



Regulatory Policy  
Committee



# CORPORATE REPORT

1 APRIL 2017 TO 31 MARCH 2018

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## Foreword from Chairman, Anthony Browne



**Anthony Browne**

It is an honour to have been appointed as Chair of the Regulatory Policy Committee (RPC) in January 2018. My particular interest lies in evidence-based policy making, and I see the RPC's commitment to transparency and independent scrutiny as playing an important part in assuring the use of high-quality, proportionate analysis to support Government's key decisions.

My intention is for the work of the RPC to be respected and valued both within and outside Whitehall, building on the achievements of my predecessor, Michael Gibbons.

I am very grateful to Michael for the commitment he showed to the work of the RPC over eight years, and for ensuring a smooth handover. I admire his dedication to robust scrutiny and the value that he placed on the independence of the RPC. Under his leadership, the RPC has established itself as a centre for best practice in regulatory economics, has driven significant improvements in the overall quality of regulatory analysis produced by government departments, and has extended the scope of its activities to cover ex-post evaluation of policy and the work of regulators.

The last year also saw other committee changes, with Ken Warwick, Nicole Kar, Sarah Veale and Martin Traynor stepping down. They have all provided valuable service and wise counsel to the committee and I would like to thank them warmly for their hard work and support. The RPC values Ken's expertise in economic principles and representing the committee with external stakeholders including the Organisation for Economic Cooperation and Development, Nicole's expertise in European and UK competition law, Sarah's understanding of the wider impacts of policy making particularly on Civil Society, and Martin's commercial knowledge, especially of small businesses.

I also want to take this opportunity to welcome our five new committee members, Laura Cox, Stephen Gibson, Brian Morgan, Andrew Williams-Fry and Sheila Drew Smith. I very much look forward to working with them.

As we noted last year, the RPC sees its role in scrutinising the regulation surrounding EU exit as an important challenge. Our preparations over the last year mean that we are well placed to scrutinise the evidence supporting Government decisions around the regulatory changes needed to deliver a smooth exit, and around the UK's regulatory framework after exit.

The environment within which the RPC operates has also changed following the 2017 election and changes to the Better Regulation Framework in relation to proportionality and frequency of scrutiny. The “Better Regulation Framework” interim guidance was issued in February 2018. For measures with a direct business impact over the de minimis limit of £5 million, the guidance now only requires independent scrutiny once before departments and regulators present legislation to Parliament. This means that submitting an impact assessment at consultation stage is strongly encouraged as opposed to mandatory.

The RPC consistently works to support evidence-based policy making across the UK government. Therefore, the RPC is strongly in favour of departments continuing to submit impact assessments at **both** pre-consultation and post consultation stages. In a survey of Business Regulation Units requesting their intentions to continue to submit consultation stage and final stage assessments, five units confirmed positively, three units indicated conditional confirmations and one unit responded negatively. Overall their decision recognises the value of maintaining scrutiny at consultation stage, and the RPC has developed an informal review process as an alternative to formal review at consultation stage, to help support departments and regulators.

On 18 May 2018, the RPC was confirmed as the Independent Verification Body for the Government’s Business Impact Target for the current Parliament (under the Small Business, Enterprise and Employment Act 2015). We await the Ministerial RPC remit which will be given once the approach to setting the BIT target is agreed. We have prepared for this responsibility, and expect that we will be well placed to verify the impacts of regulatory changes in the current year within the timescales required by the SBEE Act.

# 1 Introduction

## 1.1 Background

- The RPC is an advisory non-departmental public body sponsored by the Department for Business, Energy and Industrial Strategy.
- The RPC has two main purposes:

1. The Small Business, Enterprise and Employment Act 2015 made it a statutory requirement for Government to set a business impact target, for the life of each parliament. The RPC is responsible for confirming all regulatory provisions that do and do not qualify for inclusion in the 'business impact target' (BIT) for the current parliament. The RPC is also required to verify the estimate of the net cost for each provision towards achieving the Government's target of reducing the burden on business.

The RPC must verify that departmental non-qualifying regulatory provisions<sup>1</sup> (NQRPs), which do not contribute to the target, are properly excluded. On an administrative basis the RPC also verifies the regulators' summaries of NQRPs.

2. To provide independent scrutiny to Government of Regulatory Impact assessments and Post Implementation Reviews. The scrutiny process includes an analysis of small business impact forms. Regulatory measures should only apply to small and micro businesses to the extent that any disproportionate burdens are mitigated.

- The scrutiny process is based on the quality of analysis and evidence presented, and is reviewed in line with economic principles as set out in the HMT Green Book. The process helps to ensure Ministers base their decisions on independently confirmed evidence and analysis and provide business and civil society organisations with the confidence that the Government's claims on regulatory reform are robust and credible.
- Under the interim Better Regulation Framework guidance (February 2018), RPC's scrutiny is required formally only once.

Under this formal process, the RPC rates assessments as either fit for purpose ('green-rated') or not fit for purpose (receiving an 'initial review notice' or a 'red-rated' opinion). Any assessment raising red-rated issues must be improved before publication.

Although there is no formal requirement for departments and regulators to submit consultation impact assessments, some have indicated that they will continue to do so. In these circumstances, the RPC will continue to publish its opinion with a red or green rating.

The RPC believes that consultation scrutiny is important for many reasons:

- Stakeholders look to the RPC to comment at the earliest possible stage. An opinion at consultation stage provides consultees with an early opportunity to help improve the evidence and analysis surrounding the policy. Scrutiny at consultation stage is likely to improve an impact assessment at final stage, based on our analysis of a sample of policies. If gaps are discovered only at the final stage there may be pressure to push through legislation without adequate evidence and analysis.
- If an impact assessment has not been submitted at consultation stage and RPC scrutiny detects a problem with the analysis at final stage, it may be more difficult to produce fit for purpose analysis, as the opportunity to collect evidence at consultation will have been lost.
- After liaising with departments and regulators, the RPC is offering an informal review option in circumstances where departments and regulators do not wish to submit an impact assessment at consultation stage for formal scrutiny. The review will highlight what further work needs to be done to collect the right evidence for consultation and how the assessment can be improved for final stage.



