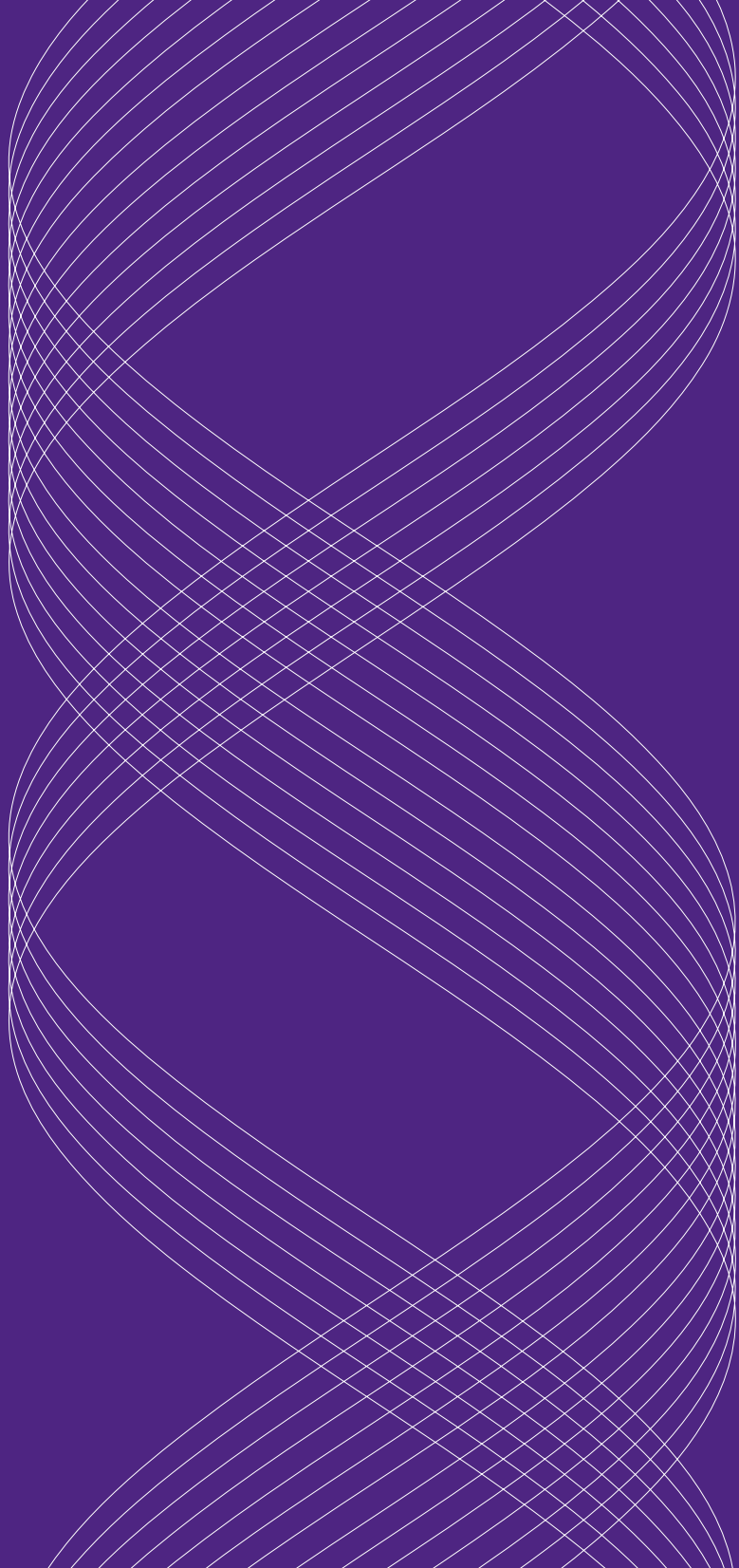




# The Tools to Deliver Better Regulation

Revising the Regulatory Impact Assessment: A Consultation





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## Foreword by Hilary Armstrong Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office



The better regulation agenda is a key priority for Government. It is crucial for businesses, the third sector and front-line public sector staff.

Good regulation brings invaluable benefits; it provides protection for citizens and for businesses such as employee welfare and fair competition. But regulation that has a weak justification or is badly designed creates unnecessary burdens that stifle wealth creation and limit our ability to deliver the public services we need.

