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## What is the purpose of this guidance?

1. This document sets out government policy on the scope and process of Impact Assessments. In particular it will:
  - Help you understand what an Impact Assessment is
  - Clarify what types of intervention require an Impact Assessment
  - Specify when and how often an Impact Assessment needs to be completed and published
  - Set out what approval is necessary before an Impact Assessment can be published
2. The step-by-step guidance on how to complete an Impact Assessment is provided by the Impact Assessment Toolkit ([IA Toolkit](#)).
3. In particular, the [IA Toolkit](#) has a section summarising appraisal and evaluation methodologies and techniques that will help you with monetising, as far as possible, the costs and benefits of proposals to be included in the Impact Assessment. It draws on, and is consistent with, the Government's appraisal methodology set out in HM Treasury's [Green Book](#) and [supplementary guidance](#) and the policy evaluation methodology, as set out in the [Magenta Book](#).

## What is an Impact Assessment?

4. An Impact Assessment is both:
  - A *continuous process*, consistent with the policy appraisal cycle, as set out in the Green Book, to help policy makers to fully think through the reasons for government intervention, to weigh up various options for achieving an objective and to understand the consequences of a proposed intervention; and
  - A *tool* used by policy makers to assess and present the likely costs and benefits (monetised as far as possible) and the associated risks of a proposal that might have an impact on public, private or civil society organisations, following Green Book's appraisal and evaluation techniques.
5. The Impact Assessment process encourages policy makers to start with the premise that it is always desirable to identify and as far as possible, assess the impacts of a policy proposal. This involves identifying clearly the need for intervention first (e.g. to address a risk of harm to the public) and then, using the available evidence, in consultation with relevant stakeholders, to explore proposals that best achieve the policy objectives while minimising the costs and burdens imposed in achieving the objectives. Good policy making should not start with the solution.

6. In particular, policy makers should follow the ‘Principles of Regulation in the Coalition Government’ which require that Government will regulate to achieve objectives only *“having demonstrated that satisfactory outcomes cannot be achieved by alternative, self-regulatory, or non-regulatory approaches”* and that *“the regulatory approach is superior by a clear margin”* [to possible alternatives]<sup>1</sup>.
7. Once published, an Impact Assessment allows those with an interest in the policy area to understand:
  - Why the Government is proposing to intervene;
  - The main options the Government is considering, and which one is preferred;
  - How and to what extent new policies may impact on them; and
  - The estimated costs and benefits of proposed measures.

## Do I need to do an Impact Assessment?

8. Impact Assessments are generally required for all UK Government interventions of a regulatory nature<sup>2</sup> that affect the private sector, civil society organisations and public services. They apply regardless of whether the regulation originates from a domestic or international source.
9. Impact Assessments apply to primary and secondary legislation, as well as codes of practice or guidance<sup>3</sup>. They should be undertaken when considering traditional regulation as well as alternatives such as proposals which encourage self-regulation or opt-in regulation and voluntary guidance or proposed codes of practice.
10. You should start with the premise that it is always necessary to assess the impacts of a policy proposal, using the Green Book appraisal principles relevant to Impact Assessments. Only when you have a developed idea of what the policy proposal might involve and its impact, can you be reasonably sure whether or not a formal published Impact Assessment is necessary.
11. Spending proposals do not generally require an Impact Assessment, as they are developed through a [business case](#) process. However, where they involve regulation or an administrative burden, an Impact Assessment must be completed.
12. When considering tax as an alternative to regulation, policy makers should engage with HM Treasury officials at an early stage, and, in liaison with HM Treasury, take the proposal to a joint consultation (accompanied by an Impact Assessment). Should the tax turn out to be a favoured option, policy makers will need to enter the Tax Impact Assessment process, managed by HM Treasury.

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<sup>1</sup> See the Principles of Regulation in the Coalition Government in Annex A.

<sup>2</sup> See definition of regulation in Annex A.

<sup>3</sup> See definition of regulation in Annex A, with detail of which codes of practice and guidance are included.

13. If you answer 'Yes' to any of the following questions then an Impact Assessment is **required**.

Will the regulatory proposal:

- Impose additional costs or reduce existing costs on businesses or civil society organisations (this includes National Policy Statements)?
- Impose a new information obligation on, or remove an existing information obligation from the public sector or bodies that deliver public services?
- In the absence of imposing any information obligation, introduce any other administrative burdens or unfunded policy costs of £5 million or more (annual equivalent costs) on the public sector or bodies that deliver public services, or which are likely to attract high levels of political or media interest<sup>4</sup>?
- Involve some kind of redistribution affecting public, private or civil society organisations – that is, where there is an exchange or 'transfer' of costs or benefits from one group to another – even where it does not yield an overall net change in costs and benefits, or a change in administrative costs?
- Involve a regulatory change – through repeal or recasting, use of alternative approaches, and so forth which you wish to score as an OUT under the One-in, One-out rule<sup>5</sup>?

14. In addition, a proportionate assessment of the likely impacts of EU and international proposals is required when seeking clearance for the UK's negotiating position.

