



House of Commons
Environmental Audit
Committee

**Government Response to the
Committee's Third
Report of Session 2006–07:
Regulatory Impact Assessments
and Policy Appraisal**

Seventh Special Report of Session 2006–07

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The Environmental Audit Committee

The Environmental Audit Committee is appointed by the House of Commons to consider to what extent the policies and programmes of government departments and non-departmental public bodies contribute to environmental protection and sustainable development; to audit their performance against such targets as may be set for them by Her Majesty's Ministers; and to report thereon to the House.

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A list of Reports of the Committee in the present Parliament is at the back of this volume.

Committee staff

The current staff of the Committee are: Mike Hennessy (Clerk); Sara Howe (Second Clerk); Richard Douglas (Committee Specialist); Oliver Bennett (Committee Specialist); Louise Smith (Committee Assistant); Caroline McElwee (Secretary); and Jonathan Wright (Senior Office Clerk).

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References

In the footnotes of this Report, references to oral evidence are indicated by 'Q' followed by the question number. References to written evidence are indicated by page number as in 'Ev12'. number HC *-II

Seventh Special Report

Regulatory Impact Assessments and Policy Appraisal—Government Response

1. The Environmental Audit Committee published its report on *Regulatory Impact Assessments and Policy Appraisal* on Monday 5 March 2007 as HC 353.
2. The Government's Response to the Committee's Report was received on Monday 18 June 2007 in the form of a memorandum to the Committee. It is reproduced as an Appendix to this Special Report.

Appendix - Government response

GOVERNMENT RESPONSE TO ENVIRONMENTAL AUDIT COMMITTEE REPORT: "*Regulatory Impact Assessments and Policy Appraisal*" (Third Report of Session 2006-07)

Introduction

On 2 April 2007, the Government announced a new Impact Assessment (IA) process¹ aimed at ensuring that all new regulation is necessary and carried out with minimum burdens. This improves on the previous Regulatory Impact Assessment (RIA) process with a simpler, more transparent process that will be embedded in the earliest stage of policy making.

The key features of the revised Impact Assessment are:

- A revised template to improve clarity and transparency including new requirements to summarise both the rationale for government intervention and evidence supporting the final proposal.
- A strengthened Ministerial declaration to bolster the quality of the analysis in IAs, supported by improved arrangements within departments.
- Revised guidance for policy makers to make it easier for them to produce high quality IAs focused on the burden of the regulations they are developing.
- An increased emphasis on post-implementation review. The new Impact Assessment will be more transparent to stakeholders and policy-makers.
- To improve transparency, the Government will set up a new area on the internet where summaries of published IAs will be available, together with links to departmental websites.

¹ http://www.cabinetoffice.gov.uk/regulation/news/2007/070402_ia.asp. See the Guidance at http://www.cabinetoffice.gov.uk/regulation/ria/ia_guidance/ and the Toolkit at <http://www.cabinetoffice.gov.uk/regulation/ria/toolkit/>

The new IA process follows the consultation *The Tools to Deliver Better Regulation*, launched on 24 July 2006².

- There were over 80 responses to the public consultation from a diverse range of organisations. Around half of these were from issue-based groups, a third from groups representing particular professions or sectors, and the remaining fifth from businesses, individuals and NDPBs. There was almost universal acceptance of the case for reform of impact assessments, but a range of views on the way forward.
- In general, business respondents argued that the government ought to be more ambitious in pursuing a deregulatory agenda and also strongly supported the thrust on improved quantification. However, several respondents considered that the proposal to decouple various impact tests might lead to a fragmented process that marginalized the other assessments.

There are a number of areas where the Environmental Audit Committee report on Regulatory Impact Assessments and Policy Appraisal and the new IA process are moving in the same direction. For example, the new IA process addresses concerns raised in the EAC regarding the proposal in *The Tools to Deliver Better Regulation* to “decouple” various tests by including a Specific Impact Tests Checklist in the new IA template. In addition improvements to the IA guidance and toolkit highlight the consideration of sustainable development and environmental impacts. The new IA process also includes an assessment of carbon impact on the IA template.

