ministers and Permanent Secretaries of the individual regulating Departments.

1.9.51 The publication of a Statement of New Regulation every six months provides public accountability at a Departmental and cross-government level.

1.10 Common Commencement Dates

New domestic measures (both regulatory and deregulatory) must come into force on a common commencement date - either 6 April or 1 October each year.

1.10.1 By requiring regulatory changes to occur at set times, Common Commencement Dates (CCDs) inform business and other stakeholders about forthcoming regulatory changes, helping them to plan and budget for new measures and to minimise any additional costs. CCDs also enable Ministers to take a strategic overview of the government's regulatory programme.

Scope

1.10.2 The two dates (6 April and 1 October) apply to domestic measures that regulate or deregulate business. The following kinds of measure are exempt from CCDs:

- EU-derived measures
- air navigation orders
- road closure orders
- measures that are outside the scope of clearance by the Reducing Regulation sub-committee (RRC)

1.10.3 Please note that if you were implementing any EU-derived measures ahead of the deadline (i.e. gold plating), the UK CCD would normally apply.

Waivers

1.10.4 You should always assume that your policy will be implemented on a CCD unless you have received explicit RRC clearance for a waiver on one of the grounds below:

- clear emergencies; for example those involving public or animal safety or health, which demand urgent action
- anti-avoidance measures necessitating urgent closure of loopholes
- measures which remove significant risk or detriment from business
- instances where the costs of timing a measure to meet a CCD would be wholly disproportionate to the public purse and/or business
- orders which commence other measures on a CCD

1.10.5 Even measures which benefit business should be deferred to a CCD, to ensure consistency for business. However, there may be some limited flexibility for deregulatory measures to come into force on a date other than a CCD if there would be demonstrable benefits to business (this maybe the case for some RTC measures). This would require agreement to a waiver by RRC at write-round: if you think it might apply to your policy, you should discuss it with your Better Regulation Unit (BRU).

Devolved regulation

1.10.6 Where an area of regulation is reserved (i.e. where decisions remain with Parliament in Westminster) it would normally be commenced on a UK-wide

basis, on a CCD. In some circumstances powers that affect business have been devolved. These include food safety and labelling, environment, fisheries, agriculture, health and aspects of the legal system. Where legislation includes a mixture of delegated and reserved provisions, you should discuss with officials in the Devolved Administrations and seek to align commencement dates as far as possible on a UK-wide basis.

What do I have to do?

1.10.7 You should factor CCDs into your planning of the implementation of all measures that regulate or deregulate business.

1.10.8 In order to work out on which CCD your measure should come into force, you need to allow time for:

- Consultation – please refer to the Cabinet Office's Consultation Principles Guidance;
- Discussions with officials in devolved administrations to align CCDs as far as possible;
- Fast track process or impact assessment clearance with your BRU and the independent Regulatory Policy Committee (RPC);
- Final stage clearance from the RRC (and the relevant policy committee) so the measure can be included in the next Statement of New Regulation;
- The requirement that guidance for new measures should be made available 12 weeks in advance of implementation;
- Parliamentary scrutiny and, if appropriate, debate of any Statutory Instruments well in advance of commencement.

1.10.9 If an unanticipated delay means that your measure will not be ready for the planned CCD, you should wait until the next CCD. If there are significant adverse repercussions arising from delaying implementation to the next CCD, you will need to seek a waiver from RRC.

1.10.10 For consistency, CCDs will always fall on 6 April and 1 October even if these are public holidays or during the weekend. In cases where the CCD falls at the weekend or on a public holiday and a Statutory Instrument cannot be laid in advance, then it may be laid on the first working day immediately after the CCD.

1.10.11 As part of project planning, you will need to allow time for scrutiny by relevant Parliamentary Committees, which may include the Joint Committee on Statutory Instruments (JCSI), the House of Commons Select Committee on Statutory Instruments, and/or the Secondary Legislation Scrutiny Committee (SLSC).

1.10.12 Working to a CCD timetable does not prevent you from laying instruments throughout the year, thereby allowing time for parliamentary scrutiny and, if appropriate, debate, well in advance of commencement.

1.11 EU transposition principles

Any new UK measures that implement EU measures must follow the transposition principles, 5a-5e of the Guiding Principles for EU legislation

1.11.1 The EU transposition principles are formulated to keep burdens on business from EU-derived measures at a minimum

Scope

1.11.2 If you are transposing an EU Directive or introducing legislation to implement or enforce an EU Regulation, you must apply the transposition principles.

What do I have to do?

1.11.3 When transposing EU Directives or introducing new domestic regulations to implement EU Regulations, you must notify the Reducing Regulation sub-Committee (RRC) within two weeks of publication in the Official Journal of the EU of your proposed approach, including an outline project plan to the obligations coming into force.

1.11.4 The transposition principles must be addressed whenever seeking RRC clearance. The principles state that, when transposing EU law, the Government will:

- ensure that (save in exceptional circumstances) the UK does not go beyond the minimum requirements of the measure which is being transposed
- wherever possible, seek to implement EU policy and legal obligations through the use of alternatives to regulation
- endeavour to ensure that UK businesses are not put at a competitive disadvantage compared with their European counterparts
- always use copy out for transposition where it is available, except where doing so would adversely affect UK interests e.g. by putting UK businesses at a competitive disadvantage compares with their European counterparts. If Departments do not use copy out, they will need to explain to the RRC the reasons for their choice
- ensure the necessary implementing measures come into force on (rather than before) the transposition deadline specified in a directive, unless there are compelling reasons for earlier implementation
- include a statutory duty for Ministerial review every five years.

1.11.5 Where implementation of EU legislation goes beyond minimum EU requirements or fails to take into account derogations, this is in scope of One-in, Two-out (OITO) and relevant domestic guidance applies.

1.11.6 Where the transposition principles have not been applied in full, the letter seeking Cabinet clearance must clearly justify why this is the case.

Top tips

1.11.7 Letters seeking Cabinet clearance should follow the Cabinet Office template, setting out how the Guiding Principles for EU legislation have been applied. Failure to do so is likely to delay clearance through challenge or the need to seek further information.

1.11.8 The Government's Transposition Guidance: How to implement European Directives Effectively should be adhered to when implementing EU legislation. It has been drafted for use by policy makers and lawyers across Government and explains what you need to do to implement EU legislation to meet the requirements in the Guiding Principles for EU Legislation.

1.11.9 You should also ensure that you observe the Cabinet Office's Consultation Principles when consulting on proposals to implement EU-derived measures. Consultations should capture views of the full range of stakeholders affected, including SMEs where they are likely to be affected.

1.12 Red Tape Challenge

A Red Tape Challenge (RTC) measure is a regulatory reform that has been formally reviewed through the Red Tape Challenge process, agreed by the Reducing Regulation sub-Committee (RRC) and announced by Departments as part of the outcome of a Red Tape Challenge 'theme'.

1.12.1. The Red Tape Challenge is a cross Government programme to review the stock of existing regulation. The default is that regulation should go unless it can be well defended.

Scope

1.12.2. An RTC measure is a regulatory reform that has been formally reviewed through the RTC process in conjunction with the RTC team (which exist across Better Regulation Executive and the Cabinet Office), agreed by the Reducing Regulation sub-Committee (RRC) and announced by Departments as part of the outcome of an RTC 'theme'.

1.12.3. RTC measures can include other independent review actions or measures that have been signed off by the RRC as part of an RTC theme.

What do I have to do?

1.12.4. You must first get collective agreement to implement an RTC measure from the relevant Cabinet Committee and RRC as part of the final package of outcomes from the theme.

1.12.5. Any RTC measures not in scope of One-in, Two-out (OITO) and which do not require consultation or further development (e.g. redundant regulations), can be immediately submitted for the next Statement of New Regulation (SNR) and brought into force on the next Common Commencement Date (CCD).

1.12.6. All other RTC measures then automatically qualify for the fast track without having to obtain confirmation from the Regulatory Policy Committee (RPC). But if the measure is likely to have a cost to business, or may otherwise be controversial, you should consult with your Better Regulation Unit (BRU) to decide whether an impact assessment should be prepared.

Top tips

1.12.7. Where you are planning to formally consult on an RTC measure, in most cases you should write round for collective agreement in the usual way, before publication of the consultation document. However if the detail of what is being consulted on was set out clearly in the clearance letter for the overall package, then collective agreement may not be required; you must speak to EDS and your RTC theme lead to agree this.

1.12.8. Equally, it is expected that most RTC measures will require separate final stage collective agreement from the relevant Cabinet Committees before they can be brought into force. If your measure is accessing the streamlined RRC clearance process (details in fast track chapter), and if the measure has not changed from

consultation stage, separate final stage clearance may not be required. You must speak to EDS and your RTC theme lead to agree this.

1.12.9. For any measure in scope of OITO you must submit at least a 'validation stage' impact assessment to the Regulatory Policy Committee in parallel with final stage collective agreement, in order to validate the OUT and the Equivalent Annual Net Cost to Business (EANCB).