The better regulation agenda is about finding more effective ways of delivering protection without placing unnecessary burdens on those who are regulated. It is about streamlining bureaucracy to boost productivity

and prosperity, increase voluntary activity and modernise public services because what is good for the economy benefits everyone in it.

Regulatory Impact Assessments have been a cornerstone of our approach to better regulation. But there is considerable evidence that we can improve our approach to impact assessments. That is what the proposals in this consultation document do. Building on our success in producing Regulatory Impact Assessments for almost all policy developments, this document proposes a new streamlined Impact Assessment which increases transparency significantly, and is flexible to enable it to be embedded in policy making from the earliest stage and also used as part of post-implementation review.

I am confident that the proposals in this document will strengthen the effectiveness of impact assessments. But if we are to get this right, we need to listen carefully to the views of others, which is why this consultation will be crucial in providing us with the information we need to get this right.

I would strongly urge you to share your views on the proposals in this document.

A handwritten signature in black ink that reads "Hilary Armstrong". The signature is written in a cursive, flowing style.

**Hilary Armstrong**

Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office

## Executive Summary

1. Regulatory Impact Assessments are a key part of the policy-making tool kit. Their aim is to present to decision makers the costs and benefits of policy options to ensure that new policies and regulations are introduced only where the benefits clearly exceed the costs. The UK is seen as a world leader in this area, but more can be done to ensure that the UK remains at the forefront of Regulatory Impact Assessment.
2. The key objectives of the proposed changes are to ensure that Impact Assessments 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.
3. Government departments do produce Regulatory Impact Assessments for new policies. Almost every new policy is accompanied by a Regulatory Impact Assessment. However the recent evaluation of Regulatory Impact Assessments by the NAO found that *“Regulatory Impact Assessments are often not used in the right way, the purpose is not always understood... there is a lack of clarity in the presentation of the analysis; and persistent weaknesses in the assessments.”*
4. In recent years Regulatory Impact Assessment guidance has been widened and requires a broad range of information to be included in assessments, for example health, sustainable development, older people and devolved countries. While this has been done for well-intentioned reasons, the cumulative effect has been to detract from the core purpose of the Regulatory Impact Assessment: i.e. ensuring that the costs and benefits of the policy options are identified, quantified wherever possible and set out transparently.
5. The Regulatory Impact Assessment has been coming under attack from business and the British Chamber of Commerce has recently been critical of the effectiveness of Regulatory Impact Assessments in minimising the burden of new regulation. It is hoped that these proposals, aimed at creating a more transparent Impact Assessment, will address these issues.
6. The proposed key revisions on which we wish to consult are:
  - Introducing a new template to promote greater accountability and transparency of decision-making;
  - Introducing much shorter guidance;
  - Removing the requirement for an Impact Assessment to show three policy options (requiring instead a scalable impact assessment for each policy option considered);
  - Requiring publicly available Impact Assessments to be signed off by both the responsible Minister and the department’s Chief Economist;
  - Removing mandatory requirements to include certain elements relating to business, societal and environmental impacts except where they relate to the costs and benefits of the policy;
  - Changing the name from Regulatory Impact Assessment to Impact Assessment;

7. The main benefits of these changes are intended to:
- Encourage a process that starts earlier and finishes later – with assessments revised as the costs and benefit estimates change;
  - Make it easier for readers to identify the key issues;
  - Make it easier for readers to identify both the administrative and policy costs and the benefits of the measures proposed;
  - Cut down on duplication with other Government papers;

**If you have any suggestions that will help ensure that the Impact Assessment can deliver these outcomes, or comments on the proposed changes, then we are keen to hear from you.**

# Regulatory Impact Assessments – What are they and do they work?

## WHAT IS A REGULATORY IMPACT ASSESSMENT?

1. Since 1995, Government departments have been required to complete, and make publicly available, a Regulatory Impact Assessment to:
  - Help identify all the costs associated with regulation as well as the benefits; and
  - Quantify the likely costs of compliance on those affected by the regulation, e.g. private and voluntary organisations.
2. Any proposal which imposes or reduces costs on businesses, charities, the third sector, or the public sector requires a Regulatory Impact Assessment. This means a Regulatory Impact Assessment needs to be completed for all forms of intervention including primary or secondary legislation as well as codes of practice or guidance – wherever the department or a regulator considers that the effect will be to increase or decrease costs. This includes proposals which encourage self-regulation or opt-in regulation.
3. Regulatory Impact Assessments must be published:
  - When proposals that may impose or reduce costs are consulted upon;
  - Immediately prior to implementation of any regulatory proposal or measure;
  - After the regulation has been implemented.