15. Where an Impact Assessment is required it needs to be published at various points in the policy development cycle – this is covered later in this guidance (see paragraph 25 below).

16. An Impact Assessment is **not required** in the following cases:

- Where policy changes will not lead to costs or savings for business, public or civil society organisations, regulators or consumers;
- Where public services costs that stem from internal performance management data burdens are within the scope of operational efficiency programmes;
- Road closure orders;

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<sup>4</sup> For the public sector, if a regulatory proposal is likely to add upward pressure to Council Tax, a 'New Burdens Assessment' (NBA) **must** be completed **in addition to** an Impact Assessment. For more information on the NBA please contact the NBA team at the Departments for Communities and Local Government.

<sup>5</sup> Note that in this case an Impact Assessment may be required to evidence the value of the OUT even if the deregulatory proposal does not require legislation.

- In changes to statutory fees, benefits or taxes covered by a predetermined formula e.g. rate of inflation, or in respect of other changes to taxes or tax rates, where there are negligible associated administrative costs or savings. Note that significant changes to fee structures (e.g. distribution of fee levels, increases beyond a predetermined formula) should be guided by a formal Impact Assessment process.
- When a Post Implementation Review (PIR) previously planned is deferred.

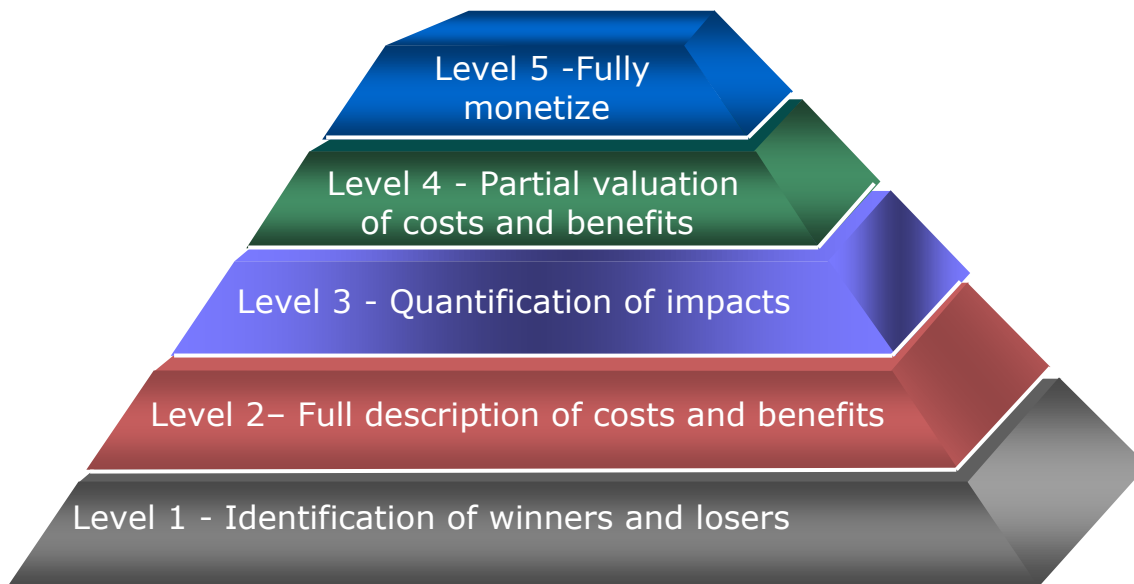
## Completeness of analysis: the principle of proportionality

17. The effort applied at each step of completing an Impact Assessment, in particular the estimation of cost and benefits, should be proportionate to the scale of the costs and benefits, outcomes at stake, sensitivity of the proposal and the time available. A less detailed Impact Assessment may be adequate where a regulatory proposal is likely to affect only a few firms or organisations, or many firms or organisations but only to a negligible degree, where the costs and benefits are likely to be negligible and can be captured within a lighter touch evidence base. By the same token, more data and analysis is required where the impact is expected to be substantial.
18. As you move through the policy making process and progress the different stages of the accompanying Impact Assessment, the quality of data being used and depth of analysis should be refined to make it more specific to the proposals, and to improve its accuracy. For example, at the development stage of an Impact Assessment it may be adequate to use summary data only when identifying and appraising options. However, at later stages of the Impact Assessment process, the rigour of the analysis should increase – especially before committing significant funds or making major regulatory decisions.
19. The principle of proportionality does not determine whether an Impact Assessment should be undertaken or a Post Implementation Review carried out, only the scale of effort required to complete it.
20. The depth of analysis for a Post Implementation Review should be proportionate to the likely benefit of conducting the review. A high-impact policy should be subject to a full PIR, including an evaluation of the actual costs and benefits as a result of the policy. In many cases a less detailed review will be appropriate – see later section.
21. The diagram below sets out the depth of analysis that could be carried out during Impact Assessment.
  - Level 1: Include a description of who will be affected by the proposals. The main groups affected will include business, public sector and consumers.
  - Level 2: Include a full description of the costs and benefits.
  - Level 3: Quantify the effect (e.g. 1000 planning applications per year, 100 hours of management time, 500,000 new houses built per year).

