

# Better Regulation: Making Good Use of Regulatory Impact Assessments



REPORT BY THE COMPTROLLER AND AUDITOR GENERAL  
HC 329 Session 2001-2002: 15 November 2001

# executive summary

- 1 Each year the Government bring forward many regulatory proposals which may affect the daily lives of citizens and the costs borne by business, charities and voluntary organisations. Some of these effects are specifically intended as outcomes of Government policy - others result from the implementation of the policy. For some years the Government have been concerned that the policy making process does not routinely include an informed consideration of these effects. For instance in 1999 the Government stated that: "*regulation for its own sake is too often seen as an easy answer, without proper consideration being given to better ways of achieving the outcome*".<sup>1</sup>
- 2 Representatives of business and not for profit organisations have also been concerned about the burdens that regulation imposes on them. Understanding and implementing new regulations places proportionately greater demands on small businesses, taking up time and resources that could otherwise be applied to running and growing the business. Ninety-nine per cent of businesses have fewer than 50 employees and employ some 44 per cent of the private sector workforce.<sup>2</sup>



- 3 It is Government policy that regulation, where it is needed, should have a light touch with the right balance struck between under-regulating (so failing to protect the public) and over-regulating (so creating excessive bureaucracy). To this end, policy makers in departments and agencies are required to undertake a regulatory impact assessment (RIA) before taking action which has a regulatory impact on business. The process has been evolving since the 1980s, moving to a RIA system in 1998 and reaching its current form in August 2000. Each assessment sets out the costs and benefits of the proposal and the risks of not acting, so as to help deliver better regulation. RIAs go through several stages as the proposal is developed (paragraph 1.23), resulting in an initial RIA when the proposal is being formulated, a partial RIA which forms part of the consultation process and a final RIA that is submitted to Ministers and Parliament.
- 4 This report is about good practice by government departments in preparing RIAs. It draws on a National Audit Office examination of the way RIAs are prepared and the lessons that can be learned from a sample of them. It sets out why RIAs are important, the key features of RIAs that add value to policy making and the further steps that departments could take to improve the regulatory impact assessment process.

<sup>1</sup> Cabinet Office, March 1999, *Modernising Government*, Cm 4310.

<sup>2</sup> Small Business Service, June 2001, *Small and Medium Enterprise (SME) Statistics for the United Kingdom 2000*.

## Main Findings

### Regulatory Impact Assessments are intended to help deliver good regulation

- 5 Regulation is one of the principal instruments available to governments to achieve their objectives. **Figure 1** sets out why governments may wish to regulate. Through regulation governments can, for instance, safeguard their citizens, promote a prosperous economy and protect the environment.

#### 1 The definition and purposes of State regulation

State regulation has been defined as any government intervention or measure which controls, directs or restricts the behaviour of individuals, or sectors of society, so as to:

- Protect and enhance the rights and liberty of citizens;
- Promote a safe and peaceful society;
- Collect taxes and ensure that they are spent in accordance with policy objectives;
- Safeguard health and safety or protect citizens from "harming" themselves;
- Protect consumers, employees and vulnerable groups from abuse;
- Promote the efficient working of markets;
- Protect the environment and promote sustainable development.

*Source: Better Regulation Task Force, December 1997 (revised October 2000), Principles of Good Regulation.*

- 6 Where the Government wish to regulate using primary or secondary legislation, which is likely to impose costs or benefits on business, charities or voluntary organisations, the department or agency concerned is expected to prepare a RIA.<sup>3</sup> They may also choose to prepare RIAs when non-legislative action is contemplated that may affect business. In the two years to December 2000, there were 283 final RIAs (Appendix 4).
- 7 RIAs are expected to cover the matters outlined in **Figure 2**. The purpose of the RIA is to explain the objectives of the proposal, the risks to be addressed and the options for delivering the objectives. It should make transparent the expected costs and benefits of the options for the different bodies involved, such as other parts of Government and small businesses, and how compliance with regulatory options would be secured and enforced. The RIA should be drafted at an early stage in policy making to advise Ministers and be developed in the light of further evidence and consultation. Policy makers should send the RIA to interested parties for comment, and summarise their responses. The RIA is then submitted to the relevant Government Ministers who, following consideration, are asked to sign it off with a statement that in their opinion the benefits justify the costs.<sup>4</sup> The final version accompanies the submission of legislation to Parliament.

<sup>3</sup> Subject to certain exemptions, such as where regulation affects only the public sector or increases statutory fees by a pre-determined formula.

<sup>4</sup> The explicit statement that the benefits justify the costs has only been required since August 2000.







