

Minutes of RPC meeting
Monday 11 December 2017
1 Victoria Street



Attendees

Chair: Michael Gibbons

RPC Secretariat

Chair Designate: Anthony Browne

Head of Secretariat

Deputy head of Secretariat

Committee Members

Alex Ehmann

United Kingdom Accreditation Service officials

Jonathan Cave

Nicole Kar

Jeremy Mayhew

Martin Traynor

Sarah Veale

Ken Warwick

Better Regulation Executive (BRE) officials

A. Minister's address to the committee, thanks to the outgoing Chair and welcome to new Chair

1. The Chair welcomed the Minister for Better Regulation. All the committee members were introduced to the Minister. The Minister said that he had especially wanted to come to thank the outgoing Chairman for his services to the RPC since it was created, saying that he had done some sterling work and should be immensely proud of his achievements during his tenure. The Chair thanked the Minister for his kind words, and said that he had enjoyed the eight years he had spent in the RPC; he placed particular value on its independence. He hoped that, given the intensity of the recent debate in the Lords, the Minister would give due consideration to the views of the Lords with regard to the future of the RPC. The Minister said that he was new to the post and had an open mind; he had thought it a good debate, and was grateful to Lady Neville Rolfe for leading it. The Minister offered to come to the next RPC Committee meeting. **Action Secretariat (GM): Minister to be invited to the next committee meeting** [Post committee note: The minister has agreed to attend the 5 February committee meeting].
2. The BRE Director thanked the outgoing Chair on behalf of Government and BRE saying that the Chair should be immensely proud of all his achievements and everything that the RPC has done; especially his dedication to independent scrutiny and high quality of analysis. He wished the Chair all the best for the future. The Chair thanked the BRE Director saying that he was sorry that he would not be continuing to work with him. He wished BRE and RPC every success.
3. The Chair designate was introduced to the committee. The Chair designate said that it was an honour to be appointed to be the Chair of the RPC. He was interested in the job because he was keen on evidence based analysis, and good policy making. Like the current Chair, he believed in transparency and independent scrutiny, and he hoped to build on the achievements of the current Chair. His intention was to make the RPC respected and valued both within and outside Whitehall. He said that he would like to meet the committee individually to get to know them and ascertain their views on the work of the committee. He would also like to meet key stakeholders – including Better Regulation Ministers - to ascertain their views. **Action. The Chair Designate to meet the committee individually to ascertain their views on the work of the RPC and also to meet the key stakeholders: Secretariat to arrange.**

B. Matters arising

Minutes of November Committee meeting

4. The minutes of the 13th November meeting were agreed without any changes

Redactions to 13 September committee meeting minutes

5. In the meeting on 9 October, the Secretariat was asked to reconsider whether the level of redaction from the minutes of 13 September committee meeting was appropriate and proportionate. A revised set of minutes with a reduced level of redaction was circulated to committee after consultation with key presenters and stakeholders. The committee agreed to the revised September minutes subject to the whole of para 22 being un-redacted, and clarifying that, the comments regarding the former Chief Government Scientist on paragraphs 13 and 14 **should relate to his role as Chief Government Scientist and not his future role as CEO of UKRI. Subject to these changes the minutes of September committee meeting were endorsed by the committee and now can be published. [Action Secretariat, to complete and arrange for publication]**

Matters arising

6. Declaration of interest and potential conflicts: The Chair Designate said that he would have interests to declare. He would discuss these with the Secretariat. **Action: The Chair Designate to inform the Secretariat of his interests and potential conflicts. The Secretariat to record these in the Register of interests and potential conflicts.** [Since the meeting the Chair designate has provided his interests and potential conflicts that may impact on RPC. These will be reported at the next committee meeting]
7. Staff joining the RPC: The Chair welcomed the newest members of the RPC secretariat.