## 1.2 Vision

Our vision has two core elements:

1. **To provide public and business with confidence and increase the credibility of the system**
2. **To provide Ministers with independent, expert advice**

A key part of the RPC's independent approach is its insistence that its work must be public and transparent. We commit to continuing to provide a transparent and public account of our scrutiny work, including through the publication of opinions and a statement of verification of all assessments accounted for under the business impact target. We also publish, once each year, a report on the quality of departmental analysis.

## 2 Achievements 2017-2018

### 2.1 Casework

*What does the RPC scrutinise?*

The RPC reviews:

- **Impact assessments (IA):** a full description and assessment of the impacts of regulation on society. Until December 2017 these were submitted to the RPC at consultation and final stages. For measures with a direct business impact over the 'de minimis' limit of £5 million, the Interim Better Regulation Framework Guidance now only requires independent scrutiny once before departments and regulators present legislation to Parliament. Although independent scrutiny is now not required at consultation stage, the RPC has continued to promote, as best practice, submission at this stage. In the financial year 2016-17 the RPC received 120 impact assessments (not including equivalent annual net direct costs to business (EANDCB) validations, see Fig 2.1), of these 35.8% were consultation stage assessments. In the final quarter of the 2017-18 financial year (after the changes in Better Regulation Framework), the RPC received 15 impact assessments, of these 40% were consultation stage assessments.
- **Business Impact Target (BIT) validations:** the RPC validates assessments of the net direct regulatory costs to businesses and civil society organisations for the purposes of the BIT. As the independent verification body, the RPC is required to confirm the Government's assessment of which costs and benefits will score towards the business impact target (qualifying regulatory provisions). The equivalent annual direct cost to business (EANDCB) is the metric used by regulators and departments to score towards the BIT.

- Non-qualifying regulatory provision summaries (NQRP): the RPC confirms that regulations do not qualify for the business impact target
- Post-implementation reviews (PIR): evaluations of the actual effects of regulatory interventions. They must be provided for policies that contain a review clause or an equivalent administrative commitment to review. PIRs are not required for non-legislative measures.

*(i) Casework statistics*

- We issued 502 opinions during the 2017-18 financial year, compared with 324 opinions in 2016-17. Of these, 136 were submissions from departments and 366 were from regulators; the figures below combine departments' and regulators' submissions, but it is important to note that the requirements placed on regulators by the better regulation system are less stringent than those placed on departments.
- The RPC commits to replying to at least 90% of submissions within the first 30 working days. We did not meet this target in 2017-18, with 77.5% of cases receiving a response within this period. Analysis of the quarterly break down indicates that Q3-17 and Q4-17 had the lowest percentage of cases which received a response within the time, 71.6% and 72.9% respectively. The RPC failing to meet this target can be attributed, in large part, to spending considerable time helping to improve the analysis of three specific regulators. Of 118 cases which did not receive a response within the required time in the last three quarters of 2017, 39 of them were grouped cases submitted by the three regulators. To help regulators to meet legal deadlines, the RPC did not place these cases on hold and worked closely with them to improve the quality of analysis. Although this approach does illustrate the RPC's desire to work cooperatively with departments and regulators, it affected the RPC's ability to meet its turnaround commitments. This corporate year also saw an increase in the volume of submissions from 324 in 2016-17 to 502 in 2017-18. The 54.9% increase in submissions made it difficult for the RPC to turnaround cases on time. Submissions, especially those from regulators, were concentrated in the first half of the financial year, which explains why the percentage of submissions which received a response within the time-period rose between Q4-17 and Q1-18 (72.9% - 84.4%). In this year the RPC also experienced a high level of staff turnaround. The RPC prides itself on providing high quality scrutiny while still helping departments and regulators meet parliamentary and legal deadlines, and this can be difficult when there is a high staff turnaround.
- Going forward it is imperative that the RPC improves its performance in this area and steps are being taken to ensure this happens. For example, the RPC is introducing an internal email system which flags late cases much earlier in the scrutiny process. We have also streamlined our case allocation system to reduce delays at the start of the scrutiny process. We have also substantially expanded our team to meet the challenges of the UK's exit from the EU.

Table 2.1 Submissions for financial years

	2016-17 financial year	2017-18 financial year
<b>No. of submissions</b>	324	502
<b>Average time for RPC scrutiny (days)</b>	20.1	27.6
<b>% on time</b>	98.9%	77.5%
<b>% fit for purpose</b>	75.9%	80.3%

Fig 2.1 Different case types scrutinised by the RPC

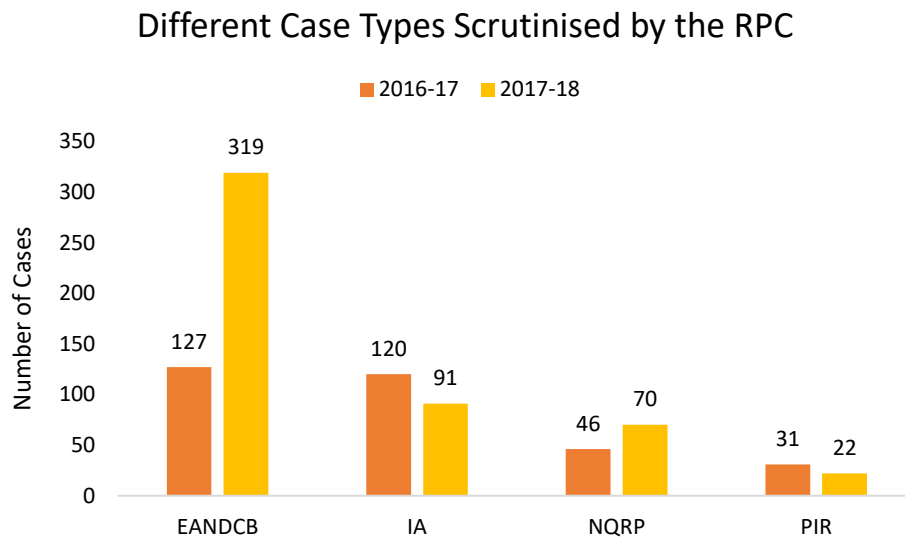


Fig. 2.1 shows how many of each case type the RPC scrutinised during financial year 2017-18 and 2016-17. The significant difference is the volume of EANDCB validations which increased from 133 in 2016-17 to 319 in 2017-18. This was because regulators came under the scope of the business impact target in the second quarter of 2017.