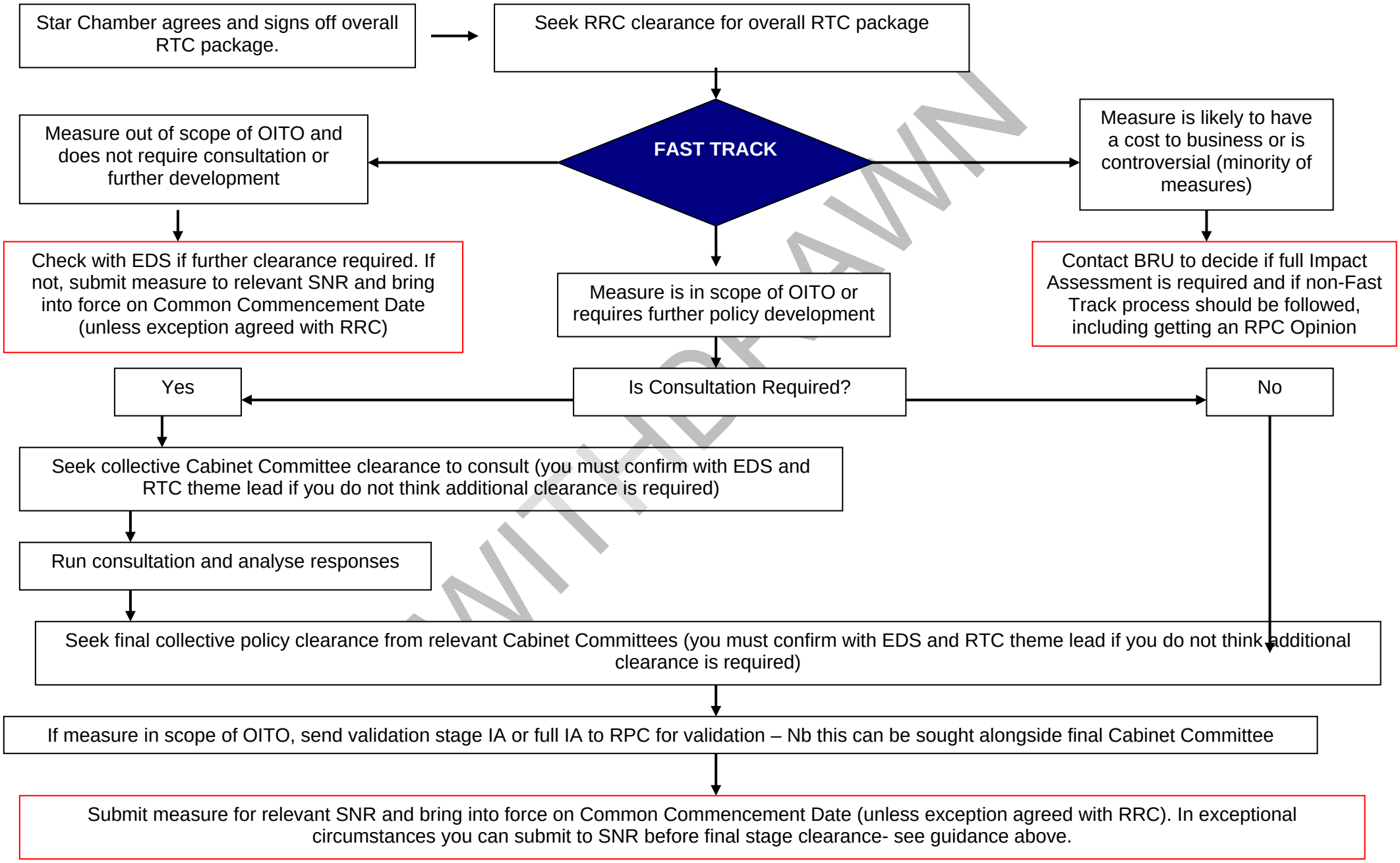
1.12.10. All RTC regulatory changes must be included in the SNR - you should submit measures for the relevant SNR along with all non-RTC measures. You do not have to wait for the validation of an OUT and EANCB before submitting a measure for an SNR, but should aim to get it validated as soon as possible, and at the latest by the time of the following SNR publication. In exceptional circumstances, you can also submit RTC measures for SNR before obtaining final stage policy clearance; provided that you are confident that clearance can be obtained in time for the measure to come into force as planned.

1.12.11. It is expected that all RTC measures will come into force on a CCD, but waivers can be granted where it does not make sense to delay bringing a deregulatory measure into force. You must clear any exceptions with the RRC.

1.12.12. If you need any clarification or further help with RTC measures, contact your RTC theme lead in the central BRE/Cabinet Office team.

1.12.13. The flowchart overleaf should help you work out what is needed for your RTC measure.

Flowchart G: Clearance Process for Red Tape Challenge measures



2. Impact Assessment Toolkit

2.1. Introduction

2.1.1 This guidance outlines the steps involved in undertaking an impact assessment and provides a guide to conducting analysis which will be presented in an impact assessment. It should be read by policy makers, particularly, where policies have a potential regulatory impact.

2.1.2 This guidance applies to regulation and should be read in conjunction with the Green Book. The Green Book provides the methodological framework for appraisals and evaluation across Government including cost benefit analysis.

2.1.3 An impact assessment is not undertaken for tax changes but instead a separate process, the tax impact assessment, is used. This is managed by HM Treasury.

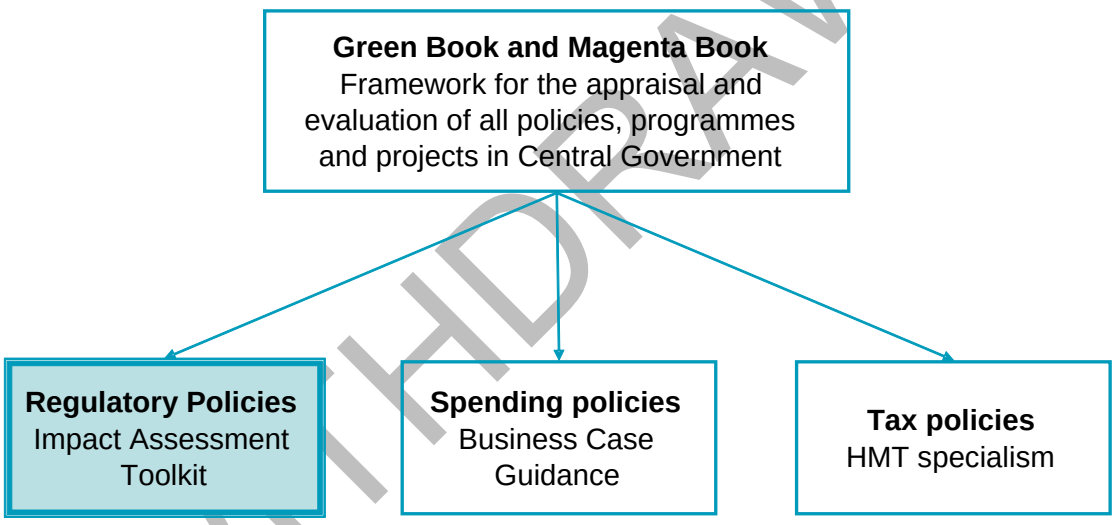


Figure 2.1.A: Formal guidance available for developing government policies

What is an impact assessment?

2.1.4 An impact assessment is both:

- A *continuous process* to help think through the reasons for government intervention, to weigh up various options for achieving an objective and to understand the consequences of a proposed intervention; and
- A *tool* to be used to help develop policy by assessing and presenting the likely costs and benefits and the associated risks of a proposal that might have an impact on the public, business or civil society organisations, the environment and wider society over the long term.

2.1.5 An impact assessment allows Ministers, and (when published) those with an interest in the proposed measure area to understand:

a. Why the Government is proposing to intervene;

b. The main options the Government is considering, and which one is preferred;

c. How and to what extent new policies may impact on different stakeholders; and

d. The estimated costs and benefits of proposed measure.

The stages of the impact assessment process

2.1.6 The stages in the impact assessment process are consistent with the broad stages of the policy cycle known as ROAMEF (Rationale, Objectives, Appraisal, Monitoring, Evaluation and Feedback), as highlighted in HM Treasury's Green Book. They are summarised in Figure 2, below

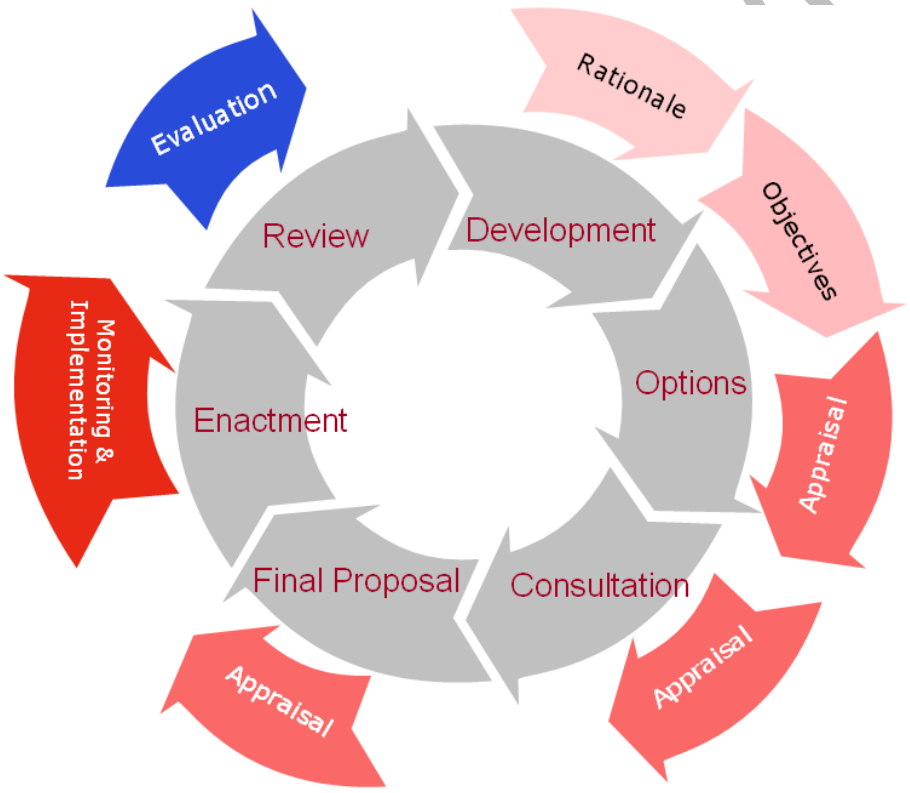


Figure 2.1.A: The stages in the impact assessment process

a. **Development stage:** This stage should focus on the definition of the policy problem, the rationale for government intervention, the identification of policy objectives and the gathering of evidence.