**2 What a full regulatory impact assessment is expected to cover**

|                             |  |
|-----------------------------|--|
| Purpose and intended effect | Identifies the objectives of the regulatory proposal   |
| Risks                       | Assesses the risks that the proposed regulations are addressing  |
| Benefits                    | Identifies the benefits of each option including the "do nothing" option                                       |
| Costs                       | Looks at all costs including indirect costs  |
| Securing compliance         | Identifies options for action  |
| Impact on small business    | Using advice from the Small Business Service   |
| Public consultation         | Takes the views of those affected, and is clear about assumptions and options for discussion                   |
| Monitoring and evaluation   | Establishes criteria for monitoring and evaluation   |
| Recommendation              | Summarises and makes recommendations to Ministers, having regard to the views expressed in public consultation |

*Source: Cabinet Office, August 2000, Good Policy Making: A Guide to Regulatory Impact Assessment.*

- 8 The Cabinet Office Regulatory Impact Unit assists Government Ministers, departments and agencies in striking the right balance in regulation. The Unit does so by providing guidance to departments and agencies on the preparation of RIAs, and advising Cabinet Office Ministers, and the Panel for Regulatory Accountability,<sup>5</sup> on assessments supplied with regulatory proposals. The Unit also supports the independent Better Regulation Task Force,<sup>6</sup> works with stakeholders in the public sector to cut public sector red tape, and promotes the better regulation agenda in the European Community. Because of the disproportionate effect that regulation can have on small businesses, the Small Business Service, an executive agency of the Department of Trade and Industry, advise on the small business consultation and analysis during the assessment process and can have their views recorded on the face of the RIA.<sup>7</sup> In line with a report by the Better Regulation Task Force,<sup>8</sup> the Small Business Service are investigating the benefits of research and evaluation of the regulatory burdens on small business.
- 9 RIAs contribute to the Government's aim of modernising policy making, which the National Audit Office have examined separately.<sup>9</sup> For instance, identifying the options for achieving the desired policy outcome and the costs and benefits associated with each option should help assess how policies are likely to work in practice and to develop policies that secure the desired results while avoiding unnecessary burdens. By making RIAs publicly available, members of the community should be able to understand what a proposed regulation is seeking to achieve and what it means for them, and to challenge assumptions with which they disagree. This should contribute to making policies inclusive and decision making transparent. By facilitating Ministerial and parliamentary scrutiny of regulation and subsequent evaluation of whether regulation has achieved what was intended, RIAs should help establish accountability for the regulatory process.

<sup>5</sup> The Panel was set up in 1999 and is chaired by the Minister for the Cabinet Office. It discusses legislative proposals and their RIAs with the relevant departmental Ministers.

<sup>6</sup> The Government established the Better Regulation Task Force in September 1997 to advise the Government on action which improves the effectiveness and credibility of government regulation by ensuring that it is necessary, fair and affordable, and simple to understand and administer, taking particular account of the needs of small businesses and ordinary people (Appendix 2).

<sup>7</sup> The remit of the Small Business Service is to act as a voice for small business at the heart of Government and to seek to improve the quality and coherence of delivery of Government support programmes for small businesses. In addition, the Service have responsibility for improving the regulatory environment overall.

<sup>8</sup> Better Regulation Task Force, April 2000, Helping small firms cope with regulation - exemptions and other approaches.

<sup>9</sup> National Audit Office, November 2001, Modern Policy Making.

**10** RIAs should therefore help ensure that proposals meet the Better Regulation Task Force's five principles for good regulation - transparency, proportionality, targeting, consistency and accountability.<sup>10</sup> Because RIAs are a tool for documenting factors that policy makers should consider in any case, any additional costs arising from their preparation are not easy to quantify but are likely to be relatively small. The potential benefits to the community should be much greater than the costs. In the case of the national minimum wage detailed costing in the RIA resulted in a different implementation option being adopted that avoided a £150 million increase in employers' administrative costs. We examined a sample of 23 RIAs prepared since 1998 to obtain a view of what made for an effective RIA and what lessons policy makers could learn from their preparation.

### Three factors characterise effective RIAs

**11** When examining RIAs we looked for examples where they have helped to add value to policy making. We found that it is the process of preparing the RIA and consulting those likely to be affected that adds value. RIAs that added value tended to be characterised by:

- Starting at a sufficiently early stage.
- Consulting effectively with those affected by the proposal.
- Analysing appropriately the likely costs and benefits of the proposal.