C. BRE: Update on Framework, transitional arrangements and Call-In

Address by the BRE Director

8. The BRE Director informed the committee that work was underway on developing the BIT and metrics for this Parliament. He would welcome any views that the committee may have on the future of the BIT and metrics whilst it is being developed before they submit it to the Minister. All options were under consideration. **Action. The committee to provide comments to BRE on the future of BIT and metrics.**
9. The BRE Director said that in the previous meeting he had asked the committee to provide comments on how better regulation can support innovation, industrial strategy and growth. It was understood that comments had been sent to the HoS and that a collective RPC view will be given to the BRE Director. **Action. HoS to provide a collective RPC view from the committee.**
10. The BRE Director explained that the Government's approach focuses on better regulation rather than deregulation. An important philosophy for the future is to look at how regulation can help to support growth and he mentioned the announcements in the Budget and Industrial Strategy about a Ministerial Working Group on Future Regulations and a Regulators' Pioneer Fund. The Chair said that he had met with some trade associations and concern was expressed about the burden of regulation. The BRE Director said that he had discussed with industry groups about

better regulations and had a fair view of what they wanted. He was also keen to engage with businesses beyond the big 6 representative groups.

11. The BRE Director confirmed that in future that there would be no formal requirement to submit to the RPC for measures below the *de minimis* of £5 million or for consultation stage proposals. [Post meeting note by BRE: *BRE is clear that submitting consultation stage IAs to the RPC remains good practice and is something that BRE will continue to recommend and support*]. BRE had informed Departments and the Director had recently written to regulators informing them of these changes. This would help respond to NAO/PAC concerns and make the system more proportionate. Although there was no requirement for Departments to submit consultation IAs, he expected that some will choose to do so. The committee expressed concern about the removal of the requirement to submit IAs at consultation stage. Receiving the IA only at the end of the process was seen as a tick box exercise, which was unlikely to drive good policy making. The following comments were made by the committee:

- a. Consultation scrutiny by the RPC was very important. It can act as an early warning where evidence is missing. If gaps are discovered only at final stage, there may be pressure by Ministers and Departments to push through the regulation without adequate evidence.
- b. Stakeholders look to the RPC to comment at the earliest possible stage. An Opinion at this stage means consultees have an early opportunity to help rectify any shortcomings – as they did on the Trade Union Bill – and assess whether or not the department had considered alternatives to regulation.
- c. If Departments do not follow best practice and if the IA is poor at final stage it would put the RPC in a position where it might need to be very draconian; would BRE support the RPC in such a situation?
- d. It appeared that the process was moving in the opposite direction to what it should be doing. The RPC had been expecting to scrutinise fewer measures with *de minimis* but to give those measures more thorough scrutiny - especially at consultation stage.
- e. It was disappointing that the focus was on numbers and process and not on the quality of evidence. The decision was probably driven by the need to manage the Brexit measures. Once Brexit was over it was hoped that this decision would be reconsidered.

The BRE Director responded by saying that he accepted that scrutiny must be an evidenced based neutral approach. The decision was based partly on a desire to make Departments more responsible for managing their own evidence effectively, and the RPC would wish to consider the best ways of engaging Departments.

Business Impact Target (BIT), metrics and the Independent Verification body (IVB)

12. BRE informed the committee that BRE were making progress on the BIT, metrics and IVB. She concluded by saying that she would like the RPC's views on the risks and options. The Chairman welcomed this. The following comments were received from the committee:
- It appeared that the world had moved on, and the focus of the target was less clear than when the legislation was originally devised. The litmus test must therefore be for the business groups to comment as to whether it still met their needs.
 - If there were significant changes to scope and/or metric, it would not be possible to compare with previous Parliaments and hold governments fully to account.
 - Civil society is important. The definition for BIT should be wider than business only. However another member warned that the BIT should focus on Civil Society and

Business organisations, and not expand to cover the impacts on society as a whole, as this would make the idea of a business impact target meaningless

The discussion concluded with the Chair asking BRE to produce a note for the committee.

Action BRE to produce a note seeking the Committee's views on key aspects of the BIT and framework; the Committee to respond.