b. **Options stage:** This stage should focus on the identification and development of options, and the testing of these options through engaging with interested parties ahead of formal consultation. There should also be initial estimates of costs and benefits.

c. **Consultation stage:** This stage refers to when a formal public consultation is published. This stage should focus on firming up the options considered, ensuring that there is greater quantification of costs

and benefits of each option as far as possible, even if the numbers are indicative. You should use the consultation to seek stakeholders' views on your cost and benefit estimates, and the key assumptions and data that contribute to the analysis.

d. **Final proposal stage:** This stage refers to when a final proposal has been agreed and sent for clearance from RRC. This could occur at several points in the policy process (for example, through a Government response to a consultation, when sending a final proposal to Parliament). This stage should focus on the costs and benefits of the preferred option (the 'proposal'). It should set out the Post Implementation Review plan.

e. **Enactment stage:** This stage requires revisions to the previous Final Proposal stage impact assessment to reflect the final contents of the act, statutory instrument or other regulatory measure, if changes have been introduced during the Parliamentary process.

f. **Review stage:** This stage requires a Post Implementation Review impact assessment to capture the real impact of the implemented policy, and assess any modifications to the policy objectives or its implementation recommended as a result of the review.

g. **Validation stage:** For measures on the fast track and in scope of OITO where there is no final stage impact assessment a validation stage impact assessment must be completed. This impact assessment should assess the costs and benefits to business of the proposal and provide an EANCB.

When does an impact assessment need to be published?

2.1.7 Whilst the impact assessment is a continuous process there are certain points or stages within the process where it must be published. These are:

a. **The consultation stage (if a public consultation is carried out);**

b. **The final proposal stage;**

c. **The enactment stage (if applicable);**

d. **The review stage (if applicable);**

e. **The validation stage (if applicable).**

2.2. Proportionate Analysis

Overview

2.2.1 Proportionality of analysis relates to the appropriate level of resources to invest in gathering and analysing data for appraisals and evaluations.

2.2.2 This section provides you with a framework to assess what level of resources to invest in analysis, both for the measure as a whole and when allocating resource to individual issues within the impact assessment.

2.2.3 The key factors driving this decision should include:

a. The level of interest and sensitivity surrounding the policy

b. The degree to which the policy is novel, contentious or irreversible

c. The stage of policy development

d. The scale, duration and distribution of expected impact

e. The level of uncertainty around likely impacts

f. The data available and resources required to gather further data

g. The time available for policy development

2.2.4 The principle of proportionality is not used to guide whether or not an impact assessment should be completed for policy approval. It relates only to the scale of effort invested in the analysis required for an impact assessment.

2.2.5 Sensitivity analysis can be used to demonstrate the significance of any uncertainties associated with a proportionate approach. In particular this can show if certain impacts are immaterial to the overall policy conclusion.

2.2.6 You should use this framework to facilitate proportionality decisions. Decisions in relation to the level of analysis undertaken should be briefly explained when presenting analysis to stakeholders within and outside of government.

Levels of analysis

2.2.7 There are various levels of analysis which can be carried out:

Level 1. **Description of who will be affected** by the proposals. The main groups affected will include business, public sector and consumers

Level 2. Full **description of the impacts** (i.e. positive or negative impacts on any group) and order of magnitude (e.g. low, medium, high)

Level 3. **Quantify the effect** (e.g. 1000 planning applications per year, 100 hours of management time, 500,000 new houses built per year)

- Put a value on the scale of impacts by **monetising the effect**. It may be the case that the costs but not benefits can be monetised. The use of indicators may help further qualify non-monetised costs and benefits

Level 4. **Monetise fully** all costs and benefits

2.2.8 Analysis at levels 1 and 2 is a minimum requirement and apply in all cases. Levels 3 and above outline additional analysis which may be appropriate.

2.2.9 Where quantitative analysis is not possible, qualitative analysis should be carried out with the same level of rigour (see 'Value the Costs and Benefits', step 5 of the domestic impact assessment process).

2.2.10 Below is further detail on the factors you need to consider to make a judgement on the appropriate resources to allocate to the analysis.

Scale, duration and distribution of impacts

2.2.11 The scale, duration and distribution of a policy's likely impacts should be one of the key determinants of what level of analysis is proportionate.

2.2.12 For low-risk or low-impact interventions, it is unlikely to be proportionate to undertake every level of analysis outlined above unless the data is readily available.

2.2.13 By the same token, more data and analysis will be required where the impact is expected to be substantial or fall disproportionately on a specific group.

Certainty of impacts

2.2.14 In complex environments where is it uncertain what the impacts of proposals might be, more effort should be invested to understand and mitigate/manage risks as far as possible.

Data availability

2.2.15 Depending on the industry or subject area in question, different levels of data may readily be available.

2.2.16 Where good quality data is readily available, it would be expected that this would be used in analysis. However, where new research would need to be commissioned to gather the required data, this should only be undertaken where this is cost-effective.

Time available

2.2.17 Forward planning should ensure that time is invested to ensure that impacts are properly assessed. Lack of forward planning is not a justification for limited analysis.

2.2.18 For emergencies (e.g. the closure of an industry for public health reasons), good policy development processes would include assessing the impacts of proposals, at least, within a few days.

Policy development stage

2.2.19 From early stages of policy development, affected groups should be identified (level 1), impacts on these groups described and order of magnitude estimates provided (level 2).

2.2.20 As you progress through the policy making process, it is expected that the quality of data being used and depth of analysis should be refined.

2.2.21 When engaging stakeholders (e.g. formal consultation), quantification (level 3) and monetisation (level 4) should be included as far as possible, even if the numbers are indicative. However, full monetisation is unlikely at early stages and may only be possible once stakeholders have been consulted.

2.2.22 Nevertheless, information required to enable full monetisation should be identified. Consultation questions should be tailored towards gathering the required information.

2.2.23 A validation stage impact assessment, if required, need only include analysis supporting the EANCB of the preferred option. No analysis of other options or wider impacts is required.

2.2.24 The table below illustrates the level of analysis which might be undertaken as policy development progresses, assuming full quantification is possible and proportionate.

Policy Development Stage	Progression of Quantitative Analysis – Assuming Full Quantification is Possible and Proportionate				
	1: Identify	2: Describe	3: Quantify	4: Partially monetise	5: Fully monetise
Development	✓	✓	?	?	×
Options	✓	✓	?	?	×
Consultation	✓	✓	?	?	?
Final	✓	✓	✓	✓	✓
Enactment	✓	✓	✓	✓	✓

Figure 2.2.A: Illustration of levels of quantitative analysis by policy stage

2.3. Domestic Impact Assessment Process

Step 1: Identify the problem

2.3.1 In line with all Government appraisals, for regulatory measures, the rationale for government intervention needs to be identified early in the policy development process.

2.3.2 Details on rationale for government intervention are provided in the Green Book.

2.3.3 In relation to Regulation, economic efficiency (e.g. externalities, imperfect information, market power) and equity considerations are the most relevant areas.

2.3.4 Economic theory is useful at this stage and policy officials are encouraged to consult their Departmental economists early in this process.

2.3.5 Where appropriate, research should be carried out to understand the scope of the issue. This should enable the following to be identified:

a. Evidence about the nature of the problem

b. The probability that it will occur and its likely frequency

c. Who it will impact on

d. Who is best placed to manage / resolve the problem

Checklist for step 1
Confirm that there is a problem
If there is a problem, identify it clearly
Consult relevant experts (e.g. economists)
Assess the scale of the problem
Consider who is best placed to manage / resolve the problem

Step 2: Specify desired objectives

2.3.6 The process for setting objectives should follow guidance in the Green Book.

2.3.7 The 'Principles of Good Regulation' state that all Regulation should be:

a. Transparent

b. Accountable

c. Proportionate

d. Consistent

e. Targeted at cases where action is needed

2.3.8 These principles require objectives to be clearly articulated. Clear objectives also facilitate consistent enforcement.

2.3.9 In line with all Government appraisals, objectives should be SMART: Specific, Measurable, Achievable, Relevant and Time-bound.

2.3.10 Clear objectives are essential for a meaningful Post-Implementation Review (PIR).

2.3.11 When deciding whether the objectives are achievable, consider the risk of government failure (when government intervention causes a less efficient allocation of goods and resources than would otherwise occur).

2.3.12 If there remains a risk that government intervention may not improve the outcome, the results should be closely monitored as part of your PIR.

Checklist for step 2
Identify clear policy objectives
Check that policy objectives are achievable
Set out any hierarchy of outcomes
Ensure targets are SMART

Step 3: Identify viable options that will achieve the objectives

2.3.13 You should follow Green Book guidance in creating options for intervention.

2.3.14 It is Government policy to regulate only as a last resort, having demonstrated that satisfactory outcomes cannot be achieved by alternatives, self-regulatory or non-regulatory approaches. These options should be considered during this step.