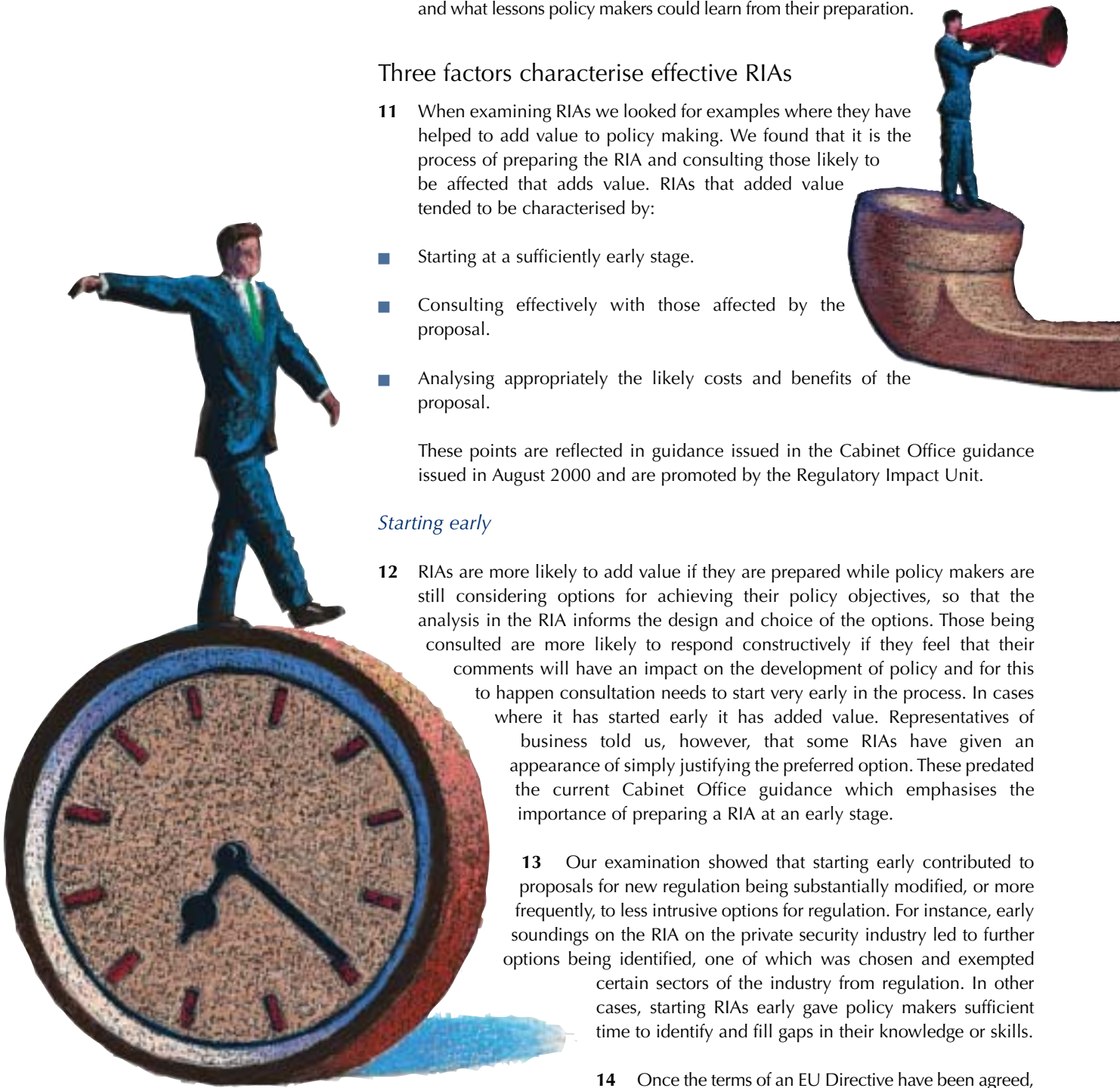
These points are reflected in guidance issued in the Cabinet Office guidance issued in August 2000 and are promoted by the Regulatory Impact Unit.

#### *Starting early*

**12** RIAs are more likely to add value if they are prepared while policy makers are still considering options for achieving their policy objectives, so that the analysis in the RIA informs the design and choice of the options. Those being consulted are more likely to respond constructively if they feel that their comments will have an impact on the development of policy and for this to happen consultation needs to start very early in the process. In cases where it has started early it has added value. Representatives of business told us, however, that some RIAs have given an appearance of simply justifying the preferred option. These predated the current Cabinet Office guidance which emphasises the importance of preparing a RIA at an early stage.

**13** Our examination showed that starting early contributed to proposals for new regulation being substantially modified, or more frequently, to less intrusive options for regulation. For instance, early soundings on the RIA on the private security industry led to further options being identified, one of which was chosen and exempted certain sectors of the industry from regulation. In other cases, starting RIAs early gave policy makers sufficient time to identify and fill gaps in their knowledge or skills.

**14** Once the terms of an EU Directive have been agreed, there may be less flexibility as regards varying the requirements of the UK legislation needed to give it effect. So a RIA is most useful if prepared in time to influence





negotiations before the Directive is adopted. For example, consultation on the RIA on the proposed Directive on waste from electrical and electronic equipment contributed to the Department of Trade and Industry putting the case to European Union partners for exempting, on grounds of disproportionate cost, small retailers from the requirement to take back and recycle or dispose of such equipment.