## WHY ARE REGULATORY IMPACT ASSESSMENTS IMPORTANT?

4. The Regulatory Impact Assessment has been the key tool that central Government has used to establish that regulation is necessary and carried out with minimum burdens. As a result it is an established brand, and has widespread currency: compliance across central Government is close to 100%. The UK is seen as a world leader in this area and the breadth and compliance level of Regulatory Impact Assessments is a key contributing factor to the UK's high position in the World Bank and Organisation of Economic Co-operation and Development surveys. However, the quality of Regulatory Impact Assessments can be variable.
5. Regulatory Impact Assessments can potentially play a key role in helping minimise the burdens of new regulation. By clearly identifying the social, economic, environmental and technical costs of all new proposals, stakeholders should be able to easily identify whether the benefits justify the costs. If the costs and benefits are obscured, or not considered, the regulatory burden on business, both in total and by size of organisation, the public sector and the third sector, can grow unchecked.
6. Regulatory Impact Assessments should be transparent documents, written throughout the policy making cycle, right through to the implementation and enforcement of a policy. As such, they should be a powerful tool to ensure that Government implements policy that maximises intended benefits and foresees and accounts for potential costs.

7. The Government is currently delivering one of the most radical programmes of regulatory reform anywhere in the world and Regulatory Impact Assessments have the potential to play a key role as part of the Government's better regulation agenda.
- The Administrative Burdens Reduction exercise will identify the cost of the administrative burden of regulation on business and the third sector and in Autumn 2006 Government will set stretching targets for Departments to reduce those burdens.
  - Departments' Simplification Plans will pull together in one place everything that each Department is doing to reduce regulatory burden on business, the public sector and the third sector.
  - The Hampton Report on the *Effectiveness of Inspection and Enforcement*<sup>1</sup> will reduce the number of private sector inspectorates from 31 to 7 and embed a risk based approach to inspection and enforcement in the UK.
  - The Independent Macrory Review of Regulatory Penalties will make recommendations in Autumn 2006 to ensure that regulators have access to a flexible enforcement toolkit consistent with the risk-based approach to regulation outlined by Philip Hampton.
  - The Davidson Review of the UK's implementation of EU legislation will report with recommendations to Government by the end of 2006.
8. This work is complemented by previous reviews undertaken by the Better Regulation Task Force (now Better Regulation Commission) to improve the way in which regulation is designed and then implemented. As a result, Government has never been better placed to track and make transparent regulatory activity in the UK.

## DO REGULATORY IMPACT ASSESSMENTS WORK?

9. The National Audit Office review Regulatory Impact Assessments annually. The most recent report<sup>2</sup> found that:

*"Regulatory Impact Assessments are often not used in the right way. The purpose of Regulatory Impact Assessments is not always understood; there is a lack of clarity in the presentation of the analysis; and persistent weaknesses in the assessments. As a result, RIA's are only occasionally used to challenge the need for regulation and influence policy decisions..."*

*"Some RIAs included irrelevant detail and were too discursive, which obscured the key information needed to inform decision-making ... There was a general lack of consistency in the analysis undertaken and the presentation of results."*

<sup>1</sup> [http://www.hm-treasury.gov.uk/budget/budget\\_05/other\\_documents/bud\\_bud05\\_hampton.cfm](http://www.hm-treasury.gov.uk/budget/budget_05/other_documents/bud_bud05_hampton.cfm)

<sup>2</sup> *Evaluation of Regulatory Impact Assessments 2005-06* – [http://www.nao.org.uk/publications/nao\\_reports/05-06/05061305.pdf](http://www.nao.org.uk/publications/nao_reports/05-06/05061305.pdf)

10. The National Audit Office found that:

*“They [Regulatory Impact Assessments] have not yet been a tool which has dramatically altered the regulatory landscape or the way Government thinks about regulation.”*

11. The NAO’s separate assessment of Regulatory Impact Assessments and sustainable development commented that:

*“... too often RIAs are used to justify decisions already made rather than an ex ante appraisal of policy impacts. If RIAs are to fulfil their role to inform and challenge policy-making, they should be started early in the decision-making process, and involve wide-ranging consultation with key stakeholders, including other government departments where appropriate.”<sup>3</sup>*

12. The purpose of Regulatory Impact Assessments is to place analytical rigour at the heart of policy making, ensuring that the costs and benefits are clearly set out for decision makers so that the Government only regulates where the benefits clearly exceed the costs. Despite high levels of compliance, the current approach is clearly failing to make a consistent difference.