2.3.15 In the context of impact assessment, the number of options will partly be driven by the stage of policy development.

a. Development and options stages: A wide set of options should be considered, including alternatives to regulation. You should also identify what policy levers may already be in place.

b. Consultation stage: All the options considered should be identified, together with their potential for achieving the stated objectives. A shortlist of options should be presented during consultation, with an explanation of the selection process conducted to create the shortlist.

c. Final and enactment stages: All the options considered should be assessed. The preferred option should be identified, along with a short explanation of why it is the preferred option.

2.3.16 There is no minimum number of options that must be included, but it is important to demonstrate that the analysis has not jumped to conclusions.

2.3.17 All options must be assessed against the 'do nothing' situation. This will help draw out the implications of no action.

2.3.18 When presenting policies to wider Government and stakeholders (i.e. using the impact assessment template), only genuine policy options should be presented.

Checklist for step 3
At early stages, engage widely to create a set of options
Consider alternatives to regulation
If alternatives to regulation not pursued, demonstrate they cannot achieve outcomes
For domestic policies, include a 'do nothing' option
Refine the options through development, consultation and final stages
Only present genuine policy options to stakeholders

Step 4: Identify the impacts

2.3.19 As set out in the Green Book, there are a number of issues which are relevant to appraisal and evaluation, including economic, environmental and social issues.

2.3.20 You should also identify the different parts of society which are likely to be affected and the distribution of impacts between various groups.

2.3.21 These impacts should be identified in early policy development.

2.3.22 Careful consideration should also be given to possible unintended consequences, such as how things could go wrong or work out better than expected.

2.3.23 The following questions should be addressed when considering potential impacts (although this list is not exhaustive):

Economic / Financial

a. How will proposals impact on the market and specifically consumers and businesses? In particular, consider the impacts on small and start-up businesses (see SMBA guidance for more details).

b. Will all businesses be affected in the same way, or will there be some that benefit, while others bear costs?

c. What are the expected impacts on the wider economy (e.g. labour market)?

d. What are the impacts on competition? Will the number or range of suppliers be limited? Will their ability to compete be limited or the incentive to compete vigorously be reduced?

e. Will proposals impact on innovation e.g. new low carbon technologies?

f. What are the expected financial and resource impacts on other Departments (e.g. the Justice system)? Note that if the policy has an impact on local authorities then this must be assessed in line with guidance on new burdens.

Social

a. Will proposals have an impact on social, wellbeing or health inequalities?

b. Will proposals influence safety at work or risk of accidents in the community?

c. Will proposals affect the rate of crime or crime prevention or create a new offence/opportunity for crime?

d. Will proposals affect the levels of skills and education?

e. Will proposals affect provision of facilities or services that support community cohesion or in other ways that affect the quality of life in the local community?

f. Will the impacts on rural areas be different to urban areas? Will there be specific regional or local effects?

g. What are the impacts on human rights (right to life, liberty and security, a fair trial and prohibition of torture, slavery, forced labour)?

h. Do the proposals impact on the responsibilities under the Equality Act 2010 i.e. do they impact on age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation?

Environmental

a. Will proposals lead to change in the emission of Greenhouse Gases? This information is required to track performance against Carbon Budgets.

b. Will proposals be vulnerable to the predicted effects of climate change?

c. Will proposals lead to a change in the financial costs or environmental and health impacts of waste management?

d. Will proposals impact significantly on air quality?

e. Will proposals involve any material change to the appearance of the landscape or townscape?

f. Will proposals change the degree of water pollution, levels of abstraction of water, exposure to flood risk?

g. Will proposals affect the number of people exposed to noise or the levels of exposure, or impact on the number of people suffering from nuisances on the street scene?

h. Will the proposal change 1) the amount or variety of living species; 2) the amount, variety or quality of ecosystems?'

2.3.24 Full guidance on how to assess any impacts identified is available in the Green Book and in various departmental guidance documents (referenced in Annex 1).

2.3.25 Further details on how to document any impacts identified are contained in the relevant departmental guidance documents (see Annex 1) and Section 5 'Publication and Quality Assurance' below.

Checklist for step 4
Identify the impacts by issue type
Identify groups affected
Consult detailed guidance available if required
Document impacts in line with relevant guidance

Step 5: Value the costs and benefits and select best option

Overview

2.3.26 Your valuation of costs and benefits should consider the proportionality section of this guidance for analysis levels 4 and 5 (partial and full monetisation).

2.3.27 Quantifying the costs and benefits of options will allow you to compare options and inform choices between them. Your approach to valuing costs and benefits of options should follow guidance in the Green Book, including the selection of discount rates.

2.3.28 You should also consider the issues specific to regulatory proposals outlined below.

2.3.29 The Green Book also includes methodology for the valuation of wider social and environmental costs and benefits for which there may be no market price.

2.3.30 Departmental analysts should help you with the monetisation of costs and benefits in line with the methodology here and in the Green Book.

2.3.31 Issues of equity, social significance, as well as political considerations, will also influence decisions.

Baseline

2.3.32 For each option you must present only the costs and benefits that are additional (i.e. incremental or marginal costs and benefits) to those that would have been incurred if no action were taken (i.e. versus the baseline, counterfactual or 'do nothing').

Time period

2.3.33 In the context of impact assessments, the appropriate time period to use when calculating costs and benefits is the length, in years, of the expected life of the policy.

2.3.34 Where the appropriate appraisal period is not identifiable, a ten-year period should be used for the analysis.

2.3.35 Where a regulatory measure is subject to a sunset provision the time period should be the expected life of the policy, not the sunset period.

Types of cost and benefits

2.3.36 When assessing costs and benefits, you should distinguish between types of impact:

a. **Transition costs and benefits**: these are transient or one-off costs or benefits that occur, which normally relate to the implementation of the measure

b. **Recurring costs and benefits**: these are the costs and benefits that will recur while the policy measure remains in force

c. **Transfers**: economic transfers should be included as a cost to the organisation bearing the cost and as a benefit to those receiving the transfer

2.3.37 Total costs and benefits should be expressed in Present Value terms.

Regulatory costs

2.3.38 Regulatory costs can be categorised as administrative burdens and policy costs.

2.3.39 Administrative burdens include costs associated with familiarisation with administrative requirements, record keeping and reporting, including inspection and enforcement of regulation. The Standard Cost Model gives a framework for measuring administrative burdens.

2.3.40 Policy costs are the essential costs of meeting or complying with the policy objectives and include all costs which are not administrative burdens.

2.3.41 You should calculate impacts on businesses based on the existing business population and expected changes. Changes could be due to the natural turnover in businesses (captured in the counterfactual) or change driven by the policy proposal.

2.3.42 When calculating the NPV, business NPV and EANCB, you should not include any costs (for example fines or penalties) incurred by companies for non-compliance with the regulation.

Cost	Technique
Labour costs	Full time equivalent (FTE) costs should be used to estimate the costs of employees' time to the employer and should include employers' pension contribution costs, national insurance contributions and allowances as well as basic salaries. ASHE is a recommended source.
Costs of new equipment or new production processes	Formal / informal consultation with those likely to be affected might provide the best data.
Collecting information and providing proof of compliance	Use labour costs, plus the cost of new equipment required to do this.
Costs of getting licences	Estimate the fees plus administrative burdens. Enforcement authorities should be able to help with providing estimates.
Costs of extra legal, accountancy or other consultancy advice	Consultation or colleagues' experience might be informative.
Enforcement costs	Enforcement activities may generate costs to both regulators and businesses. Such activities could include: inspections, fines and information obligations. These impacts should be explored with the proposed regulator.

Figure 2.3.A: Examples of techniques to monetise administrative burdens and policy costs

Front line public services

2.3.43 Regulatory costs for the public sector should be calculated as normal and be made explicit alongside costs to business.

2.3.44 You should show that any burden has been mitigated by demonstrating:

a. Meaningful, early front line engagement in idea and solution development

b. Any new regulatory proposal has been considered in the context of the total cumulative burden of regulation on the relevant front line workers

c. Alternative options to regulatory proposals have been thoroughly explored and any preferred option mitigates costs and burdens in the most effective way□

Primary vs. secondary legislation

2.3.45 Where you are implementing a measure through primary legislation, or through a combination of primary legislation and secondary legislation made using powers provided in the primary legislation, the primary legislation impact assessment should quantify the total expected impact of the measure.

2.3.46 If subsequent secondary legislation is drafted, the original impact assessment should be revised as necessary to refine the estimate of relevant impacts.

Compliance

2.3.47 When planning to introduce a regulatory measure, costs and benefits should assume 100% compliance, unless there is evidence of the contrary. However, differing levels of compliance should also be investigated through sensitivity analysis.

2.3.48 When removing a regulation, or when an existing time-limited regulation expires, costs and benefits should be based on actual levels of compliance.

2.3.49 When calculating enforcement costs these should be based on a realistic assumption of likely compliance and capture impacts on both business and regulators.

Key assumptions, sensitivities and risks

2.3.50 In order to reflect the inherent uncertainty of costs and benefits estimates, you may need to provide a range for your costs and benefits estimates. Highlight the factors determining the outcome within any range and how any risks will be mitigated.

2.3.51 Whether or not a range is used, a best estimate should be provided. This will be the most likely point in the range (having some detailed analysis of the probability distribution of costs and benefits).