### Consulting effectively

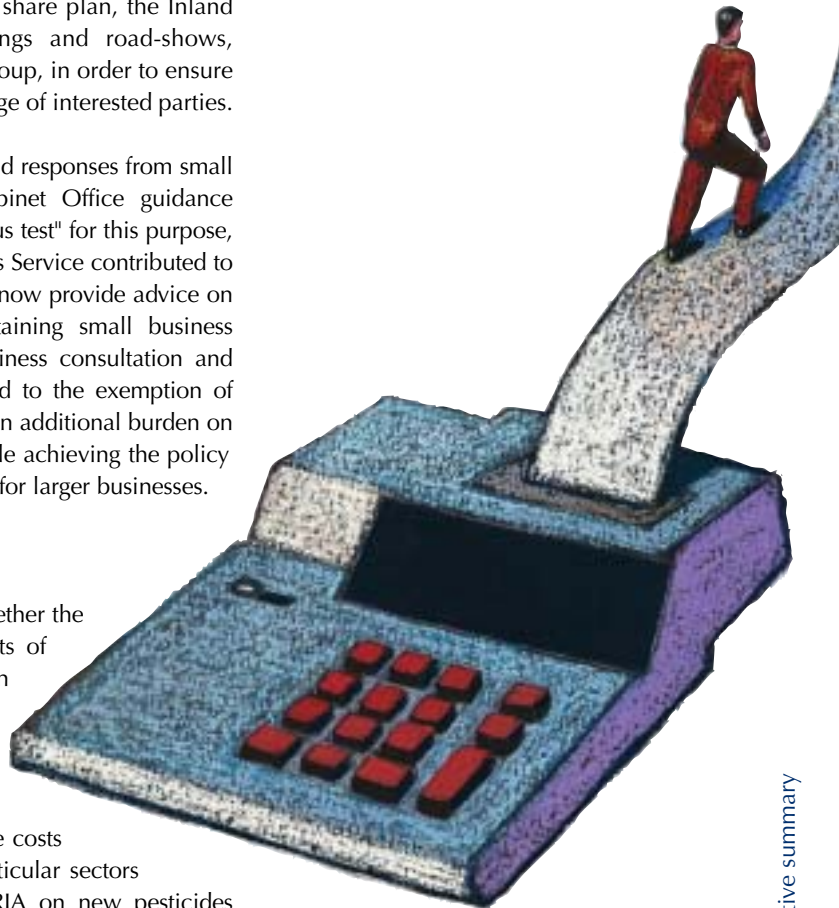
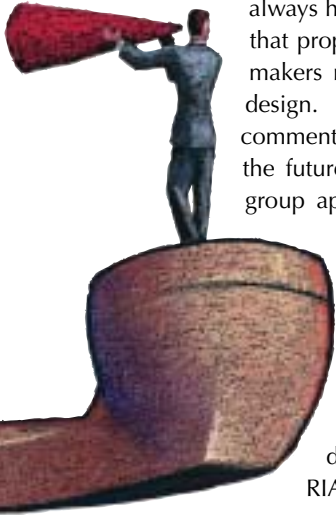
**15** Although knowledgeable in their field, policy makers do not always have practical experience of applying regulation. To ensure that proposals are workable and have minimal side-effects policy makers need to draw on the experience of others during policy design. Persuading businesses and other interested parties to comment on the likely impact of something that could happen in the future is a challenge. The judicious use of face to face, and group approaches may add value to paper-based approaches to consultation.

**16** The quality and quantity of information obtained from consultation exercises we saw varied, and was influenced by the approach taken to consultation. We saw some effective examples. For instance the Home Office set up a task group to take a major role in developing the policy on motor salvage and in drafting the RIA, including generating much of the data presented in the assessment. For the RIA on the all-employee share plan, the Inland Revenue sent out consultation papers, held meetings and road-shows, published articles, used focus groups and an advisory group, in order to ensure that representative views were obtained from a wide range of interested parties.

**17** It is particularly important, but difficult, to obtain informed responses from small businesses, charities and voluntary organisations. Cabinet Office guidance requires departments to undertake a small business "litmus test" for this purpose, but a lack of guidance on the test from the Small Business Service contributed to a wide variation in the quality of responses. The Service now provide advice on request. Some RIAs we examined succeeded in obtaining small business perspectives that added value. For instance, small business consultation and analysis in the RIA on stakeholder pensions contributed to the exemption of employers with less than five staff. This avoids imposing an additional burden on the 60-70 per cent of employers least able to bear it while achieving the policy objective for the 80-90 per cent of employees who work for larger businesses.

### Costing appropriately

**18** A key purpose of the RIA process is to help examine whether the benefits justify the costs. Comparing costs with benefits of policy options can add value. For instance, in the RIA on the licensing of butchers' shops in England, cost benefit analysis of several options showed that a lower cost option still addressed the highest risks and led to less intrusive regulation. Most RIAs we saw quantified the costs. By so doing they sometimes demonstrated that the costs would be disproportionate, overall or in relation to particular sectors and therefore alternative options were adopted. The RIA on new pesticides regulations showed that employers would incur disproportionate costs from a new mandatory training requirement for some types of workers which were not justified by the benefits so regulatory options were dropped. A non-regulatory option was adopted instead.



- 19** Quantifying benefits proved to be harder and sometimes the effort involved in doing so would have been disproportionate to any value served. Many RIAs included general statements rather than figures or quantified only the preferred option. So long as there was a clear analysis of what types of benefit were expected, the absence of quantification did not matter in those cases where costs were self-evidently small compared with the benefits. In few cases, failure to quantify benefits contributed to hostile responses to consultation. An example of the effective quantification of benefits was the RIA on the contained use of genetically modified organisms, where the Health and Safety Executive calculated benefits by estimating how much time the proposals would save those affected, and by attaching a monetary value to the time saved. They then calculated the net present value of each to enable a comparison.