The Government considered the recommendations in the EAC report on summarising other environmental impacts in the new IA template. However, in line with the HM Treasury Green Book guidance on Appraisal and Evaluation in central government and the inclusion of the Specific Impact Tests Checklist in the new template, the Government considers it preferable for there to be a strong focus on monetising the costs and benefits of policy proposals as much as possible.

Recommendation 1

In the absence of a viable alternative to Regulatory Impact Assessments (RIAs), the RIA process must be regarded as an appropriate, if far from ideal, platform for integrating sustainable development into policy decisions. However, if the RIA system is to prove an effective tool for achieving the aim of fully integrated consideration of environmental impacts a number of key changes will be required, not least to its structure and purpose. (Paragraph 11)

² <http://www.cabinetoffice.gov.uk/regulation/ria/consultation/index.asp>. The Government’s response to this consultation is at http://www.cabinetoffice.gov.uk/regulation/ria/consultation_response/.

Recommendation 2

The problems and limitations set out by the National Audit Office (NAO) in its briefing document to the Committee need to be resolved and the RIA recognised as a valuable and necessary input into the decision-making process. This will only be achieved through a concerted commitment from above to establish RIAs as an essential factor in considering policy, complemented by improved training and guidance to facilitate the production of RIAs, improve their quality and promote the process amongst officials. This remedy, like many of the other more specific steps suggested by the NAO in its 2005-06 review of RIAs, is directly related to the actions required to promote and reinforce the consideration of sustainable development within the RIA process itself. (Paragraph 14)

Recommendation 3

We strongly believe that RIAs should be used as a tool for ensuring policies meet objectives that stretch beyond the economic sphere to embrace environmental concerns. The RIA process must be directly engaged in transferring the principles of sustainable development and integrated decision-making from rhetoric to reality, principles which are currently often neglected by the focus on minimising regulation. We believe that the changes proposed in this report would assist in achieving this aim. (Paragraph 16)

Recommendation 28

Technical changes to the structure and guidance of Regulatory Impact Assessments can only be truly effective if they are accompanied by commitment and enthusiasm for implementing the principles of sustainable development in all aspects of government. It remains to be seen whether the lasting results of the BRE Consultation will produce a new, fairer and more effective RIA system, as a crucial step in establishing the principles of sustainable development throughout government as a whole. (Paragraph 87)

The Government agrees that impact assessment is a valuable and necessary input into decision making. The key objectives of the new IA process (outlined in the introduction above) are to ensure that IAs present cost and benefit information in a much more transparent way, and are carried out and updated throughout the policy making cycle – from the first stage when ideas are being initially developed, through the key consultation and decision-taking stages, to post-implementation evaluation. Moreover, other impacts arising from proposed regulations should also be more transparent and visible to stakeholders and policy makers.

The Government recognises the important contribution that IAs can make to meeting its sustainable development objectives. Accordingly, the new template, guidance and toolkit provide clear sign-posts to the Government's commitments in this area. In particular, the new toolkit provides guidance to policy-makers for considering how their proposals contribute to the five principles of sustainable development and provides a link to Government's strategy on Sustainable Development.

In addition to these processes, the Better Regulation Executive is assisting departments to implement the new IA process by providing transitional training to better regulation

units, policy makers and economists likely to be engaged in IAs during the first stages of implementing the new process. This support adds to the better policy making training that most departments already offer covering better regulation and sustainable development issues.