- Level 4: Monetise the effect. It may be the case that the costs but not benefits can be monetised. The use of indicators may help further qualify non-monetised costs and benefits.
- Level 5: Monetise fully all costs and benefits.

22. Analysis at levels one and two is a minimum requirement and apply in all cases. Levels three and above outline additional analysis which may be appropriate. The question to ask when considering proportionality is whether the Impact Assessment should reasonably provide information at a higher level of the scale.

23. In addition, all Impact Assessments should indicate an order of magnitude estimate of the expected costs and benefits of the proposed intervention, or deregulatory action. These estimates should be refined to reflect higher levels of accuracy as the policy development progresses over time.



24. Further details are provided in Chapter 2 of the [IA Toolkit](#).

## When to prepare and publish an Impact Assessment?

25. Impact Assessment is a continuous process, compatible with the Green Book policy appraisal cycle, to help you fully think through 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, final decision-making, and on to the review of implementation. Review should be carried out to provide the basis for subsequent policy changes and should help identify new policy challenges (perhaps arising from unintended consequences of the intervention itself), before the policy development process begins again.

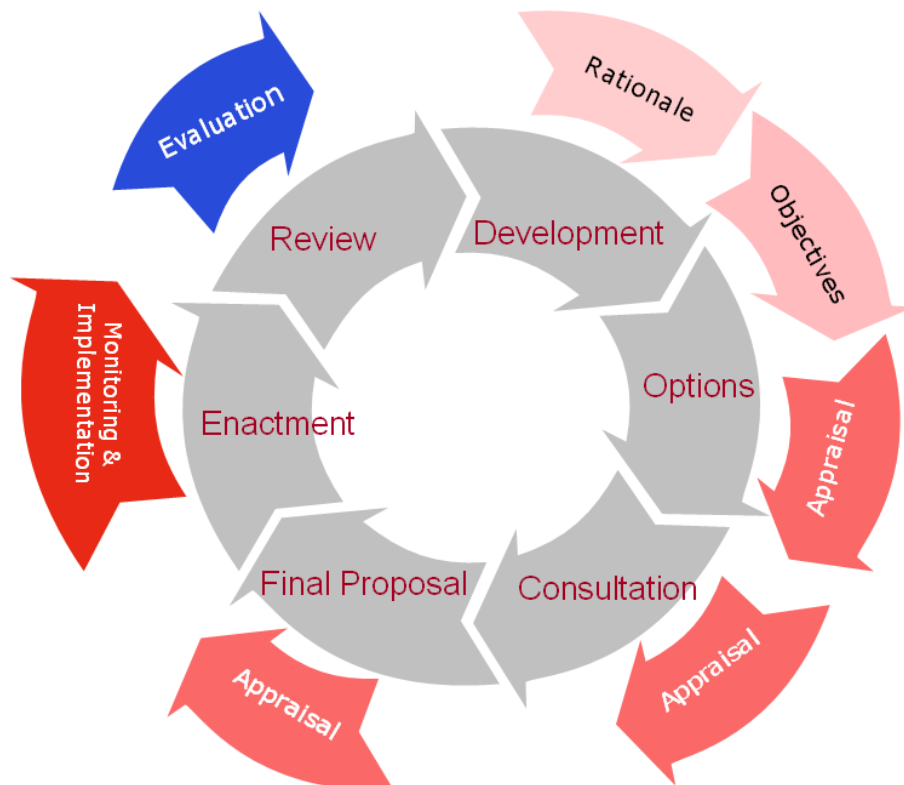
26. **The stages in the Impact Assessment process** are summarised and highlighted in Figure 1 below. The stages set out below may be repeated, and therefore may not always be followed sequentially. They are consistent with the broad stages of the

policy cycle known as **ROAMEF** (Rationale, Objectives, Appraisal, Monitoring, Evaluation and Feedback), as highlighted in HM Treasury's [Green Book](#). They set out a broad indication of what level of analysis is recommended at each stage of the process.

27. Whilst the Impact Assessment is a continuous process, there are certain points or stages within this process where an Impact Assessment must be **formally produced and published**. These are:

- The consultation stage (if a public consultation is carried out);
- The final proposal stage: first when the Government announces its firm position on a single policy option (this will often be when it publishes its consultation response), and again when the proposal enters Parliament;
- The enactment stage: when the legislation is enacted (only if changes have been introduced to the final proposal during the Parliamentary process);
- The review stage: when a Post Implementation Review is carried out.