### There is much good practice in preparing RIAs but room for improvement

- 20** Readily understandable and comprehensive guidance for policy makers is important, given that the RIA is a relatively new requirement in Government, the number of policy branches potentially responsible for regulatory measures, and the fairly rapid movement in staff within the Civil Service. It is therefore inevitable that many policy makers preparing RIAs have little previous experience of RIAs, as in many of the cases we examined. The Cabinet Office revised their guidance in August 2000 and many policy makers we consulted found the latest version more helpful. The guidance compares well with other countries which use processes similar to RIAs, although some countries have more examples of alternatives to regulation. Following the guidance ought to result in robust RIAs that add value. Many policy proposals take at least a year to develop to reach the legislative stage. As we could only draw conclusions about the process once it was fully or nearly completed, most of the first drafts of the 23 RIAs we examined in depth pre-dated the August 2000 guidance which strengthened and expanded the requirements of RIAs.
- 21** The guidance cannot set out in detail all of the possible circumstances in which RIAs should be prepared. Some organisations have commented adversely in cases when RIAs have not been produced and those affected believe there to have been regulatory impacts. But the Cabinet Office believe that RIAs are now usually being produced where appropriate.
- 22** Several departmental regulatory impact units supplement Cabinet Office guidance with more specific guidance of their own such as the Department for Education and Skills<sup>11</sup> policy makers' web site. The Cabinet Office are also undertaking a rolling programme of seminars and other training events on implementing good practice in preparing RIAs. There is also a range of guidance from Departments on specific aspects of assessing regulatory impact. The Regulatory Impact Unit intends to revise their guidance again in 2002, which would give it an opportunity to include pointers to other guidance relevant to RIAs. The Unit already reviews and helps improve the quality of some individual RIAs and plans to put their assessment of the extent of the overall compliance with guidance on a more formal and structured basis.

23 Most of the RIAs we examined had aspects of good practice. For instance they were generally good at explaining the objectives of the proposal and identifying possible options. We identified the following examples of good practice:

- **Assessing the risks of not regulating.** Knowing how often the circumstances being regulated lead to harm, and of what sort, informs decisions on whether and how to regulate. The RIA for the building regulations on fire safety contained a risk assessment that clearly set out the hazard or harm that the proposals were seeking to address and quantified the likely hazard (paragraph 3.21 and [Figure 18](#)).
- **Considering the likely level of compliance.** Many RIAs we examined simply named the enforcement body and sanctions for non-compliance. The RIA for the noise Directive demonstrated good practice by considering the likely level of compliance with the proposals, taking account of existing compliance levels, and the consequent impact on the costs of the proposals (paragraph 3.31 and [Figure 20](#)).
- **Explaining how new regulation is to be explained to those affected.** Although policy makers had often considered how they were going to do this, few included details in the RIA. The RIA on the all-employee share plan announced that help and new guidance would be made available for unquoted companies, for example, to enable them to agree valuations quickly and easily. The Inland Revenue also issued guidance including a model trust deed, model rules and a model partnership share agreement (paragraph 3.33).
- **Considering alternative approaches to enforcement.** Many RIAs we examined assumed that existing enforcement methods would continue to be used, often for good reason. But there can be value in re-thinking enforcement. In particular, where there have been substantial structural and/or economic changes such that existing enforcement arrangements are no longer appropriate. For example, in examining the regulation of the gaming industry, the National Audit Office found that the Gaming Board could take more account of structural changes in the industry which meant that major regulated operators had developed their own compliance departments to protect their gaming licence, the loss of which could have major consequences for them and their reputations.<sup>12</sup> The Gaming Board have accepted the National Audit Office's recommendations and are introducing a risk-based inspection strategy to reduce the amount of inspection by relying more on the regulatory and compliance systems of these operators (paragraph 3.36).
- **Setting out arrangements for monitoring and evaluation.** The RIA on stakeholder pensions gave a clear and simple explanation of how the proposal will be monitored after implementation, by whom and with a summary of how the data was to be gathered. Monitoring will contribute to measuring performance against the Department's<sup>13</sup> Public Service Agreement (paragraph 3.39 and [Figure 23](#)).

24 Policy making can be made more transparent if RIAs are readily accessible on Government web sites. The ease with which RIAs can be accessed has been variable and many web sites did not comply with the recommendations on the accessibility of information relating to regulations included in the National Audit Office's 1999 report "Government on the Web".<sup>14</sup> There has been a distinct improvement in accessibility of web sites during 2001, although some departmental web sites still did not comply with good practice. The Cabinet Office have developed a central web-page listing RIAs which are being increasingly linked to the documents themselves.

<sup>12</sup> National Audit Office, June 2000, *The Gaming Board: Better Regulation*, HC 537, 1999-2000.

<sup>13</sup> The Department for Work and Pensions, formerly the Department of Social Security.