Recommendation 4

In the wake of the Stern Review, and the very real economic costs of inaction which it highlights, it is no longer viable to view environmentally-minded regulation as a straitjacket to industry. Especially in the case of the environmental technology and services industries, regulation can play a crucial supporting role. We reiterate the call made in our predecessor Committee's report for RIA guidance to be strengthened in order to ensure that RIAs adequately recognise and consider the contribution that would be made by a flourishing environmental industries sector. (Paragraph 22)

Government policy proposals are aimed at addressing particular issues such as specific market failures or equity objectives. Accordingly, the Government considers that IAs need to focus on how best to achieve these objectives rather than on the potential benefits for any one specific group in the economy. That said, IAs will continue to take into account any additional costs to industry arising from policy changes. In addition, while some regulations may stimulate environmental innovation, these impacts should be considered on a case by case basis. Moreover, because Government intervention may not be the best way of addressing a policy problem or of realising policy objectives, the Impact Assessment guidance asks policy makers to consider alternatives to classic regulation (e.g. self-regulation; voluntary codes) as well as considering unintended consequences of regulation.

Recommendation 5

Regulation and policy are conceived with clear objectives in mind, and it is only to be expected that impact assessments initially concentrate on those areas which relate most directly to these objectives. Similarly, certain RIAs will necessarily be required to assess a crucial technical point in some detail. However, it must be ensured that the impact assessment grows to encompass all relevant issues, beyond this initial, limited scope. The principle adopted by the Better Regulation Executive (BRE) that an RIA should be proportionate to the risk posed by the policy idea should not preclude a reasonable examination of all possible impacts. The unsatisfactory level of assessment of the fundamental issues behind a policy is of particular concern for us, as it is often in the wider context that the sustainable development strategy is best evaluated, and most frequently neglected. (Paragraph 25)

New Impact Assessments are designed to be a continuous *process* to help policy-makers fully think through and understand the consequences of possible and actual Government interventions: from the early stages of identifying a policy challenge, through the development of policy options, public consultation and final decision-making, and on to the review of implementation. When review leads to the

identification of new policy challenges (perhaps arising from unintended consequences of the intervention itself), the process begins again.

While the focus of the analysis should be the full range of costs over and above the 'status quo' or 'do minimum' option, the need for proportionality underpins all aspects of the impact assessment process, including the choice of appropriate interventions, gathering data and conducting cost benefit and related analysis. As policy makers move through different stages of the IA process, it is expected that the data being used would be refined to make it more specific and to improve its accuracy. At all stages, the appropriate use of evidence to assess risks and quantify identified environmental hazards would be a key part of the process but the effort applied at each step should be proportionate to the funds involved, outcomes at stake, and the time available.

The BRE is encouraging sponsors of specific impact tests (e.g. Health Impact Assessments, Race Equality Impact Assessment) to develop initial screening mechanisms, so that fuller specific analyses are only carried out when there is a clear need.

Recommendation 6

We call for each RIA to include a compulsory assessment of the carbon impact of the policy concerned. This figure should be clearly displayed on the summary sheet for each RIA, and the document should make clear the context in which the significance of the figure should be gauged. However, we do not view an assessment of carbon emissions alone as an adequate illustration of the complex and wide-ranging field of environmental impacts, and call for guidance and training to make clear to officials the need to analyse and assess environmental impacts of all kinds, beyond the concerns of carbon and climate change (Paragraph 32)

The Government agrees with the Committee that it is important to ensure policy assessment includes carbon costs. The Summary: Analysis & Evidence page of the new IA template asks policy makers to indicate the value of changes in greenhouse gas emissions and the guidance and toolkit provide clear links to Defra and Treasury guidance on this.

On the Committee's broader comments, Impact Assessment guidance makes clear that all costs and benefits, including environmental and social, should be analysed and assessed. The IA toolkit contains links to Defra advice which helps policy-makers assess environmental impacts to identify the optimum approach, e. g. on climate change, air quality, noise, biodiversity, etc. Defra is reviewing existing guidance and will update and improve it where necessary.

The Sustainable Development Commission is working with the National School for Government and others to ensure that the capacity of policy-makers to consider sustainable development is addressed.