Fig. 2.2 Percentage of each type of measure that was fit for purpose as initially submitted

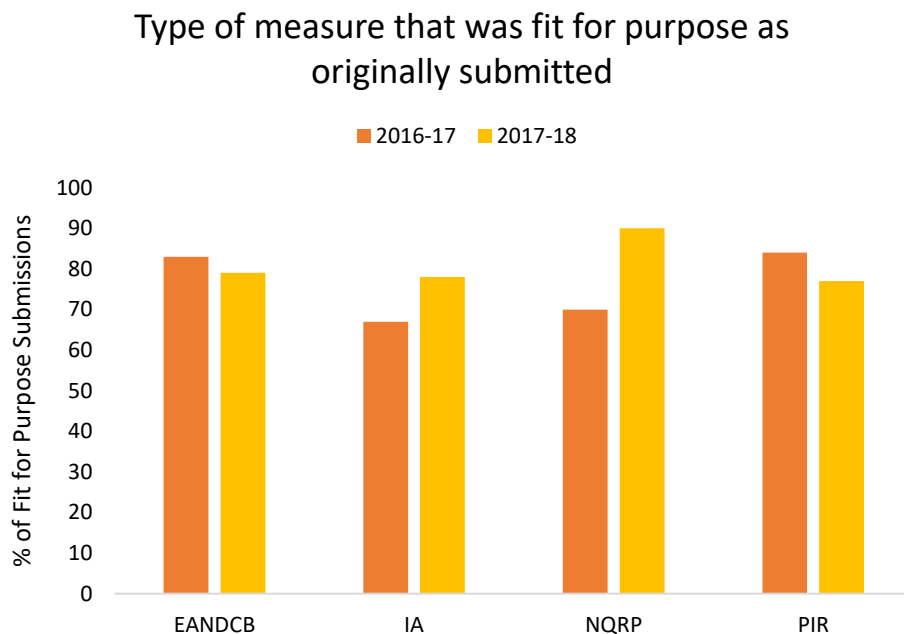


Fig 2.2 shows the fit for purpose rating of submissions by type for this financial year and the last. There was an improvement in fit for purpose ratings for both impact assessments and non-qualifying regulatory provisions. There was a small decrease in the fit for purpose ratings of both EANDCB and post-implementation reviews.

#### Overall fit for purpose performance

Between Q2-17 and Q3-17 there was significant increase in the percentage of submissions which were not fit for purpose (as originally submitted) from 17.2% to 28.6%. This fell in Q4-17 to 26.1% followed by a dramatic decrease in Q1-18 to 11.1%. It should be noted that in Q3-17, the RPC issued opinions on regulator submissions after they were brought into the scope of the business impact target and therefore many regulators were submitting for the first time. This can be seen with 38.3% of regulator submissions being not fit for purpose in Q3-17, compared to 18.2% for department submissions. Of the 18 regulator submissions which were not fit for purpose in Q3-18, 3 regulators were responsible for 11 of them. The performance of regulators in Q3-17 is not indicative of their normal standard. For example, it should be noted that in Q4-17, 42.3% of department submissions were not fit for purpose compared to only 5% of regulator submissions.

Fig. 2.3 Percentage of fit for purpose submissions

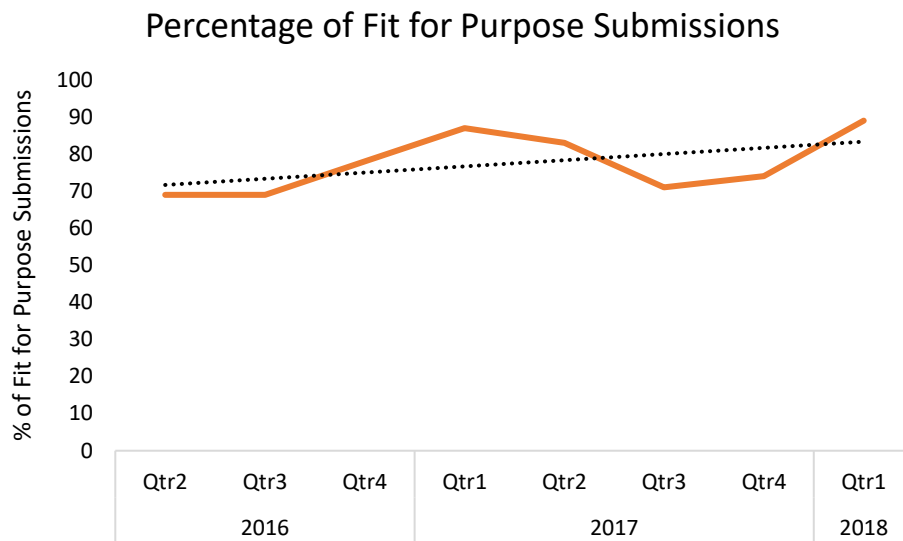


Fig 2.3 shows how the quality of submissions, that is those rated as fit for purpose as originally submitted, changed over time. The trend line indicates an overall improvement in the quality of submissions.

*ii) Measuring our effect on the accuracy of departments' estimates.*

One important aspect of the RPC's scrutiny of final stage impact assessments is to ensure the accuracy of the estimated direct impact on business, as measured by the equivalent annual net direct cost to business (EANDCB). However, it should be noted that improving the accuracy of the EANDCB is not the only way in which RPC scrutiny can improve the quality of analysis. We often improve assessments submitted without changing the EANDCB at all.

Departments initially estimated the impacts on business (in EANDCB terms) as £1.194 billion. Taking both upward and downward adjustments into account, RPC scrutiny has increased the accuracy of these estimates by £63.1 million in gross terms. A summary of the changes is set out in Table 2.2 below. During this financial year, improving the accuracy of EANDCB estimates has involved recategorization of impacts into direct and indirect impacts, highlighting impacts which have not been included and suggesting different methodological approaches for estimating impacts.

*Validated EANDCB – for financial year 2017-18 (Q2-17 – Q1-18)*

The RPC is responsible for validating the EANDCB presented in each final stage IA it receives. To accelerate the resolution of any red-rated issues when concerns emerge early in the scrutiny process, the RPC introduced, in early 2016, a revised process for highlighting concerns via issue of an initial review notice. The process of issuing an initial review notice was maintained throughout the 2017-18 financial year. The analytical requirements for a fit for purpose submission have not changed, and most

assessments that receive an IRN are normally improved and subsequently rated as fit for purpose. In this financial year 99 assessments were issued with an IRN and only 11 of them subsequently were issued with a not fit for purpose opinion. Through this process, the RPC improves the accuracy of the business impact target (BIT) account. More importantly, it improves the quality of evidence and analysis presented in the broadest possible sense: for every case where RPC scrutiny has changed the BIT score, there are many more where departments have improved the quality of appraisal without altering the EANDCB. During this financial year, 67 opinions were improved without changing the BIT figure.