<sup>14</sup> National Audit Office, December 1999, *Government on the Web*, HC 87, 1999-2000.



# Recommendations

- 25 RIAs add value to the policy making process and can help deliver better and lighter touch regulation. They represent a significant change in the way policy makers think through the consequences of Government action. Producing robust RIAs and using them as a basis for meaningful consultation with the representatives of business and others likely to be affected calls for considerable commitment from departments and agencies if good use is to be made of them. Since they were introduced RIAs have improved both in design and application, under the influence of the Cabinet Office Regulatory Impact Unit working with departmental regulatory impact units. The Small Business Service have also helped to raise the profile of small business concerns and recommended actions to help small businesses such as successfully pressing for agreement that in each case guidance on how to comply with regulation should be published at least three months before its implementation.
- 26 More can still be done by the Cabinet Office, the Small Business Service, departments and agencies to build further on this achievement so as to make continuing good use of RIAs.

## *The Cabinet Office Regulatory Impact Unit*

- I Using RIAs as a tool for delivering better policy making requires education of policy makers, many of whom are new to RIAs, together with frequent reinforcement of the messages in existing guidance, particularly those highlighted in this report. The Unit does this by means of dialogue with relevant officials on some specific regulatory issues, via the wider network of departmental regulatory impact units, by conducting seminars with departments and agencies, and by updating the guidance. The Unit also provides, in the guidance, a short checklist for policy makers, and has circulated a list of points to watch to departmental regulatory impact units.

**When revising its guidance material, the Unit should refer policy makers to all relevant guidance and provide them with vivid examples of good practice. In doing so it should draw on the checklist attached to this Summary, and on relevant overseas guidance, for instance providing more extensive examples of alternatives to regulation.**

- II The expectation in Cabinet Office guidance that policy makers should prepare a RIA whenever they are proposing regulatory action that will have "non-negligible" effects on business, charities and the voluntary sector can result in differences of opinion between policy makers and those affected as to whether the regulatory impact is negligible. It is also not always clear whether secondary legislation that implements policies already subject to a RIA needs a separate RIA. The guidance is also not specific about the circumstances in which non-legislative regulation, such as national standards, should be accompanied by a RIA.

**The guidance should require policy makers to consult their departmental regulatory impact units in cases of uncertainty and, if necessary, undertake sufficient work to demonstrate that any additional compliance costs that are likely to result will be negligible.**



- III The Cabinet Office guidance states that at the full RIA stage it is important to set out how any proposed regulation would be monitored and reviewed.

**It would be helpful for the guidance to give specific suggestions on possible approaches to determining whether the regulation has resulted in the impacts expected, has been effective and whether the extent of regulation could be reduced.**

- IV The transparency of regulation is improved if RIAs are readily accessible to businesses, members of the public and representative bodies.

**Although the quality of web access to RIAs has improved during 2001, the Cabinet Office should continue to encourage departments to make it easier to find RIAs and associated regulations on Government web sites and to place RIAs on the web at the same time as, or before, they are sent out with consultation documents.**

- V Although the guidance expects policy makers to consider compliance with regulation, RIAs do not always reflect the importance of securing compliance if regulation is to achieve its objectives, consideration of which may strengthen the case for self-regulatory options. The way that businesses respond to regulation can have a significant bearing on the benefits arising from different options and policy makers therefore need to be realistic about the likely level of compliance.

**The guidance should specify that RIAs should be clear about how the desired level of compliance is to be achieved in practice, the current levels of compliance and be realistic about the likely level of compliance.**

- VI The problems experienced by small businesses in handling the administrative load applied by regulation also affect smaller charities and voluntary organisations. The Small Business Service sometimes represent their interests where they coincide with those of small business, but representing their interests more generally is outside their remit.

**The Cabinet Office should consider whether guidance is needed on how the interests of such bodies could be more explicitly taken into account in the RIA process.**