Recommendation 7

All relevant environmental impacts must be identified and assessed within an RIA, including the economic and social costs of environmental damage. Environmental impacts cannot continue to be regarded as an isolated concern. Regulatory Impact Assessments must acknowledge that environmental damage has consequences for all spheres of development, and ensure this is presented clearly. (Paragraph 33)

Recommendation 26

We were disappointed to see that very little direct attention was paid in the BRE Consultation to addressing the problems raised in the NAO's briefing on the approach to sustainable development in RIAs. We would have thought that, given the timing and the tight focus of the NAO's analysis, the Consultation would have gone beyond acknowledging the problem by proceeding to make recommendations which directly addressed these issues. Sadly, other than general action intended to improve the overall quality of RIAs, we could not see any recommendation which directly tackled the problem of poor consideration of sustainable development issues. Consideration of sustainable development on the summary sheet has been limited to a yes/no response to the question "does the policy comply with sustainable development principles?". We consider this to be inappropriate and inadequate (Paragraph 81)

Recommendation 27

We are concerned that the steps taken in the Consultation document to decouple certain parts of the assessment may have marginalised environmental assessment and non-monetised analysis. All environmental and sustainable development assessment, whether the analysis is monetised, quantified, qualitative or descriptive, must be included in the main body of the assessment. Any move to decouple any part of environmental assessment represents a backward step and denies the increasing urgency of the challenge posed by climate change and other environmental issues. (Paragraph 85)

Impact Assessment guidance makes clear that all costs and benefits, including environmental and social, need to be assessed and recorded and that these should be monetised as far as possible. Furthermore, the new IA approach indicates that non-monetised costs should be considered, where appropriate, and annexed to the IA. The new Summary: Analysis & Evidence page of the IA template also provides space for policy makers to summarise key non-monetised costs and benefits where these are relevant to decision makers and stakeholders.

In addition, the Impact Assessment template includes a Specific Impact Tests Checklist that summarises a range of tests developed by Government departments and underpinned by departmental guidance. Considering these tests will ensure that policy development is joined up and that individual policy proposals take account of the Government's priority objectives.

Some of the tests are designed to help policy-makers monetise costs and benefits, whether economic, environmental or social. Other tests enable policy-makers to identify non-monetised costs and benefits, or, e.g., to identify the differential impacts of

policy proposals (e.g. in terms of race, gender or disability). The IA guidance asks policy makers to set out information in the Impact assessment where use of Specific Impact tests contributes to the monetisation of environmental, economic and social costs and benefits. Where the tests yield information about non-monetary costs and benefits, the results, when relevant to an overall understanding of policy options, may be annexed to the Impact Assessment. Except where there is a statutory obligation to undertake a test, policy-makers are expected to exercise their judgment in undertaking tests, ensuring that the overall analysis is proportionate and that a clear focus on cost and benefits is observed. Many tests have initial screening mechanisms that enable policy-makers to determine quickly whether further assessment is necessary or desirable.

The checklist will be of particular use in helping policy-makers consider how their proposals contribute to the five principles of sustainable development, to which the Government has committed itself.

Recommendation 8

We support the recommendation of the Sustainable Development Commission that the Public Service Agreement (PSA) targets of Government departments should include an overarching sustainable development objective. We feel that this would increase the prominence of sustainable development objectives throughout departments, and focus attention on RIAs as a means to ensure these aims are achieved. This would ultimately lead to improved systems and methods for taking account of sustainable development concerns as they came to occupy a necessarily higher-profile position within the decision-making process. (Paragraph 35)

Public Service Agreements (PSAs) have played a vital role in galvanising public service delivery and achieving major improvements in outcomes. The performance management framework is evolving through the 2007 CSR, building on the approach to date by driving ambitious improvements in priority areas while developing the supporting performance management framework, to ensure a user-focused, devolved approach to public service delivery. The performance management framework in the CSR07 period will include:

- a comprehensive set of Strategic Objectives for each department;
- a focussed set of PSAs which articulate the Government's highest priority outcomes for the spending period and will typically span several departments; and
- a single, cross-departmental Delivery Agreement for each PSA, developed in consultation with front-line workers and users, supported by a basket of national, outcome-focused indicators.