The table below set out the difference that the RPC has made to the BIT account. This is presented in terms of the absolute size of the RPC’s impact on the BIT account.

The table below provide a breakdown of initial and validated EANDCB figures for qualifying regulatory provisions in the period Q2-17 – Q1-18. Regulators are not required to provide an EANDCB when they submit a summary of non-regulatory provisions.

*Table 2.2 QRP Net Impact*

QRP ALL (£, million)	Initial EANDCB	RPC validated EANDCB	Difference
Q2-17	835.5	847.2	11.7
Q3-17	127.1	129.8	2.7
Q4-17	65	62.7	2.3
Q1-18	103	154	51
Total	1130.6	1193.7	63.1

The first column shows the department’s initial estimate of the equivalent annual direct cost to business and the second column is the RPC’s validated figure. The RPC had the greatest impact on the accuracy of EANDCB estimations in Q1-18 where it increased the accuracy by £51 million.

## 2.2 Setting clear standards and building capability across Whitehall

### *(i) Impact assessments - fit for purpose*

In determining whether our continued efforts to build capability across Whitehall are having an impact, a useful metric is the quality of evidence supporting regulatory proposals, as measured by the number of initial submissions receiving a fit for purpose rating.

In 2017-18, 81.6% of submissions from departments (an improvement on 72.3% in 2016-17) and 79.8% of submissions from regulators (a fall from 87.2% in 2016-17) received an initial fit for purpose rating. This results in a combined department and regulator initial fit for purpose rating of 80.3%.

There has been an encouraging improvement from some departments. Notable among these are HMT and DCMS, both of which have increased their engagement with the scrutiny process, and have substantially improved their relative rankings. For HMT, the percentage of submissions which were fit for purpose rose from 58.3% in 2016-17 to 71.4% in 2017-18. Similarly, DCMS increased theirs from 65% in 2016-17 to 75% in 2017-18. It should be noted however that both departments submitted a greater volume of cases in the corporate year 2016-17.

The FCA has performed well across both financial years. The number of submissions from the FCA increased from 17 in 2016-17 to 63 in 2017-18 and the regulator was able to maintain more than 90% of submissions as fit for purpose. The stand out regulator across both corporate years has been HSE who have maintained a 100% fit for purpose ratings while significantly increasing their submissions from two to twelve.

### *(ii) Departmental feedback*

We conduct a quarterly survey of departments that have submitted cases. The summary table below shows the aggregate response to these surveys in 2017-18 compared with 2016-17.

*Table 2.3 Departmental feedback*

Period	Number of responses	Satisfaction (scale 1-10)	Clarity of opinion	Clarity of process	Methodology
<b>2016 - 2017</b>	132	6.9	84%	81%	87%
<b>2017 - 2018</b>	130	6.2	84%	82%	88%

*Table 2.6 Quarterly departmental feedback for the financial year 2017-18*

Quarter	Number of responses	Satisfaction	Clarity of opinion	Clarity of process	Methodology
Q2-17	62	6.4	80%	83%	91%
Q3-17	33	6	81%	85%	88%
Q4-17	27	6.6	90%	90%	74%
Q1-18	8	5.7	86%	71%	100%
Aggregate	130	6.2	84%	82%	88%

#### *Key messages*

- There were 130 responses to the departmental feedback survey in 2017-18. It is important to note that the survey is sent to departments that submitted cases in each quarter and therefore any variation in the number of responses may reflect lower submission levels. The response rate did not change significantly throughout the time-period.
- Respondents' satisfaction decreased from 6.4 (out of ten) in Q2-17 to 5.7 in Q1-18. Overall satisfaction peaked in Q4-17 at 6.6 and was at its lowest in the most recent quarter. The average level of satisfaction in 2017-18 was 6.2.
- Clarity of opinions remained similar between Q2-17 and Q3-17, slightly increasing from 80% to 81%. There was then a significant increase to 90% in Q4-17 and a slight downturn in Q1-18 to 86%. The average across the corporate year was 84% which was the same as 2016-17.
- Clarity of the RPC process has steadily increased from 83% in Q2-17, to 85% and 90% in Q3-17 and Q4-17. Between Q4-17 and Q1-18 this fell to 71%. One respondent commented that they did not agree with or understand a decision made by the RPC regarding a non-qualifying regulatory provision and found no guidance available to explain it.
- Agreement with the RPC's interpretation of the better regulation methodology and its comments in opinions decreased from 91% in Q2-17, to 88% and 74% in Q3-17 and Q4-17. However, there was 100% agreement in Q1-18. Although all respondents agreed with the RPC's interpretation of the methodology in Q1-18 one respondent noted that it wouldn't have been proportionate to conduct



the analysis the RPC suggested. The respondent noted that the impact assessment was out of scope of the business impact target and that substantial amounts of tax-payers money had already been spent on this specific topic. For these reasons the respondent did not believe that advice provided by the RPC was proportionate.

- A number of comments suggested that there was an inconsistency between advice given by the RPC and the Better Regulation Executive. Some departments expressed disappointment in the inability of better regulation colleagues to give a clear indication of the official RPC position. Looking forward the RPC will work closely with BRE and distribute all guidance produced to better regulation colleagues so there is a clear understanding of what the RPC expects from submissions; we will also work with BRE on key guidance documents.
- Some comments noted that it is not always clear which guidance departments should be using when formulating impact assessments. They claimed that guidance, which often overlaps, is available from multiple disparate sources.
- A selection of respondents stated they were unsure on the level of analysis required when conducting a post-implementation review.
- Many respondents expressed frustration with cases running late as this caused problems with parliamentary deadlines. They requested early warnings of the deadline being missed and updates throughout the scrutiny process to enable better policy planning.