2.3.52 In the absence of information on the distribution of costs and benefits, use the mid-point of the range. While information on the distribution is preferable, it may not be proportionate in every case to go into such a depth of analysis.

2.3.53 You should identify any specific risks or areas of uncertainty that may impact on the levels of costs and benefits.

2.3.54 You should state clearly what main assumptions you have made and these should be tested to explore the sensitivity of your estimates.

Non-monetised costs and benefits

2.3.55 Costs and benefits should be recorded in qualitative terms only when full quantification is not possible or proportionate.

2.3.56 The lack of monetisation should not reduce the rigour with which the options are assessed. Multi-criteria analysis is a useful tool to assess non-monetised aspects.

2.3.57 The Green Book (Chapter 5 Box 18) provides a simple example of this tool.

2.3.58 Supplementary guidance on the Green Book website provides instructions on how to carry out a detailed multi-criteria decision analysis.

2.3.59 However, while helpful, this is still a second best method of analysis compared to quantitative estimates of costs and benefits.

Select the best option

2.3.60 You should follow Green Book guidance when selecting the best option.

2.3.61 In the context of regulatory proposals, cost benefit or cost effectiveness analysis are the most relevant methodologies.

Checklist for step 5
Identify groups affected
Monetise costs and benefits as far as possible
Clearly highlight direct costs to business
Rigorously assess non-monetised costs and benefits
Explore risks and sensitivities
Use cost benefit or cost effectiveness analysis to select the best option

Step 6: Consider enforcement and implementation issues

2.3.62 When considering preparing a new measure, you should consider options for how it will be enforced, taking account of the principles set out in the Hampton Report (reflected in the statutory Regulators' Code).

2.3.63 Departments should also consider the impact of new enforcement obligations on Departmental resources.

Who will enforce the policy?

2.3.64 You should consider:

a) Who will enforce the policy? Could others help to enforce the policy?

b) Does the issue being addressed through the policy impact nationally, locally or sub-nationally? Is active enforcement required at all these levels?

c) What skills, expertise or experience will be needed to enforce this policy? Which organisations possess these skills and expertise?

d) What resources can support implementation / enforcement of this policy?

2.3.65 If you decide that active enforcement is required, you must involve the potential enforcement authorities at an early stage. Enforcement costs are likely to constitute a public sector cost and should feature in the cost-benefit analysis.

2.3.66 If local authority regulatory services are to enforce the new policy you must consider whether it would be appropriate to bring the regulation into scope of Primary Authority - a scheme which allows the creation of legally recognised partnerships between a business and a single local authority to reduce regulatory inconsistency and burdens. Guidance on how to consider whether your regulation should be in scope of Primary Authority can be found here.

2.3.67 If you propose creating a new enforcement body, be clear as to why an existing agency would not be able to carry out enforcement of the new proposals.

Checklist for step 6
Identify who is responsible for enforcement and who will make decisions
Consider the Hampton Principles
Identify stakeholders (who will be involved, who will be more widely affected)

Step 7: Plan for evaluation and evaluate implemented policy

2.3.68 A Post Implementation Review (PIR) is a form of evaluation, within the context of regulatory measures.

2.3.69 Details on how to carry out a PIR are contained in the guidance on reviewing regulation and the Magenta Book.

2.3.70 A date for PIR should ordinarily be set out in the Final and Enactment stage impact assessment. The first PIR is normally expected 3-5 years after implementation (with subsequent reviews on a comparable timescale).

2.3.71 Planning the evaluation at the start of the policy development process allows data to be collected before the policy is implemented. This provides the baseline from which to measure the impact.

Checklist for step 7 – during policy development
Plan for your evaluation using the Magenta Book
Establish what data need to be collected before and during implementation phase

Checklist for step 7 – after implementation
Gather data required during policy implementation phase
Evaluate the policy using a PIR ahead of any deadlines (e.g. sunset dates)
Consult with stakeholders on effectiveness of policy

2.4. Impact Assessments for EU policies

Overview

2.4.1 You should consider potential impacts for the UK throughout the EU legislative cycle, working with the devolved administrations as appropriate.

2.4.2 This will inform the Government's approach to early influencing and negotiation in Brussels, as well as implementation in the UK.

2.4.3 The Government's Guiding Principles for EU Legislation and supporting guidance set out how you should approach all stages of EU policy-making.

2.4.4 When considering different options, your focus should be on what the Government can genuinely influence and the discretion it has when implementing EU legislation.

2.4.5 This Section focuses on EU legislation, but the same principles should be applied to international obligations.

Stage 1: Before Commission proposals come out – early engagement

2.4.6 Try to anticipate what is in the EU pipeline before the Commission adopts proposals and consider what the impacts of different policy choices could be for the UK.

2.4.7 Engage with the Commission where possible to try to ensure that future EU measures are justified. Explore whether policy objectives can be achieved without regulation. The scope for influence will decrease as the EU policy cycle progresses.

2.4.8 Try to ensure that proposals maximise benefits and minimise risks to the UK.

2.4.9 Consider sharing your analysis with the Commission while its policy is still fluid. Commission officials generally welcome data for their own impact assessments.

Stage 2: Agreeing UK negotiating lines

2.4.10 Clearance for the UK position in EU negotiations should be sought via a write-round to the European Affairs Committee (EAC), copied to the Reducing Regulation sub-Committee (RRC) where there is the potential for significant regulatory impacts.

2.4.11 To ensure early UK influence, clearance for the UK's approach to negotiations will often be needed before Commission proposals are formally adopted.

2.4.12 You will need to balance the need for allowing sufficient time to gather intelligence on the likely positions of other Member States and the European Parliament, with the need to give the EAC and RRC a meaningful opportunity to influence the approach taken in Council.

2.4.13 You should provide analysis of the potential regulatory impacts when seeking clearance for the UK negotiating position, using the checklist in Annex 3 as a guide to the types of issues to consider.

2.4.14 Using the template in annex 3, you should provide analysis of the Commission proposal to the EU scrutiny committees in the UK Parliament alongside your Explanatory Memorandum on the Commission proposal or as soon as possible thereafter.

2.4.15 Your analysis should give a sense of the significance of the proposal. Orders of magnitude rather than detailed quantitative analysis should be sufficient, particularly at the early stage in EU negotiations.

2.4.16 The analysis should be proportionate to the proposal and time available. The more significant the proposal, the more quantification and in-depth analysis would be expected.

2.4.17 In EAC write-rounds, include analysis of the potential impacts of the proposed negotiating position. Where you are asking Ministers to consider different negotiating options, give an indication of the relative impacts of these.

2.4.18 Present your analysis succinctly, so it is easy for Ministers to identify the key points. Annex further detail, if necessary.

2.4.19 Commission impact assessments can be a useful source of information on the potential impacts of a Commission proposal. However, you should assess whether the Commission has met its own impact assessment criteria and consider whether it would be productive to press for further analysis.

Stage 3: After EU laws have been agreed in Brussels – implementation

2.4.20 Once the EU measure has been adopted and published (in the Official Journal of the European Union), demonstrate how you are addressing the Government's Guiding Principles for EU Legislation taking account of revised Transposition Guidance in implementing impact assessments.

2.4.21 Set out the options for implementing the EU legislation to help Ministers agree the least burdensome and most beneficial approach. UK businesses must not be put at a competitive disadvantage relative to their EU counterparts.

2.4.22 You do not need to include a 'do nothing' policy option unless no action is required to comply with the EU obligations. However, the 'do nothing' counterfactual should be used as the baseline against which costs and benefits are calculated.

2.4.23 Consider including a comparison of the impact on the UK with impacts in other EU countries to demonstrate that UK businesses will not be put at a disadvantage.

2.4.24 Value the options in line with the methodology set out in the Green Book and as detailed in steps 4 and 5 of the domestic policy making process (see above).

2.4.25 Allow sufficient time for independent scrutiny of your analysis, so that you are in a position to implement EU legal obligations on time to avoid incurring infractions/fines.

2.4.26 The Government's approach is to look at the cumulative impact of new EU measures. When transposing or giving effect to EU legislation, the impact of implementation should be assessed even if there is little scope for discretion.

2.4.27 The impact of directly applicable EU legislation should be considered where implementing provisions are created to give effect (e.g. enforcement requirements or the exercise of a derogation).

2.4.28 For directly applicable EU legislation where the Government has no discretion on how to implement, Departments will decide whether it would be appropriate to produce an impact assessment in each case.

2.5. Publication and Quality Assurance

Overview

2.5.1 When publishing the results of an impact assessment, the IA Template should be used. Details of how to complete the IA Template are provided in Annex 2.

2.5.2 Details of when an impact assessment must be formally produced and published are contained in Section 1.

2.5.3 The evidence base section should provide full details of the analysis in Steps 1 to 7 of this IA Toolkit. The level of detail included should follow the principles of proportionality in Section 2.

2.5.4 Further information can be included in Annexes to the IA Template. This may include any relevant analysis of specific impacts identified during Step 4 of the impact assessment process 'identify the impacts' (e.g. competition impact analysis).

Quality Assurance

2.5.5 It is the responsibility of Departments, in the first instance, to ensure the quality of analysis of their own impact assessments.

2.5.6 Chief Economists should sign off impact assessments for the robustness and accuracy of the costs, benefits and impact analysis. To facilitate this, Departments are expected to set up robust Departmental processes. These could include Ministerial challenge panels, peer group review, consultation with Chief Economists.