**Figure 1: The stages in the Impact Assessment Process:**



- **Development stage:** This is broadly equivalent to the Rationale and the Objective stages in ROAMEF. This stage should focus on the definition of the policy problem, the rationale for government intervention, the identification of policy objectives and the gathering of evidence. The Impact Assessment does not need to be published at this stage and will usually be a ‘live’ working document.
- **Options stage:** This is broadly equivalent to the Appraisal stage in ROAMEF. This stage should focus on the identification and development of options, and the testing of these options through engaging with interested parties ahead of formal consultation. There should be initial estimates of costs and benefits. Because direct government intervention may not be the best way of addressing a policy problem or of realising policy objectives, alternatives to traditional regulation (e.g. self-regulation; voluntary codes) need to be properly considered from the outset. The assumptions used for initial estimates should be clearly identified. The main groups likely to be affected by the proposals should also be identified. The Impact Assessment does not need to be published at this stage and will usually be a ‘live’ working document.
- **Consultation stage:** Consultation is also part of the Appraisal stage in ROAMEF. Informal consultation with stakeholders may occur at different points in the policy cycle. This stage refers to when a formal public consultation is published<sup>6</sup>. This stage should focus on firming up the options considered, ensuring that there is greater quantification of costs and benefits of each option as far as possible, even if the numbers are indicative. You should use the consultation to seek stakeholders’ views on your proposals for a review, your cost and benefit estimates, and the key assumptions and data that contribute to the analysis. When a policy proposal is taken out to public consultation the Impact Assessment must be **published**.
- **Final Proposal stage:** This stage is broadly equivalent to what ROAMEF describes as “developing a solution” at the end of the Appraisal stage. It should focus on the costs and benefits of the preferred option (the “proposal”). Salient responses to the consultation should be used to inform the proposal. It should set out the Post Implementation Review plan which outlines when and how the measure will be reviewed, subject to the proportionality principle. The final Impact Assessment must be **published** first when the Government announces its firm position on a single policy option (this will often be when it publishes its consultation response), and again when the proposal enters Parliament. An Impact Assessment must be published when a Government Bill, or Private Members Bill enjoying government support, is introduced in either House of Parliament. An Impact Assessment must be published when a draft statutory instrument (that imposes or reduces costs on business or civil society organisations) is laid in Parliament.
- **Enactment stage:** This stage is similar to the Monitoring and Implementation stage in ROAMEF. This stage requires revisions to the previous Final Proposal stage Impact Assessment to reflect the final contents of the act, statutory

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<sup>6</sup> The [code of practice on public consultation](#) has more information about good practice.

instrument or other regulatory measure, if changes have been introduced during the Parliamentary process. When the legislation is enacted, the revised Impact Assessment needs to be **published**. For non-legislative-based measures the corresponding point for publication is the implementation of the measure.

- **Review stage:** This stage is broadly equivalent to the Evaluation and Feedback stages in ROAMEF. This stage requires a Post Implementation Review Impact Assessment to capture the real impact of the implemented policy, and assess any modifications to the policy objectives or its implementation recommended as a result of the review. The Post-Implementation Review Impact Assessment must be **published**. New policy development or a proposed policy change prompted by the Post Implementation Review should trigger a new Impact Assessment.

28. Stages for UK Impact Assessments on EU measures: the Government has agreed a set of Guiding Principles for EU legislation which all departments should apply when dealing with EU regulation<sup>7</sup>. It is important to consider the impacts of European Commission proposals for legislation as early as possible in the policy development process. There are three key stages:

- Before the Commission formally adopts proposals, departments should try to anticipate what is in the EU pipeline and consider what the impacts of different policy choices could be for the UK. They should consider sharing this analysis with the Commission while its policy is still fluid, so it can inform its policy development.
- When seeking clearance for the UK negotiating position, departments should provide analysis of the order of magnitude of likely impacts to the European Affairs Committee and the Reducing Regulation sub-Committee (RRC). Analysis of the impacts of a proposal must also be submitted to the UK Parliament accompanying the Explanatory Memorandum. The analysis should be proportionate to the proposal and time available.
- When legislation is agreed at EU level, an Impact Assessment should be produced to establish the best approach to UK implementation. Implementing Impact Assessments should take account of the Guiding Principles for EU legislation<sup>8</sup> and enable both Ministers and stakeholders to verify that the least burdensome option for implementation is chosen and gold-plating is avoided. For directly applicable EU legislation where the Government has no discretion on how to implement, departments will decide whether it would be appropriate to produce an Impact Assessment in each case.

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<sup>7</sup> See full set of Guiding Principles for EU Legislation in Annex B.

<sup>8</sup> See full set of Guiding Principles for EU Legislation in Annex B.

## One-in, One-out rule

29. The main objective of the One-in, One-out (OIOO) rule is to bear down on the cost and volume of regulation in the economy, and to make progress toward long-term culture change across Whitehall, encouraging the use of regulation only as a last resort.
30. The scope of OIOO means that no new primary or secondary UK legislation which imposes costs on business or civil society organisations can be brought in without the identification of existing regulation with an equivalent value (in terms of net costs to business) which can be removed. Regulation which is required to implement EU or other international obligations is not within the scope of OIOO at this time<sup>9</sup>. Where the Impact Assessment shows that departments have gone beyond EU obligations in transposing them (gold plating), the additional burden imposed counts as an IN and compensatory reductions must be found elsewhere.
31. Bringing in new regulation (INs) and removing existing regulation (OUTs) are both Government interventions in their own right, and therefore require their own separate Impact Assessments (one for the IN and one for each compensated OUT<sup>10</sup>). However, the Impact Assessment for both INs and OUTs should be developed in parallel.
32. Policy-makers need to think about identifying a corresponding regulatory policy that can be removed or recast to deliver OUTs, from the outset policy development. These need to be defined and quantified in further detail during subsequent stages of policy development:
- Development/Options stages: If a regulatory option is being considered which falls in-scope of OIOO, then departments should begin to consider potential OUTs at this stage.
  - Consultation stage: Departments may wish to consult on their proposed compensatory OUT measures, where appropriate. When seeking policy clearance for consultation on a proposal which would create a new IN, departments should clearly set out how they intend to remove regulation of an equal or greater value to offset the new costs. At this stage it is sufficient to use a range or order of magnitude figures.
  - Final stage: Costs for the OUT measures should be finalised at this stage, and underpinned by a robust Impact Assessment which demonstrates that the value of the OUT is equal to or greater than the new net cost to business being imposed.
33. In examining proposals put forward by departments under the OIOO rule, the Reducing Regulation Ministerial Sub-Committee (RRC) reviews regulations at all stages in the policy process (see RRC section below), including Development stage Impact