Each department will agree and publish a new, comprehensive set of Strategic Objectives at the CSR. Departments will use these objectives to manage and report on performance and to inform resourcing decisions, ensuring a more holistic, coherent and better aligned framework for performance and financial management across the board.

Both these departmental objectives and PSA Delivery Agreements will be consistent with the government's commitments on Sustainable Development.

Recommendation 9

We support the NAO's suggestion of requiring a null response for the assessment of environmental impacts to be included in each and every RIA. We feel that this will lead to a more complete standard of analysis and a culture whereby environmental impacts are viewed as an essential component of any assessment. (Paragraph 36)

The Specific Impact Tests checklist included in the new IA process will achieve the same outcome as the NAO's proposal for a null response for environmental impacts. The checklist sets out a range of tests and assessments developed by Government departments and underpinned by departmental guidance, for example sustainable development, carbon assessment, and other environment tests. The checklist asks policy makers to indicate whether results have been included in the Evidence Base in the IA or attached in an annex.

Recommendation 10

In spite of the new emphasis on the economic cost of climate change in the wake of the Stern Review, we do not consider monetary totals alone as appropriate for adequately conveying the extent and coverage of all adverse environmental impacts. It is difficult to see how an appropriate monetary total could be arrived at which would adequately communicate the impact of species loss, or the consequences of climate change on a global scale, and it is unrealistic to expect officials carrying out RIAs to be able to achieve this. (Paragraph 42)

The Government recognises the difficulties posed in monetising environmental impacts. However, policy makers are encouraged to monetise or quantify impacts as far as possible.

Since 2003, the Government has committed itself to making carbon Impact Assessment an integral part of assessing environmental impacts. Defra guidance on impacts on climate change³ and Annex 2 of the Treasury Green Book⁴ provide clear guidance to help policy-makers identify whether policy options will have a significant impact on emissions of greenhouse gases. This guidance consists of an initial screening exercise, followed by further steps if the screening suggests a potential significant impact. Where there is a significant impact, the IA guidance asks that carbon costs be monetised and the results of this work identified in the Summary: Analysis & Evidence page of the new IA template and explained in the Evidence Base of the IA.

In addition, the new IA template allows for relevant non-monetised costs and benefits to be identified and included.

³ See <http://www.defra.gov.uk/corporate/regulat/impact-assessment/envguide/ccimpact/index.htm>

⁴ See <http://greenbook.treasury.gov.uk/annex02.htm>.

Recommendation 11

We believe that the RIA system as it stands must be reconsidered to ensure that non-monetised assessment can be successfully included, and that it also must be recognised as a standard and suitable form of assessment, rather than an undesirable last resort. We recognise that the field of quantifying and assessing environmental impacts is an expanding one, and that considerable effort is being directed into research towards developing new techniques. We do not, however, consider blanket monetisation to be a desirable or feasible objective of impact assessment. (Paragraph 45)

Recommendation 12

It is deeply unsatisfactory for environmental impacts to be omitted from an RIA purely because the structure does not easily permit the forms of assessment which may most suitably convey their importance, or because there is a reluctance among officials to approach impact assessment in a non-monetised manner which is seen to contradict the conventions for RIAs. (Paragraph 46)

Recommendation 15

Although we are in favour of a short summary sheet for the RIA document as recommended in our last report, we are concerned that an increasing reliance on short, monetisation-based summary sheets might lead to decisions being made without considering the full conflicts, assumptions and difficulties behind the figures, or indeed what the impacts actually mean. This is a particular problem for environmental impacts, which we believe are currently neglected on the summary sheet due to the emphasis on monetised figures and trading costs against benefits. (Paragraph 54)

The new IA process provides a stronger focus on assessing the costs and benefits of policy proposals and is also aimed at ensuring assessments are not prepared as a last resort but are carried out from the earliest stages of policy development. The IA guidance also advises policy makers to take account of the full range of costs and benefits: economic, social and environmental and to monetise these as far as possible.