2.5.7 The Minister responsible for the policy (or the Chief Executive of non Departmental public bodies and agencies) is also required to sign off the impact assessment. The appropriate ministerial declarations can be found in the IA Template

2.5.8 Once approved at Departmental level, the IA may be subject to scrutiny by an independent body, the Regulatory Policy Committee (RPC), for quality assurance.

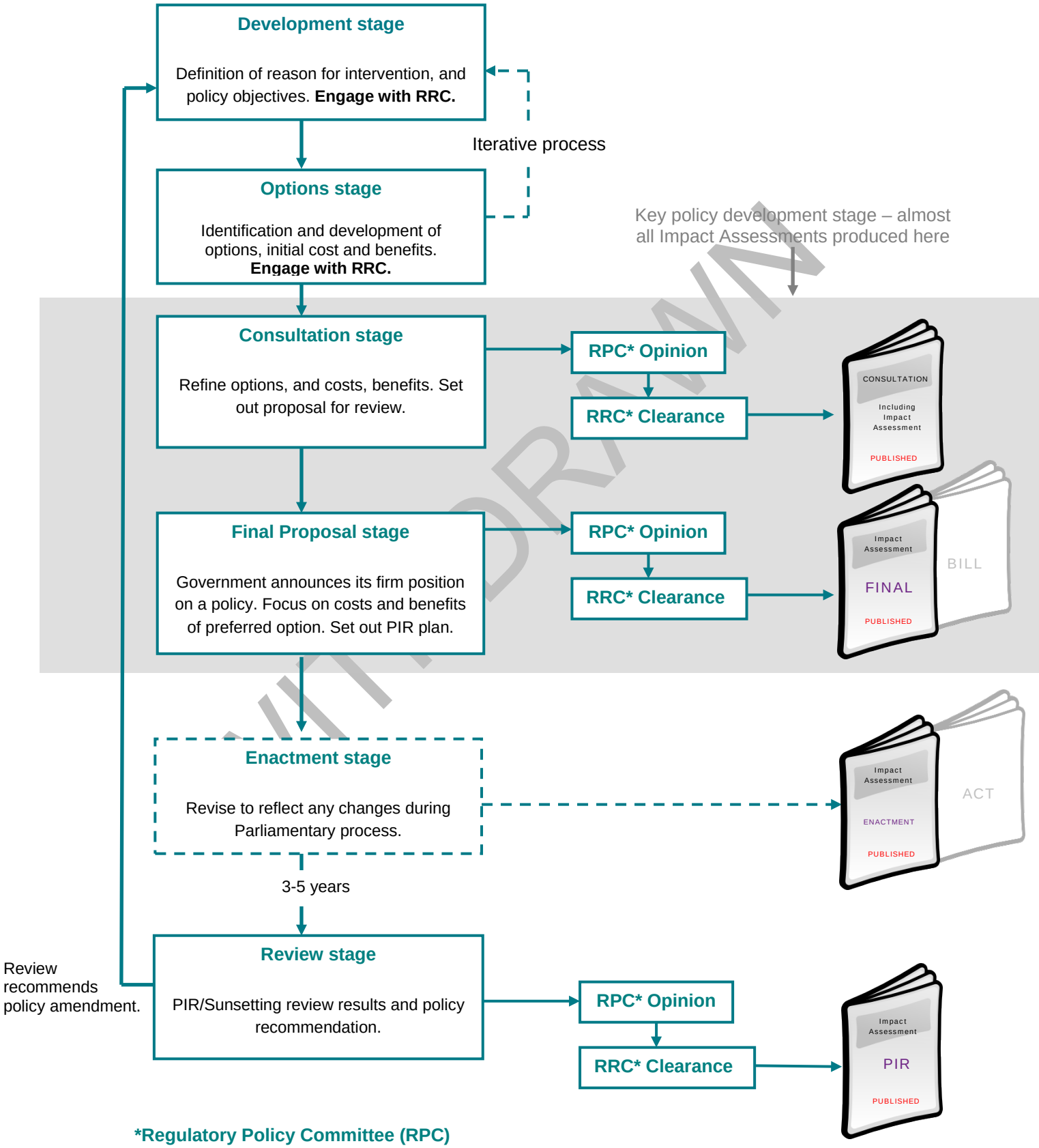
RRC clearance

2.5.9 Ministerial clearance through the Reducing Regulation sub-Committee (RRC) is required for all measures that regulate or deregulate business.

2.5.10 Where an impact assessment has been prepared, this must be attached to clearance requests sent to the RRC and the main policy committee. Unless your measure qualifies for the fast track, you must obtain a "fit for purpose" opinion from the RPC prior to seeking RRC clearance. At consultation stage you may seek RRC clearance with a "not fit for purpose" opinion, however, if clearance is granted, the RPC will publish their opinion.

2.5.11 Impact assessments may also be scrutinised by Parliamentary committees, and in particular the Secondary Legislation Scrutiny Committee.

2.5.12 Policies not using the fast track will follow the process outlined in the flowchart below.



Publishing Impact Assessments

2.5.13 When publishing an impact assessment, you must also upload it to the legislation.gov website. This makes them accessible to stakeholders and the general public. You should also publish the associated RPC opinion: your Parliamentary Unit should be able to help with this process.

2.5.14 You may also wish to publish the impact assessment with its associated documents on your Department's website.

2.5.15 Impact assessments for primary legislation (i.e. Bills) should be sent electronically to the House of Commons Library (impactassessment@parliament.uk) at all stages. Enquiries on this issue can be sent to the same address

Impact Assessments for Bills

2.5.16 Where you have prepared an impact assessment for a measure being implemented through primary legislation, the impact assessment should accompany the introduction of the Bill to either House of Parliament, and be updated as necessary at each Parliamentary stage. Where your measure is introduced as an amendment to a Bill, any impact assessment related to that measure should be published at the same time as the amendment is laid.

2.5.17 For Private Members' Bills that the Government are planning to support, or is not intending to oppose, and which contain proposed measures that would normally be subject to an impact assessment process, an impact assessment should be produced as soon as reasonably practicable, preferably by the date set down for second reading in the House in which the Bill was introduced.

2.5.18 It is also good practice to prepare an impact assessment for a Private Member's Bill being opposed, in order to obtain the evidence to justify the objection to the Bill.

2.5.19 See the Guide to Making Legislation for further details on the process for developing Primary Legislation (note that the section on impact assessment does not reflect recent changes. Guidance on impact assessment should be sought from this document).

Assistance

2.5.20 Better Regulation Units in your Departments should be the first port of call for assistance on your regulation related questions.

Annex 1: Impact Assessment Links

The Green Book: HM Treasury guidance on 'Appraisal and Evaluation in Central Government'

Supplementary Green Book guidance: Asset Valuation (Valuation of Public Sector Assets), Competition, Crime, Discounting, Environment (climate change, greenhouse gas emissions, floods and sustainability), Health, Multi-Criteria Decision Analysis, Optimism Bias, PFI (taxation adjustments when comparing PFI with the Public Sector Comparator), Regeneration and the Regions, Risk, Stated Preference Techniques, Transport.

The Magenta Book: HM Treasury 'Guidance on evaluation' for Central Government

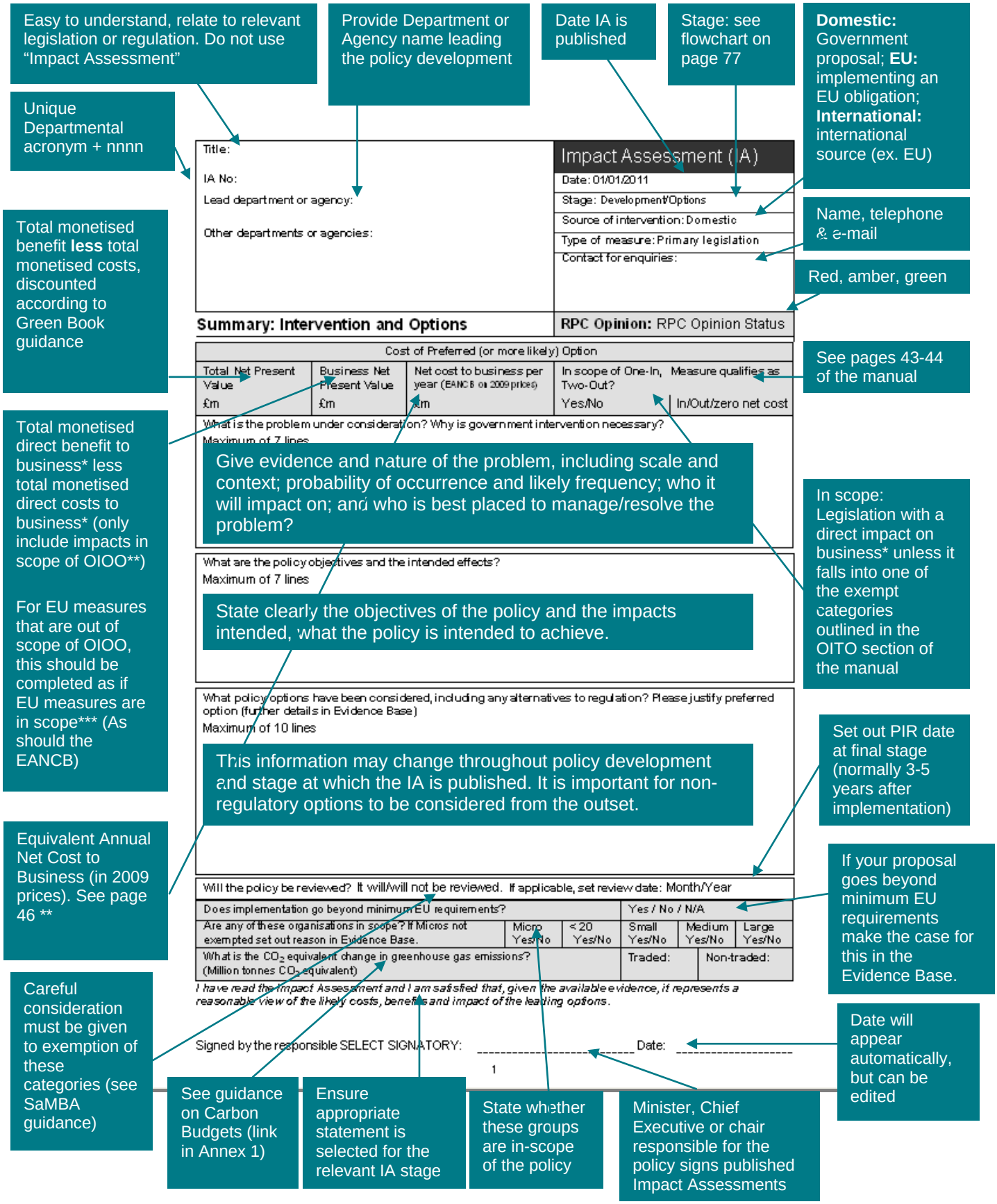
Departmental guidance on assessing impacts:

- Statutory Equalities Duties
- Competition
- Wider Environmental Issues
- Health and Well-being
- Human Rights
- Justice System
- Rural Proofing
- Sustainable Development

Other guidance:

- Standard Cost Model
- Cabinet Office guide to making legislation (note that the section on impact assessment does not reflect recent changes. Guidance on impact assessment should be sought from this document).

Annex 2: How to complete an Impact Assessment Template



*businesses and civil society organisations **If there are no in scope impacts then include all impacts on business and state that the policy is out of scope in the fourth box *** For EU measures that are in scope, the business NPV and EANCB resulting from out of scope EU impacts should be calculated and included in the evidence base of the IA

For each policy option use one 'Analysis and Evidence' page. For an IA covering several parts to a Bill it is sensible to have an overall summary 'Analysis and Evidence' page.

Present **V**alue Base Year: Normally the year in which estimates are undertaken or policy decisions taken

The length in years of the life of the policy.

Total monetised benefit **less** total monetised costs

All monetised costs and benefits should be expressed in £m

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate				

Description and scale of key monetised costs by 'main affected groups'
Maximum of 5 lines

The Best Estimate must be provided and will be the most likely point in the range

Other key non-monetised costs by 'main affected groups'
Maximum of 5 lines

Ensure that these boxes identify the 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate				

Description and scale of key monetised benefits by 'main affected groups'
Maximum of 5 lines

Normally be based on **market prices**. Other forms of quantification could be used where appropriate

Other key non-monetised benefits by 'main affected groups'
Maximum of 5 lines

May involve particular industries, sectors, firm size, social groups or regions

Key assumptions/sensitivities/risks — Discount rate (%)
Maximum of 5 lines

Should be tested to ensure costs and benefits estimates used for your final recommendation not driven by a particular assumption.

BUSINESS ASSESSMENT (Option 1)

Direct Impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs:	Benefits:	Net:	Yes/No	IN/OUT/Zero net cost

These are the costs and benefits that will reoccur in every year while the policy measure remains in force (although the scale of the impact may change over time). These are expressed as an annual average (over the life of the policy).

The constant price year.

To reflect uncertainty, provide estimate ranges of benefits and costs

These are transient, or one-off costs or benefits that occur, which normally relate to the implementation of the measure.

Includes all monetised costs and benefits over the life of the policy, expressed in **Present Value** terms.

See comments re costs above

Default discount rate 3.5%.

Following One-in, One-out methodology: Direct impacts include more than just direct expenditure. A regulation which imposes a restriction, or determines how an agent should act/operate e.g. Working Time Regulations, has a direct cost (the opportunity cost of doing something else/differently), although this may not necessarily be direct expenditure.

This information should be given for each policy option, with only the preferred / most likely option repeated on the front page .

Evidence Base (for summary sheets)

There is discretion for Departments and regulators as to how to set out the evidence base. However, it is desirable that the following points are covered:

- Problem under consideration;
- Rationale for intervention;
- Policy objective;
- Description of options considered (including do nothing);
- Monetised and non-monetised costs and benefits of each option (including administrative burden);
- Rationale and evidence that justify the level of analysis used in the IA (proportionality approach);
- Risks and assumptions;
- Direct costs and benefits to business calculations (following OITO methodology);
- For EU measures that are in scope of OITO, the business NPV and EANCB figures that result from the out of scope EU component of the measure;
- Wider impacts (consider the impacts of your proposals, the questions on pages 16 to 18 of the IA Toolkit are useful prompts. Document any relevant impact here and by attaching any relevant specific impact analysis (e.g. SME and equalities) in the annexes to this template)
- Summary and preferred option with description of implementation plan.

Inserting text for this section:

Replace the notes on this page with the text for the evidence base.

To maintain consistent formatting, apply Styles from the toolbar. The **Paste Without Format** toolbar button can be used to paste text from other documents in the current style here.

It is particularly important that the Evidence Base set out clear evidence that justifies the inclusion in the analysis of any monetised as well as non-monetised cost or benefits. Show how the headline costs and benefits have been generated, by clear and transparent presentation of figures and any assumptions used.

The evidence base should be drafted to make it easily understandable to stakeholders who do not have detailed knowledge of the policy.

You should clearly address all of the viable options and where there is a preferred option, provide clear justification. It may be useful to include reasons for discarding options that are not adopted.

Include a summary of any relevant decision relating to proportionality of analysis (e.g. reasons why certain analyses were not undertaken).

Include links to relevant legislation or publications (e.g. earlier published Impact Assessments).

Maximum 30 pages recommended

Annex 3: Checklist for analysis on EU proposals

Title of EU proposal: **Lead dept/agency:** **Other depts/agencies with an interest:** **Date:**	**Lead policy official:** [name, email & tel no] **Lead lawyer:** [name, email & tel no] **Lead economist:** [name, email & tel no] **Lead UKRep desk officer:**[name,email&telno]

What are the potential impacts of the Commission proposal on the UK?

[Consider the issues below:

AFFECTED GROUPS: Indicate the main groups you think are likely to be affected and whether these are in the public/private/voluntary sector/consumers. If the proposal is likely to affect business, indicate the:

- sectors likely to be affected
- scale of sectors (e.g. estimates of the value of the affected sector to the UK economy or number of people it employs)
- estimated number of companies
- estimated breakdown of these companies by size – micros, SMEs, large businesses

COSTS & BENEFITS: Describe how these groups will be affected, whether beneficially/adversely:

- indicate whether the costs and benefits will be mainly one-off or ongoing
- estimate the effects (e.g. approx. 100 hours of management time/1000 licence permit requests), specifying whether any disproportionate burdens could fall on SMEs/micros
- give orders of magnitude of the costs, and if possible, benefits (e.g. under £5m p/a)
- indicate whether there could be positive/negative impacts on competition

ENFORCEMENT: Indicate how costly or difficult the proposed legislation could be to enforce and whether it would be sufficiently flexible for:

- regulators to adapt enforcement and compliance support to the needs and circumstances of different organisations
- organisations that have demonstrated consistent compliance to earn recognition for their efforts e.g. fewer inspections
- methods other than state enforcement to be used to demonstrate compliance, including certification, accreditation, independent audit, standard-setting, professional standards

LEGAL IMPLEMENTATION/COPY-OUT: Indicate whether the proposal allows sufficient flexibility for the UK to pursue co-regulation/alternatives in transposition; whether it is consistent with the domestic approach; whether existing legislation may need to be amended or whether new legislation could be required to implement the proposal; and whether there could be problems with using copy-out (for proposed directives), if the proposal, as drafted, was copied out into UK implementing legislation.

Ministerial sign-off:
I have read the analysis above of the potential impacts of this proposal and I am satisfied that, given the significance of the proposal, the time and evidence available, and the uncertainty of the outcome of negotiations, it represents a proportionate view of possible impacts.

Signed by the responsible Minister: Date:

Glossary

Accountability for Regulator Impact: Accountability for Regulator Impact is part of a package of measures intended to create greater clarity and fairness for businesses while ensuring regulators focus their resources where they are needed most. Regulators will be asked to follow best practice when engaging with the businesses affected by their policies and practices, assessing and agreeing business impacts with them before making significant changes. They will also be asked to publish those assessments. For more details, see: https://www.gov.uk/government/publications/regulator-impact-accountability-guidance

Alternative (to regulation): ways to achieve policy outcomes without 'command and control' regulation, including self-regulation, co-regulation, information and education, economic instruments and better use of current regulation. For more details, see https://www.gov.uk/government/policies/reducing-the-impact-of-regulation-on-business/supporting-pages/using-alternatives-to-regulation

Better Regulation Delivery Office (BRDO): directorate within BIS responsible for promoting the better delivery and enforcement of regulation. BRDO operates Primary Authority. Enquiries can be sent to brdo.enquiries@bis.gsi.gov.uk

Better Regulation Executive (BRE): directorate within BIS that leads the regulatory reform agenda across government.

Better Regulation Unit (BRU): departmental team responsible for promoting the principles of good regulation and advising departmental policy makers

Business: unless specified otherwise 'business' also refers to civil society organisations.