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<sup>9</sup> Detailed information can be found in the OIOO methodology document.

<sup>10</sup> More than one OUT measure may be required to cover the corresponding IN (so that IN and OUTs are broadly equivalent in terms of the net cost to business).

Assessments where OUTs are in the process of being developed to compensate for INs.

34. The Regulatory Policy Committee's (RPC) role is to review the evidence and analysis supporting all Impact Assessments for regulatory proposals and provide an opinion in advance of departments presenting proposals for RRC for clearance. Regulation (other than at the consultation stage, see paragraph 55 below) should only be sent to RRC for clearance once the RPC has agreed the associated IA is 'fit for purpose', in particular that the net cost to business has been sufficiently costed. For OIOO this includes proposals for both INs and OUTs (see RRC section below).

## Post Implementation Review

35. Government expects policymakers to evaluate policies after implementation because such evaluation can yield invaluable insights. Examining the actual impact of policies can show what works, what could be improved, and how others can learn from the approaches used.

36. A Post-Implementation Review (PIR) Impact Assessment should normally be produced for a policy intervention for which a final Impact Assessment was produced. No PIR or other Impact Assessment is needed when a policy:

- Does not change costs for private or civil society organisations; or
- Imposes an annual cost of <£5million on the public sector; or
- Is merely updating a fee in line with inflation.

37. This is a 'comply or explain' policy:

- In the Enactment stage Impact Assessments, departments may decide that a PIR will not be carried out. Departments should briefly explain their reason for departing from the normal policy.
- The review date contained in the Final and Enactment stage Impact Assessment is not a binding promise. There may be good reasons for departments to decide nearer the time to change the date for review. In such cases, they should give the reasons behind the decision to delay or forego the planned review.

38. A date for PIR should ordinarily be set out in the Final and Enactment stage Impact Assessment. The first PIR is normally expected 3-5 years after implementation (with subsequent reviews on a comparable timescale). Where applicable, it should be planned and carried out so as to feed into any statutory review of regulation as required in any sunset provision (including the duty to review all new EU legislation every five years), and other related processes such as the post-legislative scrutiny of primary legislation. Effective co-ordination should also help avoid duplication of work

39. A Department may also produce additional PIR Impact Assessments for implemented policies that were not subject to a pre-implementation Impact Assessments. This is

recommended, for example, when a prediction that a policy will not change costs is subjected to widespread public criticism.

40. In the case of high-impact policy interventions, the following questions should be considered, along with the specific impact tests:

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

41. For low-impact interventions, answering all these questions might be disproportionate. However, all reviews are expected to cover the first three questions at least.

42. Where it is proportionate to carry out a PIR on multiple Statutory Instruments simultaneously (see [IA Toolkit](#) for more detail) the results may be captured on a single PIR Impact Assessment.

43. The [IA Toolkit](#) has more detailed information about what conducting a PIR may entail. In addition, HM Treasury's [Magenta Book](#) provides detailed guidance on social research methods for policy evaluation.

## Sunset reviews

44. Where the policy measure falls within scope of the Government policy on [sunsetting new regulations](#), the PIR will need to be conducted on a timescale that enables the relevant statutory deadlines to be met.

## Joint Impact Assessments

45. For a package of policy proposals that are considered within one single Bill, separate Impact Assessments should be developed to analyse the impact of each specific policy proposal. There should also be a brief overarching Impact Assessment (you may only need to complete the summary pages of the IA template) that would summarise the total costs and benefits of all proposals included in the Bill. This does not include Finance Bills (i.e. the Budget proposals do not require an overarching IA).

46. When a Bill contains policy measures that are owned by more than one department then a joint Impact Assessment should be prepared and signed off by a Minister in the lead department.

