

Annex 1

Minutes of RPC meeting
Monday 14 November 2016
1 Victoria Street

Attendees

Chair

Michael Gibbons

RPC Secretariat

Committee Members

Jonathan Cave

Alex Ehmann

Jeremy Mayhew

Martin Traynor

Sarah Veale

Ken Warwick

Better Regulation Executive officials

BSI – Dr Scott Steedman CBE

RPC Comms advisor

Apologies provided

Nicole Kar

1. Matters arising

Comms update

1. The Comms Manager provided the committee with an update of her recent comms activity. She has been in touch with some peers, LGA, MPs, Times and House magazine. HSE, Natural England, Green Alliance and APPGs. She informed the committee of a potential strategy day that may take place in January.

Principles of redaction paper

2. The secretariat introduced the principles of redaction paper; broadly based on the FOI principles that the RPC will soon have to adhere to.
3. The committee requested that for future minutes a comment be attached to explain the reason for a redaction and to note the exemption that has been applied.
4. The committee agreed to the exemptions.

Minutes

5. The members began the discussion on the September and October minutes by raising the following points more generally about minutes:
 - The default position of the committee to be to publish whatever is contained in the minutes.
 - One caveat should be that any visitors or attendees from BRE who have been excluded from any session should not have sight of those sections of the minutes.
 - The fuller version of the minutes should discuss the variety of points made both for and against the subject of discussion.
 - The discussion concluded with the secretariat proposing to produce a fuller version of the non-redacted minutes for the committee and a second version – with as few redactions as possible – that only contain a high-level summary of the points discussed, including in any private session, which can be distributed more widely and published.

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- The committee agreed to trial this approach for the November minutes.

September minutes

6. The committee agreed the September minutes subject to the following amendments being made before publication:
 - Paragraph 5 – change the use of the word “bumped” to “met”;
 - Replace paragraph 6 with “There was a discussion regarding the Reducing Regulation Cabinet Committee meeting”;
 - Remove references to individuals; and
 - Publish actions.

October minutes

7. The Chair requested the removal of the phrase “key role for the RPC in exiting the EU” as it was an unfortunate phrase that also wasn’t factually accurate; a better summary would be “a role for the RPC in assessing the impact on business.” He also asked for the removal of the Minister’s reaction as this too could be inaccurate. Subject to these the October minutes were agreed

2. Ministerial reporting and PAC

8. The secretariat introduced the proposed content for the next six-monthly update report. The proposed topics it will cover are:
 - Departmental ratings;
 - The downward trend of fit for purpose ratings – from a high of 80%;
 - Most common red ratings are issued for unjustified assumptions;
 - PIR tracking;
 - A section on regulator performance; and
 - Some reporting on the overall validated numbers.
9. The committee were informed that the next ministerial letter is likely to comment on five broad topics:
 - The decline in quality of IAs;
 - Where the RPC role is currently and how it could develop;
 - An update on RegWatch;
 - Efficiency review reflections and PAC response; and
 - Overhanging issues from previous letters.
10. The chairman observed that it would be difficult to comment on the proposals without seeing what measures will be included in the six monthly update. He asked when the committee could expect to find out what will be included and whether the focus of the report is for departments or an external audience?

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11. The secretariat informed the committee that the team leading on producing the report expect to be able to advise the committee on what will be included, within the next month. The main message of the report is about the quality of the IAs rather than the numbers.
12. The RPC comms advisor commented that the report can serve multiple audiences. She would be able to pull out different messages and cascade them relatively easily.
13. The chairman invited members to offer their thoughts on what should be included – and what the key messages were – in both the report and the corresponding letter to ministers.
14. The committee provided the chairman with the following thoughts:
 - The RPC may be missing an opportunity on the quality of IAs. The RPC should start to send back IAs and tell departments to do better. The proposals of the BRE’s efficiency review on IA length were highlighted as a sensible option and that this was a useful opportunity to engage with ministers about the lack of quality.
 - It was suggested that focus should be made on continuing to improve the quality of IAs, and as part of our wider duty to government we should bring out what the purpose of an IA is.
 - It was pointed out that IAs have never been of the highest quality, but this was a good opportunity to improve them and it would be good to see the RPC’s commentary move away from mentioning a trend of declining quality, but that it would be sensible to say something.
 - It was suggested that Brexit shouldn’t appear in the ministerial letter accompanying the report; it should be a letter in its own right rather than two paragraphs in a letter covering a range of topics.
15. The secretariat noted the observations of the members and proposed that as part of the narrative the RPC could comment on the varying quality of the IAs and suggest specific areas that would improve the IAs being sent by departments.
16. The committee asked whether regulators would be included. They noted that HSE are currently included in the departmental league tables and they score very highly.
17. The secretariat responded that the new regulators in scope would not be commented on but that regulators previously in scope of the BIT would be included. He will make that clear in the report.

3. RegWatch

18. The secretariat briefed the committee on the upcoming turn of the RPC to hold the RegWatch secretariat and chairmanship. It was noted that it looked like quite a lot of work, with the key deliverables around meetings and a conference with Timmermans and the RSB at an EU level.