Working Practices Model

13. BRE said that they were developing a model for the relationship between BRE and RPC giving the RPC greater independence and autonomy. This will be a reform under the new partnership structure. The HoS said many aspects were already clear, such as physical and financial separation from BRE. However what was not clear was the framework for communication between the two organisations on both policy and casework. The Chair concluded by asking BRE to produce a note for consideration by the RPC. **Action BRE to produce a note on the working practices model for consideration by RPC.**

D. Business Plan (BP)

14. HoS said that following the November meeting that the Business Plan had been endorsed by the committee. It will need to be signed off by BRE and the Chair designate when they are content with it. The Chair said that the plan relates to this financial year ending in March 2018. The Chair designate said that most of what is on the plan should have been done, and that he felt he was not in a position to sign off the existing plan. It was agreed that the existing plan should be published subject to minor drafting changes, and that the Secretariat should ensure next year's plan was prepared for discussion at the February meeting and for publication in March. **Action. RPC and BRE to finalise the Business Plan and to publish it; Secretariat to prepare draft business plan ahead of February meeting.** The Chair and some committee members had provide comments to HoS on the Business Plan

E. Updates on committee appointments/re-appointments

15. BRE provided an update on committee appointments/re-appointments. The recruitment of the Chair was now complete.
16. With regard to recruitment of committee members there have been 60 applications including good gender split and diversity. 20 applicants were economists. The committee expressed concern about the length of the previous recruitment process and asked that BRE plan well ahead to ensure that recruitment was completed in a timely fashion. They also expressed some concern about the quality of communication with members over the recruitment and reappointment processes, and asked BRE to ensure that communications were more transparent in future.

F. United Kingdom Accreditation Service (UKAS)

17. UKAS representatives introduced themselves. The external Manager was responsible for working with government and was supported by another member of UKA S (Suzie Daley). They thanked the RPC for inviting them back to talk about their work. The two main areas they are involved in which are relevant to the Committee are Brexit and Regulatory Futures. UKAS is the

National Accreditation Body (NAB) for the UK. Accreditation is the recognition of competence of organisations to perform specific assessment tasks such as calibration, inspection, testing and certification. Their work is underpinned by a range of international standards. Use of accreditation started in the voluntary and industrial sectors and has since spread to regulators and Departments, such as the Health and Safety Executive, the Environment Agency, the Home Office, animal welfare organisations and the Food Standards Agency. UKAS is independent of Government, but appointed as the NAB by Government. One of the RPC committee members is on the UKAS Board.

18. Post Brexit, UKAS is concerned that accreditation is recognised in any new trade deals. Also, WTO recognition is of great importance.
19. The other area of work presented by UKAS is their involvement in Regulatory Futures working with the Cabinet Office. This is to make regulations work, by putting innovative and creative implementation systems in place. It is based on full cost recovery and earned recognition. It is a risk based approach and looks at alternatives to regulation. UKAS was concerned that better regulation had slipped down the government agenda, and asked for the committee's views, especially with regard to societal costs. They said that the role of the RPC was vital. It was important that the RPC and UKAS should work together to influence the direction of regulation. The following comments were received from members:
 - Following Grenfell it was apparent that there was no product standards agency like the food standard agency which might have prevented the disaster. However, rather than set up a new government body it might better if UKAS was used as the accreditation body. UKAS said that they agreed in principle that such a body should exist, but as they were an advisory body it was outside their scope
 - Accreditation is important, but it is also important to ensure that accreditation does not drive a focus on process rather than end results (for example in the case of development of machine learning algorithms.
 - It was noted that UKAS was providing standards across geographical areas/across borders. Were they also encouraging the development of domestic standards?
 - There appeared to be a need for new British standards post Brexit. A lot of standards would come from BSI and would help to reduce trade barriers. UKAS should discuss with colleagues in DCLG and other government departments to develop domestic standards.
20. UKAS said that there were areas where the RPC and UKAS could work together in the future on developing standards rather than regulations. The Chair welcomed this. The session concluded with a request to UKAS to provide feedback to BRE on the use of standards as an alternative to regulations. **[Action UKAS]**

G. Meeting updates : Frans Timmermans meeting with Regwatch Europe (RWE) Chairs

21. The Chair reported that the chairs of all European watchdogs except Sweden had met the EU first VP, Frans Timmermans. It was a cordial meeting, with some positive outcomes, although some members were unhappy that the Commission had rejected the findings and recommendations of an independent report commissioned by RWE on regulatory target setting.
22. The HoS reported that the EU was setting up a task force on subsidiarity and proportionate regulation. Mr Timmermans had suggested that RWE should work together with this task force,

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had agreed to consider how RWE could engage with the REFIT platform, and had engaged positively with RWE's suggestion of a major conference on Better Regulation.

g. Any other Business

23. There was no further business considered