## What approval is necessary to publish an Impact Assessment?

47. The Minister responsible for the policy (or the Chief Executive of non departmental public bodies and other agencies) is required to sign off published Impact Assessments. In case of joint Impact Assessments, a Minister from the lead department should sign it off. It is important to draw all relevant information to the Minister's attention to enable them to sign-off the Impact Assessment. The Ministerial declarations at each stage of the process are as follows:

Ministerial Sign-off: for Consultation stage Impact Assessments:

- *"I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options."*

Ministerial Sign-off: for Final proposal/Enactment stages Impact Assessments:

- *"I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs."*

Ministerial Sign-off: for Review stage Impact Assessments:

- *"I have read the Impact Assessment and I am satisfied that it represents a fair and proportionate assessment of the impact of the policy."*

48. Chief economists should sign off Impact Assessments for the robustness and accuracy of the costs, benefits and impact analysis at the different stages of policy development. This is an internal sign-off mechanism and does not imply the approval of the policy proposal itself. Departments must facilitate these declarations by involving their economists from the early stages of policy development and by operating sound procedures for advising Ministers. Robust departmental processes might include internal sign-off mechanisms; peer group review by economists; use of external panels of key stakeholders or professional experts to review the evidence; or a requirement that chief economists are consulted on all submissions to Ministers addressing policy matters that would normally also require an Impact Assessment.

49. When an Impact Assessment is required, it must also be sent as part of any primary legislation bid submitted to the Legislation Cabinet Committee.

## Reducing Regulation sub-Committee

50. The Reducing Regulation sub-Committee (RRC) has been established to manage the Government's regulatory programme. All requests for collective Ministerial clearance

that propose a new regulatory or deregulatory measure should be submitted to the RRC in parallel to the main policy committee (including proposed EU laws). This is the case for all stages of the policy process, e.g. prior to public consultation or final policy clearance. Impact Assessments and the relevant Regulatory Policy Committee (RPC) opinions should be attached to all clearance requests submitted to the RRC. The RRC will only look at Impact Assessment that have been cleared as 'fit for purpose' by the RPC (other than at the consultation stage, see paragraph 55 below).

51. Where a proposed EU measure would impose a significant regulatory burden on the UK private, public sectors or civil society organisations, requests for collective Ministerial clearance should be addressed to the European Affairs Committee (EAC) and copied to the RRC.
52. Departments should seek specific clearance from the RRC before starting transposition of EU law, in line with the Guiding Principles for EU legislation<sup>11</sup>. The EAC should be kept informed. Going beyond minimum requirements necessary to comply with European directives ('gold-plating') should be avoided, so that UK businesses are not put at a competitive disadvantage compared with their European counterparts. Any gold-plating must also be explained in the Impact Assessment.

See Cabinet Office advice on the [clearance process](#) for further details.

## Regulatory Policy Committee

53. The Regulatory Policy Committee (RPC) is an independent advisory body sponsored by the Department for Business, Innovation and Skills. While its role is purely advisory, with responsibility for decision making being retained by Ministers, departments will be expected to attach the RPC's opinion alongside any policy proposals going to the RRC. The Impact Assessment is the main document on which the RPC bases its opinions.
54. Departments should seek the opinion of the RPC on their Impact Assessments before regulatory and deregulatory proposals are submitted to the RRC for clearance. Such proposals should be sent to RRC for clearance only once the RPC has agreed the associated Impact Assessment is 'fit for purpose' (other than at the consultation stage, see paragraph 55 below), in particular that the net cost to business has been sufficiently costed. This includes Impact Assessments for all measures transposing EU legislation.
55. At consultation stage Impact Assessments can be sent to the RRC even when a 'not fit for purpose' opinion has been given by the RPC. In these situations, the published Impact Assessment should state it has received a red opinion and evidence should be gathered during consultation to inform and improve it. Any issues raised by the RPC need to be addressed before final proposals are approved. In addition, to provide more certainty in the policy making process, Departments are able to seek RRC clearance to consult on proposals if the RPC has not issued an opinion within 30 working days,

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<sup>11</sup> See full set of Guiding Principles for EU legislation in Annex B

subject to having obtained any other clearances required. Similarly, the published Impact Assessment must state no opinion has been provided.

56. To enable the RPC to provide the RRC with credible and robust advice it will need sufficient time to consider the analysis and evidence that underpins a policy proposal. Departments need to build this into their delivery timetables and should aim to engage early with the RPC Secretariat in order to ensure that the RPC can undertake its role in a timely and effective manner.
57. The RPC comment on the quality of analysis supporting policy decisions on new regulations, and on whether the policy design will ensure the benefits justify the costs, including:
- the accuracy and robustness of the costs and benefits;
  - whether the range of policy options assessed support minimising costs and maximising benefits; and
  - the degree to which issues of public risk and the practicalities of ensuring compliance are taken into account.

## Better Regulation Executive

58. The Better Regulation Executive (BRE), in its cross-government role, works with departments to provide ongoing practical support for policy-makers, including the use of alternatives to regulation and sharing of best practice.

## Legal issues

59. Following the Impact Assessment process should reduce any risk of legal challenge. Furthermore, the Impact Assessment sets out government views and it is possible it could be used as evidence in challenges against government.
60. You should seek advice from your lawyers on questions of legal risk. Guidance for lawyers on what they should consider in relation to Impact Assessments is available on LION.