Fig. 2.4: Graph 1 Departmental Satisfaction with RPC Process

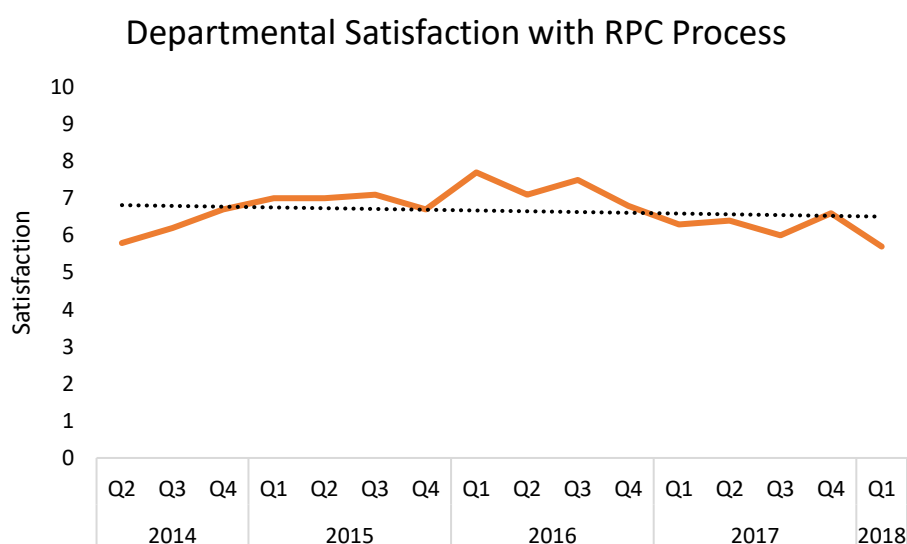


Fig 2.4 shows the average satisfaction rating from survey responses across a four-year time-period. The trend line is relatively flat showing little change in the attitude of departments and regulators towards the RPC process.

## Following up RPC Commitments 2016-17

*'Burdens on departments – we have been working with Government to focus scrutiny on the highest impact measures. We want to work with Government to explore a more proportionate system.'*

With the commencement of the de minimis regulatory exclusion, departments will no longer have to submit any measures with impacts less than £5 million (measured by equivalent annual net direct cost to business) to the RPC. The RPC supports the introduction of de minimis; we stated in 2015 that 'The Government should consider a 'de minimis' rule, to recognise potential pressures on the system from widening the scope, particularly to cover the action of independent regulators to support efficiency and ensure proportionality.'

*'Performance times – we will continue to identify ways to decrease the time it takes the RPC to process cases; we will also continue to encourage departments to identify urgent cases for priority scrutiny.'*

This year saw a 55% increase in the number of cases scrutinised by the RPC as regulators were brought into the scope of the business impact target. However, the RPC has promised to reduce the turnaround time for consultation stage impact assessments from 30 working days to 20. This will incentivise departments to receive RPC consultation stage support. For departments that do not want to formally submit consultation stage assessments the RPC has now introduced an informal review process. The RPC will commit to providing a final summary of its advice as least as fast as Departments would have received under a formal opinion. The RPC is also committed to working with Departments to help them to meet Parliamentary deadlines.

*'More transparency about the progress of cases through the scrutiny process – we will introduce a new system to notify departments as cases pass through the different stages of review.'*

The RPC has introduced an automated emailing system which informs departments about the progress of cases. This has increased transparency and given departments the opportunity to flag any concerns about timing in a timely fashion.

*'Promote proportionality guidance – it's not clear whether departments and regulators have been using our proportionality guidance to best effect. We shall*

*seek to raise awareness and use of the guidance more effectively in our engagement with them.'*

The RPC has continued to promote its proportionality guidance during its communication with departments and regulators. For example, the RPC worked with DWP on improving the quality of impact assessments and highlighted the RPC's stance on proportionality. RPC guidance was circulated to all stakeholders including BRE and the departmental BRUs. This guidance is also published on the RPC website.

*'We will work with the Better Regulation Executive to improve our guidance and support on framework and process issues, which seem to have been a particular cause of departmental concern.'*

The RPC has worked with the Better Regulation Executive and contributed where possible to the development of the new framework. The RPC will continue to maintain the close working relationship with BRE and work with them to improve regulatory frameworks and processes. Now that the details of the framework for this parliament has been agreed, the RPC will work with BRE to allay some of the concerns that departments have regarding inconsistency.

### Suggestions for the Future – 2018-19

<u>Goal</u>	<u>Commitment</u>
<p><b>'Burdens on departments' – How can the RPC reduce the burden on departments?</b></p>	<p><b>The launch of a comprehensive RPC eLearning package</b></p> <ul style="list-style-type: none"> <li>The RPC has begun the process of producing three comprehensive eLearning packages on consultation, post-implementation review and cost-benefit analysis. By creating these the RPC aims to reduce the burden on departments by creating one easy to access location for appraisal training.</li> </ul>

	<p><b>Increasing the frequency of pre-submission meetings with departments</b></p> <ul style="list-style-type: none"> <li>• Each team within the RPC secretariat will aim to promote pre-submission meetings with their lead departments. The aim of a pre-submission meeting is to help policy teams understand the quality required of impact assessments. It is also a way to flag any issues which may be of concern, and hence reduce delays later in the process.</li> </ul> <p><b>Pipelines – early sharing of information</b></p> <ul style="list-style-type: none"> <li>• The RPC will continue to work with departments and BRE to promote early sharing of information regarding upcoming submissions. This will streamline the RPC process and allow us to flag any issues early in the appraisal process.</li> </ul>
<p><b>‘Performance Times’ – How can we reduce the time it takes to process cases?</b></p>	<p><b>Incentive scheme to improve turnaround times</b></p> <ul style="list-style-type: none"> <li>• The RPC aims to respond to all submissions within 30 days. To further promote a culture of high quality scrutiny and fast turnaround times the RPC will introduce an internal incentive</li> </ul>

	<p>scheme which rewards RPC secretariat members who consistently meet turnaround deadlines.</p> <p><b>New Brexit timelines</b></p> <ul style="list-style-type: none"> <li>The RPC has committed to reducing the turnaround time for Brexit related submissions, from 30 days to 20. We will continue to uphold this commitment during the next corporate year as it aids departments in meeting their deadlines. The RPC always aims to accommodate special requests from Departments. By working with Departments to meet Parliamentary deadlines the RPC intends to promote a strong and cohesive working relationship.</li> </ul>
<p><b>‘Improved transparency of case progress’ – How can the RPC better inform departments of the progress of their case?</b></p>	<p><b>Partial database access for departments</b></p> <ul style="list-style-type: none"> <li>The RPC is in the process of creating a system which informs Departments as their submissions pass through the different stages of scrutiny. The system will allow Departments to ‘log in’ and view the progress of their case. This system makes it easier for Departments as they are not having to wait for an email update of their case.</li> </ul>