The Government recognises that the use of money values may not always be achievable but strongly encourages this to be done where there is a reliable and recognised methodology to do so. Even where it is not possible to use monetised values, policy makers must make efforts to quantify and describe costs and benefits fully so that stakeholders and decision makers have a full picture of the basis for decisions. While the new IA template seeks to summarise monetised estimates of impacts, it also provides space for policy makers to highlight key non-monetised costs and benefits.

Impact Assessment guidance is consistent with the advice on economic assessment set out in the Treasury Green Book. The IA guidance and toolkit provide relevant links to the Green Book where more detailed guidance is needed.

Recommendation 13

We continue to support the recommendation made by our predecessor Committee that, on the RIA summary sheet, environmental impacts should be broken down and categorised in non-monetary terms on a plus/minus 7 point scale. We believe that this will help to break the reliance on monetisation and will lead to a more effective communication of environmental impacts. We also urge the BRE to work more closely with academic groups and the private sector to investigate and consider techniques used successfully elsewhere for environmental assessment. (Paragraph 48)

Recommendation 16

We recommend that the RIA summary sheet should require a yes/no answer for each of the principles of sustainable development, and that a separate section prominent within the main body of the document (referenced from the summary sheet) covers the assessment behind each of these responses in more detail. Sustainable development can only be fully integrated into policy making if it is recognised as the definitive component for developing and reviewing impact assessments. (Paragraph 57)

Recommendation 17

We urge the BRE to consult with industry and academic groups on impact assessment best practice, concentrating on environmental impact assessment in particular. This opportunity to develop RIA best practice by drawing on varied and experienced sources should not be neglected. (Paragraph 59)

Recommendation 21

We would like to see the RIA guidance provided by the BRE strengthened in terms of how it promotes and deals with sustainable development. We are concerned that sustainable development and environmental issues are rarely addressed directly or dealt with particularly prominently either in existing guidance or in that proposed by the recent BRE Consultation. We recommend that RIA guidance places strong emphasis on sustainable development issues, referring directly to the current sustainable development strategy and key principles. (Paragraph 70)

The Government does not agree that the use of a plus/minus 7 point scale would add to the consideration of policy options. The new IA process, including use of the specific impact checklist, will mean that policy makers take appropriate account of environmental issues in their IAs. Moreover, appraisal of environmental impacts in IAs should reflect guidance in the Treasury Green Book which contains the Government's formal guidance for dealing with non-monetised environmental impacts.

The new IA template, guidance and toolkit direct policy makers to the importance of considering sustainable development in policy formulation, including the five principles of sustainable development. The specific impacts checklist also asks policy makers to identify whether sustainable development and other environment tests have been undertaken.

The BRE is working closely with academic groups and the private sector on better regulation generally and is examining options for long term support that can be provided to assist departments quality assure impact assessments and develop cost and benefit estimates where these are currently hard to quantify. However, responsibility for the content of IAs rests with the relevant department. Moreover, departments also work closely with academia, industry and other stakeholders in developing techniques for assessing impacts.

Recommendation 14

It is vital that officials are provided with the expertise and support to ensure that any assumption acting as the basis for an impact assessment is as well-informed as possible. For this to happen officials must have clear and helpful guidance; the appropriate training and knowledge, in addition to access to more specialised expertise within the department; a thorough consultation programme; and a clear process of review, scrutiny and evaluation. (Paragraph 51)

Recommendation 20

The current programme of training offered for RIAs seems inadequate given the often daunting nature of the task facing officials. We believe that those involved in producing RIAs at all levels should be engaged in a comprehensive and regular programme of training, focusing exclusively on RIAs. This training should be consistent between departments and should be compulsory. No official should be assigned to an RIA project without first having undergone the appropriate training. Given the particular difficulties in the area of environmental impacts, we recommend that training tackle this subject explicitly and at some length, dealing with the likely challenges officials may face, and how these could be overcome. Training of this type would also lead to a greater awareness of environmental impacts, improving the coverage of such issues in RIAs. (Paragraph 67)

The new IA process provides revised guidance for policy makers to make it easier for them to produce high quality IAs focused on the burden of the regulations they are developing. The guidance is supported by a new web-based toolkit that provides more detailed assistance and provides clear links to the Treasury Green Book and other departmental guidance on specific issues.