## The Impact Assessment library

61. All published Impact Assessments are available on the internet at the Impact Assessment library<sup>12</sup>.

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<sup>12</sup> The IA Library is in the process of being updated. It will be hosted on [www.legislation.gov.uk](http://www.legislation.gov.uk) Until that point the existing IA library can be found on <http://www.ialibrary.berr.gov.uk/>

# Annex A: Principles of Regulation in the Coalition Government

## General principles

1. The Government will regulate to achieve its policy objectives only:
  - a) having demonstrated that satisfactory outcomes cannot be achieved by alternative, self-regulatory, or non-regulatory approaches;
  - b) where analysis of the costs and benefits demonstrates that the regulatory approach is superior by a clear margin to alternative, self-regulatory or non-regulatory approaches; and
  - c) where the regulation and the enforcement framework can be implemented in a fashion which is demonstrably proportionate; accountable; consistent; transparent and targeted.
2. There will be a general presumption that regulation should not impose costs and obligations on business, social enterprises, individuals and community groups unless a robust and compelling case has been made.
3. The Government will adopt a 'One-in, One-out' approach.

## Operating principles

1. Before bringing forward any proposal to introduce a new regulation, Departments will need to satisfy BRE / sub-committee secretariat that it passes one of two tests:
  - a) That no suitable alternative, non-regulatory or self-regulatory means of achieving the same outcome exists;
  - b) That the measure either reduces the burden of regulation or is deregulatory.
2. When reviewing regulatory proposals the sub-committee will ask the following:
  - a) Is it necessary for the Government to act?
  - b) Does the proposed approach harness the insights of behavioural economics in order to achieve outcomes in minimally burdensome ways?
  - c) Even if there is a clear case for regulation, is this a sufficiently high priority bearing in mind other new burdens being imposed by the Government's other regulatory priorities?

- d) Is the proposed regulation a necessary and proportionate response to the policy issue, does it comply with the other principles of good regulation and are the proposed enforcement arrangements credible and affordable?
- e) Have the costs and benefits, and the impacts on small firms, public and third sector organisations, individuals and community groups been robustly identified and reflected in the choice of options? (The opinions of the external scrutiny body will be considered.)
- f) Where SMEs are to be included within the scope of the regulations has a compelling case been made for their inclusion?
- g) Are micro businesses and start-ups excluded from the scope of the regulations? If not, is a waiver being sought from RRC and Economic Affairs Committee to disapply the moratorium policy in respect of the measure?
- h) Where the proposed regulation implements EU obligations, is the proposed regulation the least burdensome way in which to implement them?
- i) Have the necessary burden reductions required by OIOO been identified and are they robust? (The opinions of the external scrutiny body will be considered).

### Definition of Regulation

A rule with which failure to comply would result in coming into conflict with the law or being ineligible for funding and other applied for schemes. This includes: EU regulations; Acts of Parliament; Statutory Instruments; rules, orders, schemes, regulations etc. made under statutory powers by Ministers or agencies; licences and permits issued under Government authority; codes of practice with statutory force; guidance with statutory force; codes of practice, guidance, self-regulation, partnership agreements with Government backing; approved codes of practice; bye-laws made by Government.

# Annex B: Guiding Principles for EU Legislation

## General principles

1. The Government's approach is to look at the cumulative impact of new EU measures.
2. Wherever possible, the Government will argue for alternatives to regulation at European level, drawing on behavioural science insights.
3. The Government will engage with the European Commission before it has adopted proposals to increase UK influence on the drafting of legislative proposals.
4. The Government will build alliances with other Member States and relevant MEPs and other EU-level stakeholders to increase the UK's effectiveness in negotiation.
5. Ministers must ensure that:
  - a) they are well sighted on all EU measures relevant to their department, from the initial Commission proposal through to transposition and implementation; and
  - b) their department assesses from the outset the impact on the UK of the proposed legislation and effectively project manages the process from negotiation to transposition.
6. When transposing EU law, the Government will:
  - a) wherever possible, seek to implement EU policy and legal obligations through the use of alternatives to regulation;
  - b) endeavour to ensure that UK businesses are not put at a competitive disadvantage compared with their European counterparts;
  - c) always use copy out for transposition, except when an explicit justification for elaboration is proposed and agreed by the RRC;
  - d) ensure the necessary implementing measures come into force on (rather than before) the transposition deadline specified in a directive, unless there are compelling reasons for earlier implementation; and
  - e) include a statutory duty for Ministerial review every five years.

## Operating principles

7. Twice a year, Ministers will report to the Foreign Secretary on their Department's early influencing priorities and engagement strategies, showing how they are seeking both to