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19. The chairman added that there is a key role for RegWatch as a group in gaining and continuing to have access to the RSB and to Timmermans. Without being a Network of bodies, they would not have the same level of access.
20. The committee offered their observations on the upcoming RegWatch work:
 - They observed that while this sounded like a very worthwhile project, it would need to be properly resourced and financed, without compromising the core function of the RPC. The secretariat responded that they are yet to put in a formal bid for more funding but the need has been highlighted to the relevant parties.
 - The committee asked if it would be worth reaching out to the new US administration and offer the range of abilities both from the RPC and RegWatch as whole, as the president-elect has expressed a desire for something on one-in, two-out. They discussed that there are officials of the outgoing administration at the Office of Information and Regulatory Affairs (OIRA) who have been very interested in the UK's method of independent scrutiny and the structure used. They added that it is likely the new administration would be interested to hear from both the RPC and Regwatch.
21. The chair asked the secretariat to draft a letter to the chairman or president of OIRA about the policy of one-in, two-out and offer the collective expertise of the RPC, BRE and RegWatch as a whole.

4. BSI presentation

22. Dr Scott Steedman CBE from the BSI (British Standards Institute), which is responsible for national industry standards setting, delivered a presentation on the work of the BSI. He was keen to dispel the view that standards are something that people have to meet; all the BSI's standards are voluntary. They are not enforced but are an enabler and make it easier for British companies to operate at an international level. He also outlined the history of the BSI and its development through the 20th century.
23. Dr Steedman went on to highlight that more recently new industries have been using standards as an alternative to regulation; particularly the nano-technology industry who have been allowed to remain unregulated and use industry developed standards as the rule. He believes sectors that use standards rather than regulations are more productive.
24. The committee asked whether the BSI looks at IAs going through the system and if they contribute to the use of alternatives to regulation.
25. Dr Steedman responded that he would love to say yes but they are busy talking to industry. He did suggest that if a particular IA was going through the system and the RPC or others wanted greater consideration of alternatives to regulation, the BSI do have a knowledge centre that would be happy to respond.
26. The BRE asked whether Brexit would have an impact on the work of the BSI and if there would be any move away from existing standards in place in the UK.

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27. Dr Steedman said that post-Brexit the BSI's ambition is to remain a member of the European standards setting bodies – CEN (European Committee for Standardization) and CENELEC (European Committee for Electro-technical Standardization) – and to maintain a seat at the table. Otherwise the BSI and British industry would be in an awkward situation; British industry does a large part of their business in Europe and they would have to follow standards the BSI didn't have any input on. The BSI does not want to have to create new standards in the UK.
28. The committee commented that the vast majority of industries participating in these standards will not want to wind back to domestic standards and would rather maintain international standards.
29. Dr Steedman agreed and informed the committee that he had not received a single letter that wants to introduce national standards – this would make doing international business much more difficult.
30. The chair asked whether CEN and CENELEC have ruled out kicking out the BSI post-Brexit.
31. Dr Steedman responded that it was possible they may not amend their membership agreement – a country has to be an EU member state – but that is was hugely important for the BSI to remain as they are, totally integrated. He suggested that if the UK can continue to fulfil the standards what's not to like?
32. The committee wondered to what extent the standards are written by large businesses. How does the BSI speak to tomorrow's businesses and do they reflect on how the standards could act as a barrier?
33. Dr Steedman said that standards are not limited to big business and in the BSI's world – the formal world of international standards – they are obligated to represent all sizes. They will insist that the whole community is included. In the draft stage of new standards, all proposals are online and people can comment whenever. His job is to make sure all stakeholders are engaged and involved. He added that sole traders sometimes have more an interest in a particular set of standards than big business.
34. The committee responded that although they accept the BSI take a cross section of stakeholders when developing standards, can it suppress innovation?
35. Dr Steedman answered that while he could see a situation where if a committee is not refreshed sufficiently it could suppress innovation, the BSI makes a huge effort to enable new entrants to get in involved writing the standards. There added benefit for businesses was that the standards are voluntary and not legally binding.
36. The committee asked the chairman to ensure the secretariat followed up with the BSI on the possibility of further cooperation on standards as alternatives for regulations.
37. Dr Steedman invited the committee to email the BSI with any follow up questions.