<p><b>‘Promote RPC guidance’ – How can the RPC promote/distribute its guidance on the quality of submissions?</b></p>	<p><b>Frequent publications on RPC website</b></p> <ul style="list-style-type: none"> <li>• The RPC will aim to publish, more frequently, all guidance it produces on its gov.uk website. Creating a place where departments can go and access RPC specific guidance will mean departments do not waste time searching for disparate publications. Publications will include examples of best practice impact assessments and methodological issues the RPC has dealt with in the past.</li> </ul>
<p><b>‘Best Practice’ – How can we improve the quality of IAs submitted to the RPC?</b></p>	<p><b>Team catch-ups with BRUs to identify issues specific to departments</b></p> <ul style="list-style-type: none"> <li>• The RPC will regularly meet with departmental BRUs to determine issues the department is having regarding submissions. At the meetings the RPC can discuss what areas the departments are having trouble with and provide advice and tailored training.</li> </ul> <p><b>Analyse departmental survey results to inform training options</b></p> <ul style="list-style-type: none"> <li>• The RPC includes in its quarterly survey a section which asks departments which parts of the economic appraisal process they find most difficult. The RPC will</li> </ul>

analyse these answers to produce an internal guide which outlines the needs of each department. This should allow us to tailor our training for departments more effectively.

### **Analyst training across government to improve the quality of IAs**

- The RPC has begun and will continue to hold training focused on improving the quality of submissions. The training is aimed at government analysts and is a good way of making departments aware of the quality we expect from an appraisal. The training does not only focus on general best practice but also RPC specific concerns.

### **Department specific training sessions**

- The RPC will thoroughly analyse departments performance and use this information to create tailored training sessions focussed on issues the department has found difficult in the past. By concentrating on departmental specific concerns, the RPC hopes to improve the overall quality of submissions it receives.

### **Pairing departments to transfer department specific skills**

	<ul style="list-style-type: none"> <li>• The RPC will act as a liaison between departments that have issues with certain parts of economic appraisal and departments that are especially skilled at them. This will hopefully create an environment of skill sharing across Whitehall and lead to an improvement in the quality of submissions.</li> </ul>
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*(iii) Action to build capability across Whitehall*

Through continued dialogue with departments, we have been able to set clear standards and promote good practice to assist in building capability across Whitehall. To assist the delivery of improved capability we have maintained and promoted our Whitehall web portal - a one-stop shop to which departmental better regulation units, policy teams and regulators can refer. The portal contains information on the processes the RPC follows, scrutiny standards we apply, links to supporting documents, presentations and methodology updates, and revisions to our case histories document. We continue to enhance our case histories document with new cases as they develop, to act as a reference point for departments which are dealing with complicated methodological issues or unusual cases and where an earlier precedent might have been set.

The RPC has continued the following activities since publication of the 2016-17 corporate report.

- RPC staff continue to meet departmental better regulation units (BRUs) and senior analysts on at least a quarterly basis to discuss departmental performance and other issues.
- Our analysts continue to deliver training, such as the Government Economic Service IA training, and run workshops for economists and BRUs.
- We continue to disseminate methodological decisions that set new precedents on how cases are assessed.

The RPC has undertaken the following activities since the start of corporate year 2017-18



- The RPC has worked with BRE to produce a principles of best practice paper for post-implementation reviews. The RPC is also working to edit the impact assessment template to encourage evaluation and monitoring. It will advise departments to frame policy objectives in a SMART (specific, measurable, achievable, realistic, timebound) way with the RPC emphasising the 'measurable' aspect. The aim of the RPC is to encourage the use of PIRs and improve the quality of evidence which supports them.
- In this corporate year, the RPC has invited departments along to internal methodology meetings. This has been used by departments such as DEFRA and DfT when there have been especially complex methodological issues. By including departments in internal meetings, the RPC hopes to improve appraisal across government and create an environment in which stakeholders feel they can approach the RPC for guidance.
- The RPC has introduced a new informal review process for consultation stage impact assessments which provides departments with an opportunity to benefit from RPC scrutiny without using existing formal channels. The assessments are typically not seen by the whole committee and the RPC does not issue a green or red rating instead it highlights areas that might lead to a red-rating if formally submitted.
- As mentioned earlier, the RPC has started to create online learning packages. This project aims to provide an interactive, instantly accessible learning package for civil servants across Whitehall on effective policy appraisal. This can service an unlimited number of civil servants who either cannot attend the face to face courses provided, or civil servants who have a more time-sensitive learning requirement. These packages will cover consultations, post-implementation reviews and cost-benefit analyses.

### **2.3 Better regulation framework**

While we do not comment on policy as part of our scrutiny process, we do work with our sponsor department (Department for Business, Energy and Industrial Strategy) to improve better regulation policy and process. Our close engagement with the Better Regulation Executive allows us to comment on what is working well, and we offer our observations to ministers and others, making suggestions for improvement.

*Interim Better Regulation Framework Guidance*

We are working with the Better Regulation Executive to improve the proportionality of the Better Regulation Framework and to create a system which concentrates on early scrutiny of significant measures. This is especially important in the context of EU exit, which is of great concern to departments and to us, and where early, focused scrutiny could help to streamline the policy process.

As mentioned previously, the RPC also introduced a significant change to its consultation process towards the end of the first quarter of 2018. While still maintaining the current system of providing a formal published opinion on consultation stage impact assessments, the RPC now offers an informal review process to departments. This informal process is in its infancy, but initial feedback suggests that departments are pleased with the format. A department highlighted the need for an informal review template which has now been created and distributed. They also mentioned that the advice given was very helpful and clearly stated. The RPC has committed to review this new process in October and will take on board all feedback.

### Wider Impacts

The RPC will continue to make the case that it should be able to consider the adequacy of the assessment of wider (i.e. non-business) impacts in whether to red-rate impact assessments, and that this would provide the best incentive for these assessments to improve. In the meantime, the RPC will continue to comment on the assessment of wider impacts and whether this is fit for purpose. The RPC is also increasingly commenting on the adequacy of departments' monitoring and evaluation plans and is changing its opinion template to include whether we consider these plans to be sufficient.