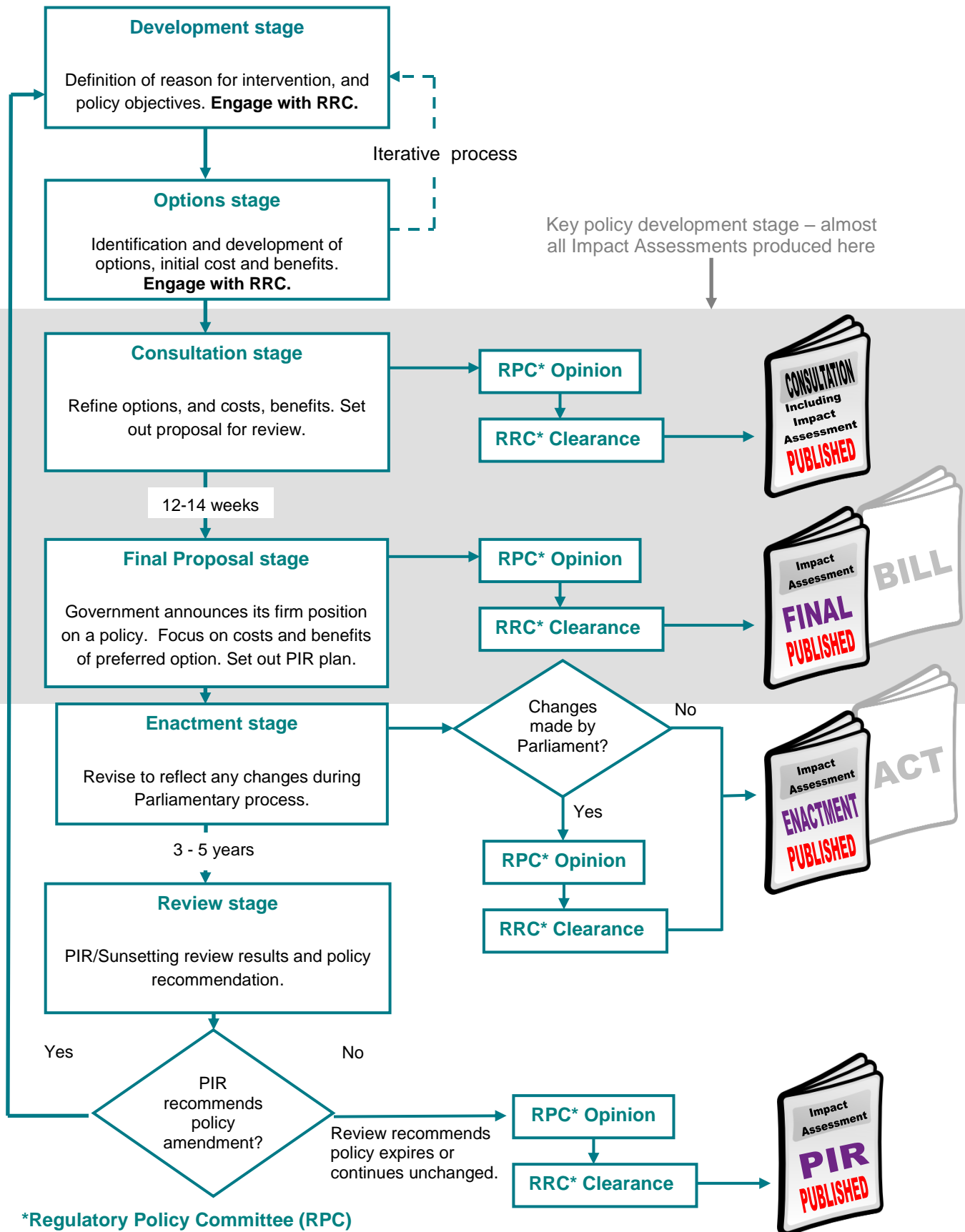
influence the Commission's policy agenda and ensure that important future EU measures (legislative and non-legislative) are justified, that the policy objectives of a regulatory proposal cannot be achieved through non-regulatory means and proposals are drafted to maximise benefits and minimise risks to the UK. The European Affairs Committee, following consultation with the RRC, can then, in turn, agree cross-Government early influencing priorities for joined-up lobbying.

8. Departments will endeavour to seek clearance for their proposed UK negotiating position promptly. Departments should analyse the order of magnitude of likely impacts of different negotiating options to help ministers make evidence-based decisions. The analysis should be proportionate to the proposal and time available and be presented succinctly.
9. The Government will work with EU partners to hold the EU institutions to account on the commitments they have made on consultation, impact assessment, the 'think small first' principle and reviews in order to improve the quality of EU regulation.
10. Before starting transposition, departments must satisfy the RRC that they have identified the aims of the EU law and the relevant policies of the UK Government, and how the two will be brought into harmony so that transposition neither has unintended consequences in the UK nor risks infraction.
11. The legal text for UK transposition should only be finalised once the policy framework has been agreed by the RRC.
12. The Regulatory Policy Committee must clear impact assessments for all transposition proposals<sup>13</sup>.
13. The European Affairs Committee should be kept informed.
14. When reviewing Departments' approaches to transposing and implementing EU law, the RRC will expect departments to apply the following principles:
  - a) within two weeks of publication in the Official Journal the RRC to have been notified and provided with a pro forma including an outline project plan to the obligations coming into force;
  - b) proposed implementation applies the above principles and meets the standards in the Government's guide to European policy-making;
  - c) proposed implementation complements domestic legislative objectives; and
  - d) proposed implementation delivers the outcomes required by the directive and is supported by evidence showing it will minimise the cost to business.

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<sup>13</sup> The RPC provides an opinion to the RRC on the robustness of the evidence in the impact assessment.

# Impact assessment flowchart



\*Regulatory Policy Committee (RPC)

\*Reducing Regulation Committee (RRC)



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