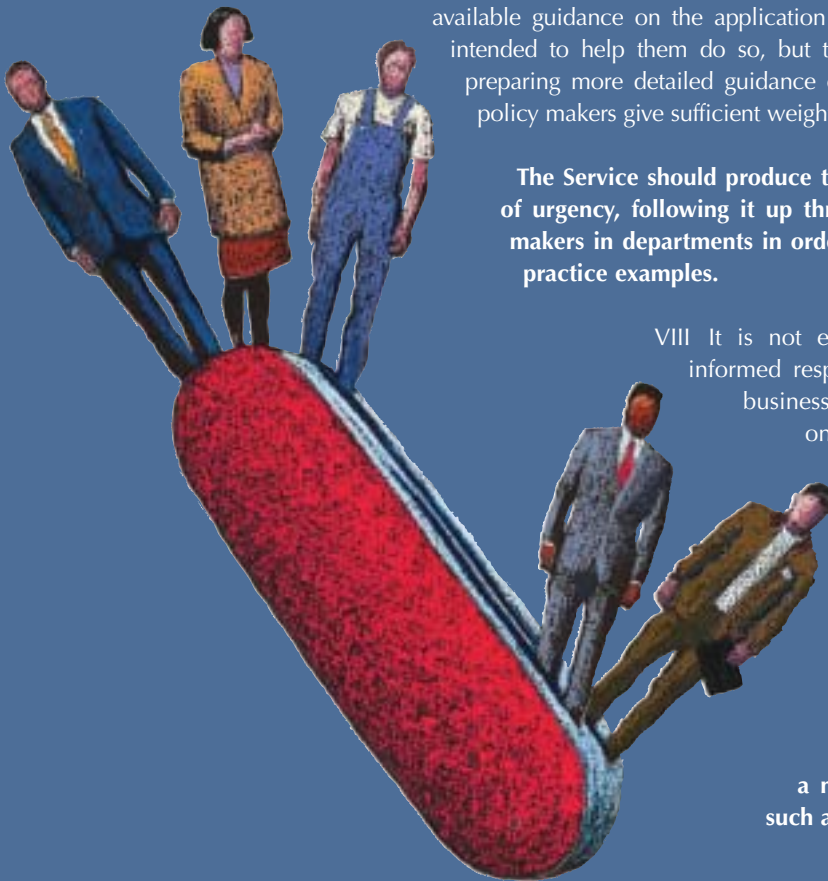
### *Small Business Service*

VII Policy makers do not necessarily understand how to identify and evaluate the likely impacts of regulation on small business, nor how to consider options that limit the applicability of regulation to small business. There is little widely available guidance on the application of the "small business litmus test" intended to help them do so, but the Small Business Service will be preparing more detailed guidance on the litmus test in order to help policy makers give sufficient weight to small business.

**The Service should produce this essential guidance as a matter of urgency, following it up through direct contacts with policy makers in departments in order to build up a database of good practice examples.**

VIII It is not easy for policy makers to obtain informed responses to consultation from small businesses and hence to assess the impact on them. The Small Business Service are developing focus groups and networks of small businesses.

**They should use these more to provide departments with small business responses to RIAs. They could also consider using business panels that give feedback on regulatory proposals, a model adopted in other countries such as the USA and Denmark.**

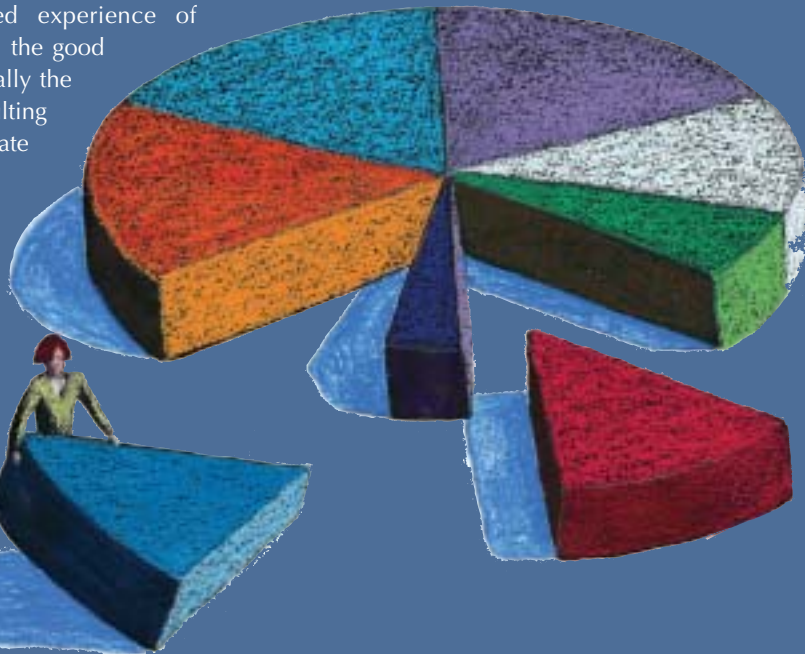




## Departments and agencies

- IX Many policy makers have limited experience of preparing RIAs and could learn from the good practice set out in this report, especially the importance of starting early, consulting effectively and carrying out appropriate cost benefit analysis.

**The checklist attached to this Summary summarises the key messages which in our view departmental regulatory impact units could usefully draw to the attention of all policy makers who have to prepare a RIA.**



- X Calculating likely benefits is more difficult than calculating likely costs to businesses. It is important that departments provide sufficient support to staff who have to complete RIAs, particularly where a cost benefit analysis is critical in deciding whether to pursue a particular policy option.

**Departmental Regulatory Impact Units should do more early in the process to help policy makers to identify the expertise required, for example assistance from departmental economists or outside consultants in undertaking cost benefit analysis.**

- XI People are less likely to respond to consultation or in due course comply with regulation if they do not understand what they need to do to comply.

**RIAs should summarise the impact the proposal would have and give details of how the implications of new regulation are to be explained to those affected, for instance by seminars and articles in periodicals, along with a summary of how the proposed regulation is to be applied in practice.**

- XII Enforcement contributes to securing compliance with regulation but itself can add to the burden of regulation and reviewing it from time to time can identify scope for lighter touch solutions, including relying wherever possible on the regulatory and compliance systems already applied by the businesses concerned.