Common Commencement Date (CCD): refers to the Government commitment that Westminster-based regulation bearing on business will be commenced only on either 6 April or 1 October of any year, subject to limited exceptions. CCD guidance;

Civil Society Organisation: a voluntary organisation which is neither a business nor public sector.

Department: government departments and agencies**.**

Deregulate/Deregulatory: to have the effect of reducing the scope of government regulation, including the removal of existing regulation, or amendment / recasting that reduces the scope of existing regulation.

Direct impact: an impact that can be identified as resulting directly from the implementation or removal/simplification of the regulation

Domestic: a measure which is neither EU-derived nor based on an international obligation

Equivalent Annual Net Cost to Business (EANCB): the annualised value of the present value of net costs to business, calculated with reference to the counterfactual. Details on how to calculate EANCB are provided in One-in, Two-out Guidance

Exception: a type or category of measure where a better regulation requirement has been dis-applied, and that disapplication is set out in the relevant guidance.

Exemption: the disapplication of a regulatory or deregulatory measure in relation to certain categories of activity or entity (e.g. small businesses). Most usually this will be in the form of an exemption set out in the relevant legislation.

EU-derived (measure): UK measures that implement EU Directives and EU Regulations

EU Directive(s): EU Directives lay down certain end results that must be achieved in every member state. National authorities have to adapt their laws to meet these goals, but are free to decide how to do so. EU Directives may concern one or more member states, or all of them.

EU Regulation(s): EU Regulations have binding legal force throughout every Member State, on a par with national laws. National governments do not have to take action themselves to implement EU Regulations, but may need to introduce legislation to implement or enforce the directly applicable obligations.

Fast track: a system of light touch scrutiny for deregulatory and low-cost regulatory measures. Fast track guidance

Fees and charges: for more details on fees and charges, please refer to HMT guidance (Part 6 of Managing Public Money)

Fit for Purpose: a ‘green’ or ‘amber’ rated opinion from the Regulatory Policy Committee (RPC), indicating that the analysis in the policy and calculations of the business impact meets an acceptable standard (in the case of amber, this is subject to changes specified in the RPC opinion).

Gold-plating: Where implementation of an EU regulation, decision or directive goes beyond the minimum necessary to comply with the Directive, as defined by the EU Transposition Guidance

Government: Government of the United Kingdom.

Gross cost to business: the total costs to business from the measure, not taking into account any benefits.

Guidance: the treatment of guidance in better regulation depends upon the status of this guidance. See statutory guidance and non-statutory guidance for more details.

Guiding Principles for EU regulation: guiding principles underlying the Government's approach to EU measures, aimed at maximising the UK's influence in Brussels and ending the gold-plating of EU legislation in the UK. Guiding Principles

Impact Assessment (IA): Both a continuous process to help the policy-maker think through fully and understand the consequences of possible and actual government interventions in the public, private and third sectors; and a tool to enable the Government to weigh and present the relevant evidence on the positive and negative effects of such interventions, including by reviewing the impact of policies after they have been implemented. Impact Assessment guidance

IN: a measure (whether regulatory or deregulatory) for which the direct incremental cost to business exceeds the direct incremental economic benefits to business.

Indirect impact: any cost or benefit to a business which is not captured in the definition of a direct impact.

Measure: any primary or secondary legislation, statutory guidance, or policy proposal.

Medium-sized business: a business with between 50 and 249 employees

Micro-business: a business with 10 or fewer employees

Minister: government minister responsible for the policy, or the chairman or chief executive of non-ministerial departments, non-departmental public bodies and other agencies.

Non-regulatory: measures which do not involve regulation, such as tax or spending decisions**.**

Non-statutory guidance: non-statutory guidance is guidance which is issued without a specific power to do so in legislation and where there is no legal obligation to comply with that guidance.

Net Present Value (NPV): the difference between the Present Value of a stream of costs and a stream of benefits.

One-in, One-out (OIOO): a rule which states that no new measure which imposes costs on business or civil society organisations can be brought in without the identification of existing regulatory measures with an equivalent value that can be removed. OIOO applies to all measures that came into force after 1 January 2011; Departments are expected to achieve demonstrate compliance with OIOO measured from January 2011 to the end of the Parliament.

One-in, Two-out: a rule that any new regulatory measure that is expected to result in a direct net cost to business and civil society organisations must be offset by compensatory deregulatory measures providing savings to business of at least double that amount, OITO applies to all measures coming into force after 1 January 2013. OITO guidance

OUT: a deregulatory measure whose direct incremental economic benefit to business exceeds its direct incremental economic cost to business. OUTs can be sourced from existing regulations which are removed completely or existing regulations which are recast in order to reduce burdens.

Parliament: Parliament of the United Kingdom.

Post-implementation Review: a process to establish whether implemented regulations are having the intended effect and whether they are implementing policy objectives efficiently.

Present Value (PV): the total value of a policy, over the appraisal period, expressed in present terms by means of discounting.

Primary Authority: a scheme established in the Regulatory Enforcement and Sanctions Act 2008 which allows for the creation of legally recognised partnerships between an eligible business and a single local authority in relation to regulatory compliance in order to reduce inconsistency and costs. For more details, see: https://www.gov.uk/government/publications/primary-authority-handbook

Recast: the consolidation or reformulation of existing legislation or guidance to improve clarity and reduce the administrative cost of compliance, where there is no change the scope of the regulation.

Red Tape Challenge: a cross-government programme to review the stock of existing regulation. The default is that regulation should go unless it can be well defended.

Red Tape Challenge (RTC) Measure: a regulatory reform that has been formally reviewed through the RTC process, agreed by the Reducing Regulation sub-Committee and announced by Departments as part of the outcome of a Red Tape Challenge 'theme'. RTC guidance

Reducing Regulation sub-Committee (RRC): a cabinet sub-committee established to take strategic oversight of the delivery of the Government's regulatory framework. RRC guidance

Regulate/Regulatory: to have the effect of increasing the scope of government regulation or adding government controls to an industry or sector.

Regulation: a rule or guidance with which failure to comply would result in the regulated entity or person coming into conflict with the law or being ineligible for continued funding, grants and other applied for schemes. This can be summarised as all measures with legal force imposed by central government and other schemes operated by central government. Regulation does not include tax and spending decisions.

Regulatory Policy Committee (RPC): an advisory committee of independent experts that provides external and independent challenge on the evidence and analysis presented in impact assessments (IAs). RPC guidance;

Regulatory Policy Committee (RPC) confirmation: the decision of the RPC of whether a measure is suitable for the fast track, based on the regulatory triage assessment for that measure and assessed against the eligibility criteria set by RRC.

Regulatory Policy Committee (RPC) opinion: the decision of the RPC on whether an impact assessment is fit for purpose.

Regulatory Policy Committee (RPC) validation: the process by which RPC examines and agrees the EANCB **figure** of fast track measures that are in scope for One-in, Two-out. This would normally be based on the final stage impact assessment prepared by departments, or alternatively the validation stage IA. Validation normally takes place in parallel with final stage policy clearance.

Regulatory Triage Assessment (RTA): the form completed by departments for fast track measures that is submitted to RPC in order to obtain RPC confirmation that a measure is suitable for the fast track process.

Secondary legislation: an alternative term for subordinate legislation.

Sensitivity Analysis: analysis of the effects on an appraisal of varying the projected values of important variables.

Small and micro-business assessment (SaMBA): an approach to analysis intended to ensure that all new regulatory proposals are designed and implemented so as to mitigate disproportionate burdens. SaMBA guidance

Small business: businesses with 11-49 employees

Standard Cost Model: provides a framework for measuring the administrative burdens of regulation.

Statutory guidance*:* guidance which is produced pursuant to powers or duties in legislation i.e. where an Act of Parliament explicitly provides for ministers or others to issue guidance and includes a duty to comply with that guidance.

Statutory Instrument: the form in which most secondary legislation is made in the United Kingdom.

Subordinate legislation: subordinate legislation is defined in s21(1) of the Interpretation Act 1978 as meaning Orders in Council, orders, rules, regulations, schemes, warrants, bye-laws and other instruments made or to be made under an Act.

Statement of New Regulation (SNR): a six-monthly publication, setting out measures which will come into force over the coming six months and reporting on progress under One-in, One-out (OIOO) and One-in, Two-out (OITO). SNR guidance

Sunset and review clauses: provisions included in legislation to ensure that regulatory measures with a significant cost to business must face review (and where applicable, be subject to sunsetting) Sunset and review clause guidance

Systemic Financial Risk: the risk that the inability of one institution to meet its obligations when due will cause other institutions to be unable to meet their obligations when due. Such a failure may cause significant liquidity or credit problems and, as a result, could threaten the stability of or confidence in markets

Tax impact assessment: tailored impact assessment used to understand the wide range of impacts associated with tax policy options to inform decision making.

Time-limited measure: a measure where the relevant legislation includes a date on which it, or part of it, will cease to have effect.

Transposition Principles: Principle 5 a) to e) of the Government's Guiding Principles for EU legislation

Transition costs and benefits: transient, or one-off costs or benefits that occur, which normally relate to the implementation of the measure

Triage: The process of early assessment by departments that determines whether a measure is suitable for the fast track, or requires a full impact assessment

Waiver: a decision to dis-apply a better regulation requirement from any individual measure to which it would otherwise apply. Waivers are agreed by RRC.

Zero Net Cost: a measure which is scored as zero under One-in, Two-out.

This publication available from https://www.gov.uk/government/organisations/Department-for-business-innovation-skills

Any enquiries regarding this publication should be sent to:

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