The government places a high priority on training in policy making. The National School of Government runs courses on policy making and on sustainable development in government. In addition, the BRE is providing transitional training support for departments during the implementation phase of the new IA process and is examining options for longer term support mechanisms that could be provided to assist departments access up-to-date expertise and techniques for assessing impacts. The Government strongly encourages training in impact assessments.

Ultimately, departments remain responsible for ensuring they have capacity to develop and most – if not all – departments either have or are improving training programmes aimed at improving policy skills. For example, DTI provides a Better Policy Making

course which all officials engaged on policy making are encouraged to attend. The Better Regulation team meets specific demands from policy makers through the provision of seminars on particular aspects of better policy making. DTI also has an internal Better Policy Making website that provides guidance to officials on policy process and best practice, and which contains links to information on specific issues. DTI is currently looking to refresh the information on its website and aims to include guidance on sustainable development as part of this process.

The new IA process will also strengthen pre-consultation and consultation processes required for good quality policy development. In addition, the new IA process places greater emphasis on specifying when the policy would be reviewed to establish its actual costs and benefits and the achievement of the desired effects.

Recommendation 18

Better Regulation teams must have adequate resources to adapt to the rapidly rising quantity and complexity of RIAs, and to the new demands placed upon them as the RIA process comes under greater scrutiny. (Paragraph 59)

The Government places a high priority on resourcing better regulation units. For example, DTI has established a dedicated team of officials to monitor/robustly challenge and advise policy teams on the production and development of RIAs to ensure they are transparent and properly quantified. All impact assessments produced by the DTI are seen by their Better Regulation team. A Peer Review Group has been established to facilitate the production of high quality IAs that will improve policy making and be able to withstand wider scrutiny.

The BRE also plays a role in scrutinising new policy proposals from departments and regulators and in providing guidance to departments on the IA process. The BRE is also providing transitional training to support departments in the implementation phase of the new IA process and is examining options for longer term support for assisting departments in quality assurance of IAs. In addition, strengthened Ministerial declarations on IAs will bolster the quality of the analysis in IAs and these arrangements will be supported by improved arrangements within departments.

Recommendation 19

We are encouraged by the positive approach taken to consultation, as described by the NAO, but we feel the process needs to be strengthened to ensure that this good practice is extended consistently across different RIAs and departments. In particular, we would like to see the RIA guidance strengthened to emphasise the importance of consulting on environmental issues, given the support and insight this could provide to officials struggling to assess intangible environmental impacts. We would also like to see the RIA guidance emphasise the role of the consultation process for discussing the merits of the RIA itself, rather than dwelling solely on prolonged discussion of the policy. We encourage the BRE to build relationships with key businesses and organisations implicated in and affected by environmental impacts, in order to provide RIA officials with a starting point for consultation on these matters. (Paragraph 64)

Consultation on the potential impacts of policy proposals and their implementation is vital as it is only through engaging with stakeholders that these impacts can be fully understood. The credibility of economic analysis underpinning IAs will be greatly improved if stakeholders have been involved in developing the analysis. The new IA toolkit make this very clear and the new template should improve the quality of public consultations as stakeholders will be able to form a more immediate view of the quality and sufficiency of the analysis underpinning the policy options. The new IA toolkit stresses the importance of conducting informal and formal pre-consultation and consultation as the impact assessment is developed.