### Small and micro business assessment (SaMBA)

For significant regulatory measures coming into force after March 2014, there has been a requirement for departments to include a SaMBA in the impact assessment (IA). Departments must assess whether there are likely to be disproportionate impacts on smaller businesses, with the default expectation that such businesses should be exempt from regulation. Where departments feel that policy objectives could not be achieved with this exemption, the IA needs to justify this conclusion and discuss potential mitigating actions and activities.

- Out of 47 provisions that required a SaMBA only 10 had analysis that was not fit for purpose.
- A relatively small proportion of these cases included business exemptions:

- 1 case included a full exemption; and
  - partial exemption was offered in 4 cases
- 
- The policy objective was the most frequent reason for not offering an exemption of any kind. Out of 42 cases without exemptions 17 (40.5%) stated that the aim of the policy would not be met if small businesses were excluded.
  - In 4 cases (9.5%) the lack of exclusion was justified by the beneficial impacts of the policy on small and micro businesses.
  - In 12 cases (28.6%), the Department stated that small and micro business would not be disproportionately affected and therefore exclusion would not be necessary.

### Options and alternatives

To provide robust support to policy-making, IAs should consider a relevant range of alternative interventions in addition to the (mandatory) 'do nothing' approach and the preferred option.

- Non-regulatory alternatives were discussed or mentioned in 27.6% of consultation stage IAs; they were deemed viable in 17.2% of cases.
- BEIS, DfT and DCMS all submitted consultation stage IAs which considered 4 or more options.
- Out of 29 consultation stage cases: 12 had two options; and 8 had three or more options.
- If options are discussed in IAs then in most cases they are also monetised.

Between 2016-17 and 2017-18 there was a significant fall in the proportion of consultation stage impact assessments which discussed non-regulatory alternatives from 42% to 27.6%. Similarly, there was a fall in the proportion which considered three or more options - from 60.5% in 2016-17 to 27.6% in 2017-18. Two departments were responsible for 12 of the 21 consultation stage IAs which considered two options or fewer.

### Post-implementation reviews

A post-implementation review (PIR) is a process to assess whether a regulation is effective after it has been implemented and operational for a period of time. It attempts

to measure the actual effects of a government regulation after it has been enacted, based on evidence that has been collected before, during and after implementation. It seeks to establish whether and to what extent the regulation has achieved its objectives and whether it is still required to achieve them.

- **22 PIRs in total** have been processed by the RPC for this period, compared with 31 submissions for 2016-17.
- **91% (20) of the processed cases resulted in renewal of the measures;** of the rest, 1 resulted in amended legislation and 1 was replaced.

Out of 22 PIRs processed by the RPC this financial year 17 (77.3%) were fit for purpose as originally submitted. In financial year 2016-17, 26 (83.9%) were fit for purpose as originally submitted. The overall quality of PIRs has decreased across the two financial years and the RPC is working on producing learning materials which aim to address this.

## 2.4 Transparency

Responses from a survey of Better Regulation Units indicated the need for a clear better regulation framework that can be easily understood and agreed and published to hold departments to account in the public domain. One department felt that subjective judgements had influenced opinion ratings, another that divergences within the RPC influenced the issue of IRNs and were unclear on the roles and responsibilities of the Secretariat vis a vis the committee members and in particular, to what extent the views of the Committee reflected in the working level advice Departments receive from departmental leads in the Secretariat. Timely and at least six-monthly publication of opinions, representation on the methodology sub-group and publication of minutes of the methodology sub-group were highlighted as considerations to pursue. The methodology sub-group has chosen not to publish detailed minutes, but to publish decisions that will then be amplified in guidance and case histories.

The RPC's methodology sub-group has continued to provide advice to departments on key technical issues prior to submission. The most common issue has been determining which costs and benefits are direct or indirect for business impact target purposes. The RPC has provided advice to DfT in relation to congestion impacts; to Defra in relation to a ban on ivory sales; and to DCMS on universal service obligation.

## 2.5 Engaging with stakeholders and European counterparts

- In 2017-18, the RPC engaged with business groups, a range of stakeholders including Whitehall and Industry Group, civil society organisations and a group of peers interested in regulatory impact in relation to the Grenfell Tragedy;
- the RPC sought to widen and deepen stakeholder awareness of the RPC to enable them to consider seeking out our opinions to inform their views when being impacted by specific regulatory measures. These included Parliamentarians and fellow scrutineers, who would help to support the RPC independent transparent remit;
- The Secretariat maintained its high level of contact with departmental better regulation units (BRU) and policy officials across Whitehall relating to specific impact assessments. To assist and provide guidance, the Secretariat presented to the BRU network a variety of methodological issues and specific presentations of departmental performance including, for example, DCMS and DWP officials;
- RPC representation at the Baroness Andrews roundtable discussions looking at opportunities and challenges facing the RPC and better regulation generally;
- The RPC continued to collaborate with six other independent regulatory oversight bodies in Europe within the RegWatch Europe group, and the European Commission's Regulatory Scrutiny Board (RSB) sharing best practice on methodology including a workshop on cost quantification;
- Members of the committee made contributions to the annual RSB conference; providing support to other oversight bodies through sharing insight in UK best practice regarding methodology and process including department surveys;
- The RPC also helped independent experts for example, from College of Europe, regarding the improvement of scrutiny methodology at the European level;
- The RPC hosted delegations of national and sub-national governments interested in setting up and/or reforming their domestic oversight bodies, providing them with specific expertise, data insights and guidance material including those in France, Israel, Mexico and South Korea;
- The RPC represented RegWatch Europe at the OECD Regulatory Policy Committee making contributions towards the appraisal of existing regulation and analysis of regulatory reform and provided the lead on RegWatch Europe's application for permanent observer status at the OECD RPC.