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5. PAC response

Expected PAC response

38. The secretariat introduced the six recommendations that the BRE are proposing to ministers, in response to the PAC's report into better regulation. The committee were happy with recommendations one and two.
39. The committee discussed recommendation three – departments and regulators should, as a matter of urgency, set out how they intend to improve their understanding of their stock of regulations. The committee were divided on the issue of assessing the stock. Some were in favour of assessing the stock, to enable a better understanding of what could be done to reduce it, but others didn't see much of a benefit to assessing the stock, particularly if the potential benefits from doing so were limited.
40. The committee moved onto recommendation four – the BRE are to set out how it will ensure departments include adequate plans for monitoring and evaluation in IAs and how departments will implement these plans once the regulation is in place.
41. The Chairman mentioned that the RPC has raised two distinct issues: i) is the RPC seeing things that came through 5 years ago? ii) Is the RPC clear that the current IAs will set up the RPC to assess PIRs in the future? The committee added that they believed there was still an issue with the PIR process – who is responsible for policing the process,
42. BRE officials responded that they completely agreed that there were two questions. i) He said that the question of seeing or not seeing PIRs was not something the PAC had asked for and therefore cannot be addressed in the response to the PAC. They did agree that it was something that needed sorting and they wanted to ensure the RPC was seeing all the big things. ii) What the BRE are trying to do is to ensure that departments have the correct monitoring plan in the IA. The BRE are asking the RPC to keep track of whether the trend is improving or not. In response to whether the RPC should be policing the issues they said that the RPC is not responsible for writing or improving the plans, but simply whether they are improving.
43. The committee asked if they would be able to issue a red opinion based on the quality of the monitoring and evaluation plan. They were of the collective belief that without the tools to properly assess the plans it would be another complication to the system and departments would ignore their comments.
44. BRE officials responded that if a department is continuing to fail to improve the monitoring plan then the BRE may suggest a move towards red-rating an IA based on the plan but the BRE wouldn't want to do that if they could help it.
45. The committee were in agreement that the plans should be assessed but not all members were sure that the assessment should be policed by the RPC. However, they were in agreement that the RPC should be able to red-rate an opinion if the evaluation plan was not of sufficient quality, if it became their role to police it.
46. The secretariat asked for the committee members' thoughts on recommendation five – the BRE should publish in its annual report estimates of the wider costs and benefits of regulatory

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decisions and provide details of each department's and regulator's performance in assessing these.

47. The Chair began the discussion by stating that he felt this was a missed opportunity. He believed that there was collective agreement that the RPC should be assessing this and that it would not be a significant amount of extra work.
48. The committee followed up by asking why the RPC cannot red rate on societal or environmental impacts. They suggested that civil society would welcome it and the RPC would be pushing on an open door.
49. BRE officials responded by saying that they are trying to get the RPC a voice in the ministerial space on this issue. They hopes that ministers will be more open to the RPC/BRE stance than their officials are.
50. The chairman thanked the BRE officials and asked that if they could arrange that, at least the RPC/BRE will have done what they can.
51. The committee finished their discussion on the recommendations with recommendation six. The chairman asked Rob Brightwell for some clarity on the recommendation. He asked whether the RPC were not spending enough time on the bigger cases or was it a matter of balance.
52. BRE officials responded that the final three recommendations should be taken together as a block. The idea is to reduce the amount of time spent on the smaller cases and to make sure that the RPC/BRE approach to monitoring is correct.

6. Sponsor meeting

Sponsorship meeting

53. The chair introduced the sponsorship meeting agenda and asked where the RPC's terms of reference were and what needs to be done to finalise them? He also asked what the situation was with extending existing members' service for six months and what the prospect of recruiting additional members was.
54. The secretariat responded that the intelligence they have had from the BRE was that the Cabinet Office have read the willingness of two members to remain for an extra six months as a way of deferring the recruitment.
55. The chairman asked whether it was right to assume it would helpful to have more members. His instinct was that the recruitment of additional members should be postponed until the current members and the next chairman is sorted. He believed it was important to get the existing members' package right before discussing more members on that package. The chairman added that the point of his question was to be sure that the RPC have got their point of view across on this agenda.
56. The secretariat responded that the RPC would do better to bid for all the things they want at once.

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57. The committee agreed to the agenda and to continue the discussion on remuneration in the private session.

58.

7. AOB

OECD

59. The Chair provided the committee with an update of his presentation to the OECD. It had been very well received and the OECD is intent on having a fairly detailed review into independent scrutiny; this is likely to be the focus of their next regulatory overview.

60. A German representative at the OECD believed that RegWatch should have a permanent seat on the OECD's RPC board. The Chair asked the secretariat to follow up with him.

61. One of the RPC member advised that he will be at the meeting of the OECD's RPC in April to discuss his trip to Korea and could assist Michael with any presentation he may make.

Meeting monitor

62. The committee fed back that the meeting had run pretty smoothly and was well chaired. There was lively discussion without going too far which was a great improvement.

63. Their observation of the BSI presentation was that when the RPC invites guest speakers the members should agree before-hand whether they ask questions during the presentation or at the end.

64. In their opinion, it would also be worth having a wash up between members after a presentation to discuss any points raised and any potential further engagement with the presenters.

65. The committee were in agreement that what makes those sessions work best is not twenty five minutes of presentation but the opportunity for questions and discussion after a shorter presentation. There is always the danger that people will always speak longer.

Workshop

66. The prioritisation workshop was postponed until December.

BREXIT

67. Due to the overrunning of earlier agenda items, the committee agreed to postpone the discussion of the Brexit paper until December. The secretariat would circulate the paper again and the committee were asked to provide one set of initial comments each copied to both the Chair and the Head of Secretariat within ten days.