Government consultation policy is set out in the Code of Practice on Consultation. In the latest version, published in 2004, criterion six of the Code relates to impact assessment. Criterion 6.2 states: “Ensure that a Regulatory Impact Assessment is attached [to the consultation document], where required, highlighting the costs, benefits and risks of the proposal. Respondents should be encouraged to comment on and challenge the assumptions in the RIA where one is included.” The BRE is currently reviewing Government consultation policy.

Recommendation 22

We encourage and support the development of a single, consolidated RIA Toolkit, as this would provide officials across government with an authoritative and consistent resource for assessing impacts. It would also reduce uncertainty and inconsistencies in the assessment of environmental impacts. (Paragraph 72)

The new IA process features revised guidance for policy makers to make it easier for them to produce high quality assessments. This shorter guidance is aimed at laying out in one place what is expected in impact assessment. The guidance is also supported by a new on-line toolkit providing assistance to policy makers on how to go about impact assessments. The toolkit provides clear links to the Treasury Green Book and other departmental guidance (for example on the Specific impact tests on environmental and other issues).

Recommendation 23

A more thorough, rigorous and consistently enforced programme of review and scrutiny would help to ensure not only that the content and scope of RIAs was adequate, but also that minimum standards were met for the quality of analysis and calculation. This would be particularly important in the case of environmental impacts due to the frequently poor coverage and assessment of such impacts, as demonstrated in previous chapters. An improved review system could also help to counteract the variations in presentation and clarity highlighted by the NAO, thereby improving the transparency of the document. We therefore believe that a demanding new review process would be a key factor in developing, encouraging and reinforcing good practice of all kinds. (Paragraph 75)

Recommendation 24

We propose a system whereby all final RIAs are subject to review on the broad terms of content, scope, quality of analysis, clarity and presentation. We would expect training and guidance to provide officials with the skills and resources required to meet these conditions. We also recommend that the Government devise a procedure by which a policy could be identified as having an excessive environmental impact, triggering an examination and re-evaluation of the policy idea with the objective of reducing this negative environmental impact. In such circumstances we would like to see firm support and advice provided to officials in order to bring the policy in line with sustainable development principles and initiatives before it proceeds to the next stage. We believe that this approach will help to ensure that sustainable development and environmental concerns receive adequate coverage and consideration in RIAs. (Paragraph 76)

Recommendation 25

We support the proposal for more substantial retrospective evaluation of the accuracy and suitability of the figures and methods used to calculate impacts. We believe that environmental impact assessment would particularly benefit from such retrospective scrutiny, given the uncertainty behind the techniques used to calculate environmental costs and benefits. We would also call for such a review structure retrospectively to evaluate the scope of impacts included in RIAs, as this could identify frequently neglected environmental impacts and ensure that they receive adequate attention in the future. (Paragraph 78)

The Government agrees that post-implementation review of impact assessments is vital for assessing the accuracy and suitability of impact calculations. The need for post implementation review has been given greater prominence on the new IA template, where policy makers are asked to specify the date at which a review would be undertaken to establish the actual costs and benefits of the policy and to see whether it has achieved/is achieving the desired effects. The new IA guidance notes that it is often a good idea to review a policy change after three years but this will depend on the policy.

However, the Government is not convinced that a new system of review is necessary. Post-Implementation Reviews are designed to establish whether implemented regulations are having the intended effect and whether they are implementing policy objectives efficiently. It would be expected that relevant environmental and other impacts that had a bearing on the costs and benefit estimates would be reflected in the review.

The new IA process is also expected to open up assessments to greater scrutiny. The IA guidance suggests that policy makers should undertake option stage IAs where they can test their assumptions at before going to formal consultation, while it is expected that an IA would be published when a policy proposal is taken out to public consultation.

Moreover, the Government has welcomed the NAO's annual assessments of RIAs and hopes that it will continue to assist in improving the quality of analysis by applying this process to the new IAs as they are developed.

Cabinet Office

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