## **2.6 Conclusions**

During the 2017-18 reporting year, we have:

- Delivered against our statutory commitments;

- Overall scrutinised more submissions of impact assessments due to inclusion of regulators but with submissions tailing off towards the end of the year due to the introduction of the de minimis limit;
- Worked with departments to improve their assessments with increases in fit for purpose ratings for impact assessments and non-qualifying regulatory provisions;
- Developed proposals to deliver faster turnaround times for Brexit cases;
- Taken further steps to establish the RPC's independence by relocation to 10 Victoria Street;
- Engaged with stakeholders in the UK, Europe and more internationally in support of the Better Regulation Agenda;
- Worked closely with the Department for exiting the European Union (DEXEU) to understand the scale of the EU exit measures and the specific security requirements.

### 3. Priorities 2018-19 and Next steps

For 2018/19, our priorities are set out in the table below.

<b><u>RPC Priorities 2018-19</u></b>	<b><u>Next Steps</u></b>
<b>“Broaden RPC engagement with stakeholders to increase awareness of evidence-based policy;”</b>	<ul style="list-style-type: none"> <li>• The RPC will continue to implement its plan to broaden its engagement with ministers, business groups, fellow scrutineers, think tanks and civil society organisations and enhance its reputation;</li> <li>• The RPC aims to provide advice and consultation to departments as early as possible within their formulation of policy to ensure due consideration is given to the evidence required to support the policy</li> </ul>
<b>“Increase our ties with like-minded organisations internationally and share best practice;”</b>	<ul style="list-style-type: none"> <li>• More specifically, the RPC aims to increase its engagement with the OECD RPC and the REFIT platform of the European Commission and broaden its assistance to governments worldwide seeking to set up or reform regulatory and oversight bodies.</li> </ul>

<p><b>“As independent Verification Body, provide a transparent and public account of all qualifying regulatory provisions;”</b></p>	<ul style="list-style-type: none"> <li>• The RPC will address some of the risks introduced by proportionality by working closely with departments and regulators, using the pipeline system (subject to department and regulator agreement) to ascertain if the information is of sufficient quality to support a meaningful callin process, to call in cases as appropriate and use sampling to ensure propriety and regularity;</li> <li>• In its pursuit for transparency as an independent body, the RPC will continue to publish its opinions, committee meetings minutes and an annual list of verified measures that contribute towards the BIT and share methodology sub-group findings and case histories.</li> </ul>
<p><b>“Draw on our experience of scrutiny and expertise and to provide advice to BRE and to Ministers on how different policy choices will operate in practice;”</b></p>	<ul style="list-style-type: none"> <li>• The RPC aims to become a “Centre of Excellence” regarding the need for evidence within the better regulation agenda.</li> </ul>
<p><b>“Scrutinise individual cases efficiently and proportionately;”</b></p>	<ul style="list-style-type: none"> <li>• The RPC will draw on the expertise within the RPC and focus on more appropriate scrutiny at the earliest possible stages of impact assessments with the highest effect;</li> <li>• Emphasise the need for consideration of wider societal impacts in the scrutiny process;</li> <li>• Actively use the scrutiny process to improve the numbers and quality of Post Implementation Reviews and SaMBAs.</li> </ul>

<p><b>“Implement a streamlined system that allows us to manage the regulatory activity created by EU exit;”</b></p>	<ul style="list-style-type: none"> <li>• Develop the tracker system for department and regulator units to monitor casework in the RPC system;</li> <li>• Introduce a new internal email system to give advance warning of cases running late.</li> </ul>
<p><b>“Set clear quality standards, developing guidance and promoting good practice;”</b></p>	<ul style="list-style-type: none"> <li>• As part of the scrutiny process, the RPC will look at ways the RPC can incentivise the submission of Post Implementation Reviews and whether scrutiny could be improved by reflecting on the quality of monitoring and evaluation plans in opinions; and</li> <li>• Ensure that burdens on small and micro businesses of regulatory changes are mitigated or minimised;</li> </ul>
<p><b>“Improve engagement with Whitehall departments, with a view to sharing expertise and improving standards;”</b></p>	<ul style="list-style-type: none"> <li>• The RPC aims to Support departments and regulators beyond the statutory role of the RPC and provide refresher training for new and existing Better Regulation Units;</li> </ul>
<p><b>“Increase the committee’s physical and administrative separation from BRE;”</b></p>	<ul style="list-style-type: none"> <li>• The RPC will continue to build on its achievements in 2017-18 by seeking financial independence from its immediate sponsor, BRE.</li> </ul>
<p><b>“Develop processes to ensure we can contribute our expertise and experience of operational activities when Better Regulation policy is being designed.”</b></p>	<ul style="list-style-type: none"> <li>• The RPC aims to support innovation in the government’s Industrial Strategy as well as contributing to innovation in regulation.</li> </ul>



## 4 Budget

	Budget 2017/18	Outturn 2017/18	Budget 2018/19
<b>Pay costs</b>	£824,823	£636,437	£678,260
<b>Honorarium payments</b>	£118,000	£144,723	£180,000
<b>Office and travel costs</b>	£17,500	£37,859	£24,000
<b>Total admin costs</b>	£960,323	£819,019	£882,260
<b>Programme costs</b>	£45,000	£29,000	£45,000
<b>EU Exit costs</b>	- <sup>2</sup>	£105857	£784500

The pay costs are the salaries of the civil servants in the RPC secretariat. The honorarium payments are the payments made to committee members in respect of the service they provide.

The honorarium outturn exceeded its budget for 2017-18 because of payments made to additional committee members for their services and associated expenses.

The increase in office and travel costs relate to facilities hire and additional European travel.

The programme costs refer to expenditure on specific programmes to support the work of the RPC including communications.

EU Exit costs relate to the pay and non-pay costs of civil servants in the Secretariat engaged on EU Exit work.

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<sup>2</sup> RPC 's share of the budget for 2017-18 was included in that for the sponsor department.

## 5 Personnel and committee members

The Committee consist of nine members and is supported by a secretariat comprised of (currently) 20 staff with a mix of analytical, policy, administrative personnel and the head of the secretariat. The secretariat's allocated headcount is 28 staff in total.



**Anthony Browne**

**Chairman**

*January 2018 – present*



**Andrew Williams-Fry**

*May 2018 – present*



**Jeremy Mayhew**

*April 2012 – present*



**Alexander Ehmann**

*April 2012 – present*



**Prof. Jonathan Cave**

*March 2015 - present*



**Stephen Gibson**

*May 2018 – present*



**Sheila Drew Smith OBE**

*May 2018 – present*



**Laura Cox**

*May 2018 – present*



**Prof. Brian Morgan**

*May 2018 – present*