**When new regulations are being considered, the associated RIA process should provide a good opportunity to review whether the approach to enforcement is still most appropriate in the circumstances of the business sectors concerned.**

# Checklist

## Key questions for policy makers and regulatory impact units when preparing a Regulatory Impact Assessment (RIA)

This Checklist sets out points which the National Audit Office have found deserve particular attention if good use is to be made of RIAs. It should be read with the guidance in the Cabinet Office document "Good Policy Making: A Guide to Regulatory Impact Assessment". The points are set out under the three main stages of the process set out in paragraph 1.23 of this report.

### Getting started - the Initial RIA

**Start early** - the RIA should facilitate informed consideration of the options available for achieving the objectives of the envisaged regulation, and an Initial RIA should, wherever possible, be produced before decisions are made or there is a commitment to legislate. For EU legislation this should be in time to inform negotiations on the proposed Directive etc.

**Identify the objectives** - the problem and risks to be addressed, and the desired outcomes. This is necessary before the options can be considered.

**Plan the process** - project management principles and techniques provide a useful discipline which can help ensure that all aspects are planned for. In drawing up a timetable work back from any deadline for legislative implementation to allow enough time for each key stage, especially for consultation.

**Consult early** - with the Small Business Service and other policy makers having responsibility in relation to the industry or sector concerned, enforcement bodies and representative bodies, to obtain an informed view of risks, options and a broad indication of the likely costs and benefits concerned. This is not a substitute for effective consultation with the broader spectrum of those concerned later in the process, but should help with planning how effective consultation can be undertaken.

**Assess the risks being addressed** - identify how prevalent the problem to be addressed is, the gravity and nature of the consequences, and highlight areas where more information is needed.

**Identify a wide range of options** - including self-regulation and non-regulatory options. Where the broad policy direction is already determined the focus should be on options for implementing the desired solution most effectively.

**Consider compliance** - the level of compliance with existing regulation and good practice can indicate the types of solutions most likely to achieve the desired outcome. Regulatory solutions are effective only as far as they are complied with, and the way they are implemented can affect the extent as well as the costs of compliance. Adapting existing business or regulatory processes may make compliance easier and hence more likely.

### Obtaining a clear picture - the Partial RIA

**Think through the consultation process** - it may need to cover other public sector bodies, charities and voluntary organisations as well as businesses. A good quality response is important and people may be more responsive if consultation on the RIA precedes formal consultation on draft legislation. Make it easier for respondents to respond to the assumptions in the RIA, for instance by asking a few clear questions up-front. Include questions on the estimates of costs and benefits in the RIA.

**Obtain representative views from small businesses, charities etc** - take advice from the Small Business Service on the "litmus test" and consider asking for their assistance. The test should involve small sufficient businesses, charities etc to be representative. Such bodies respond best to direct face to face or telephone interview when the impact of the regulatory proposal and options can be talked through and a clear view of the likely impact obtained. Focus groups may also be valuable. Sufficient businesses should be selected to be representative of different types of business or sectors. The findings from the test should be included in the RIA sent out for general consultation.

**Analyse separately how costs and benefits apply to different sectors and types of business** - including small businesses and consumers. A proposal that is proportionate overall may be disproportionate for some sectors, especially small businesses. Can the impact in these cases be mitigated?

**Place the RIA on the web** - as soon as it is prepared, so that it is readily accessible to those concerned and where appropriate link it to the relevant consultation document.

**Quantify costs and benefits appropriately** - so as to demonstrate that the preferred option is the most effective and is proportionate. Benefits should be quantified unless they are evidently overwhelming but this is often not easy and may necessitate surveys or sophisticated analytical techniques. Precise monetary values are not necessary - informed figures as to what is likely to happen to which people are, wherever they can be obtained.

**Keep an open mind on options** - quantify the costs and benefits of all practicable options, and be alert for ways of making compliance easier and more likely. Particular attention should be given to self-regulatory options as voluntary compliance can be more effective and less costly.

**Consider compliance in detail** - obtain a clear view of how those affected, including enforcement bodies, will comply with the proposal, perhaps by drafting and consulting on a skeleton of the step by step guide to compliance that will eventually be needed. This should feed into the estimation of costs and benefits. Consider and consult on what action will be needed to inform those affected about the proposal once it is implemented, including enforcement bodies.

## Pulling it together - the Final RIA

**Firm up on compliance and enforcement** - explain the steps being taken to ensure that those affected know what is expected of them and what guidance, seminars, publicity etc will be issued for this purpose. Set out the actions the enforcement body expects to take to secure the intended compliance rate.

**Summarise the results of consultation** - including response rates, responses from different sectors or types of business/body where these vary and

how proposals have been modified to reflect significant concerns.

**Explain arrangements for any review** - including when any review will be carried out, how data will be collected, how compliance will be monitored and what expertise will need to be drawn upon, bearing in mind the importance of the review informing future legislation in the area.