## **WHAT ARE THE WEAKNESSES OF THE CURRENT APPROACH?**

13. While the current approach has been effective in some cases, the Government believes there are important ways in which it can be improved. In particular:

- The fundamental purpose of placing rigorous analysis at the heart of the policy making process is insufficiently recognized;
- Critical data and information can be hard to find in long and often discursive Regulatory Impact Assessments. In some cases, it may be missing – in particular quantified costs and benefits;
- Arguments and evidence are often inaccessible to the lay reader;
- The 65 page Guidance is often seen by policy makers as bureaucratic and hence makes it harder to embed awareness of better regulation;
- Regulatory Impact Assessments often duplicate information or data contained in other publications such as consultation documents;
- The case for ‘no action’ being taken is often not made sufficiently well, and the nature of the problem not spelt out as clearly as it could be;
- Regulatory Impact Assessments are frequently produced at the end of the policy making process when all the key decisions have been taken, rather than informing the decision-making process.

<sup>3</sup> Regulatory Impact Assessments and sustainable development. Briefing for the Environmental Audit Committee

*“The ‘half full’ view would be that tremendous progress has been made...the ‘half empty’ view would be that nothing has substantially changed. New regulations are not seriously challenged, still less aborted, by impact assessments.” – BCC, UK Regulatory Impact Assessments in 2004-05*

*“Regulatory Impact Assessments should act as early warning systems, highlighting at an early stage where difficulties may arise, as well as measuring the likely costs of a range of options” – CBI, House of Lords – European Union written evidence, 2005*

14. Some of these weaknesses may result from changes to the Regulatory Impact Assessment. The process and guidance for preparing assessments has been revised several times since 1995. Key changes were made in 1996, 1998 and 2002 – all of which were designed to improve accountability and transparency. However, the cumulative impact of these changes has resulted in the Regulatory Impact Assessment covering a very broad set of issues and, as a result, the core purpose of focusing on costs and benefits has been lost.

### **A Brief History of Regulatory Impact Assessments**

15. Compliance Cost Assessments were introduced in 1985, followed by Risk Assessments in 1996 and Regulatory Impact Assessments followed in 1998. The Regulatory Impact Assessment guidance was renamed “Good Policy Making: A guide to Regulatory Impact Assessment” in August 2000.
16. The National Audit Office’s report “Better Regulation: Making Good Use of Regulatory Impact Assessments” in November 2001 made a number of recommendations to improve the use and effectiveness of Regulatory Impact Assessments. These included enhanced policy development guidance, ensuring Regulatory Impact Assessments were undertaken early in the policy making process and better consultation with small businesses. The National Audit Office’s recommended model forms the basis of the current Regulatory Impact Assessment and Regulatory Impact Assessment guidance.
17. In 2001 the Regulatory Impact Assessment was essentially an economic cost benefit analysis tool. In order to bring together similar tools across Government, including the Department of the Environment, Transport and the Regions’ *Integrated Policy Appraisal Framework*, the Regulatory Impact Assessment was expanded to include the consideration of social, environmental and economic impacts. Over time, the Regulatory Impact Assessment has incorporated the health, gender, race, sustainability, rural, human rights and older people impact assessments.
18. In November 2005, the Legal Aid Impact test was also added to the RIA process to help clarify the impact and cost of wider Government policy changes on the legal aid fund. Above all else the Legal Aid Impact Test has shown that the earliest engagement on developing policy initiatives is most effective in preventing the current level of cost impact to the legal aid fund. Lord Carter’s review of legal aid procurement, published on 13 July 2006, suggests that the Legal Aid Impact Test is a good approach to ensuring that the volume implications of legislation or other deliberate changes in government policy are understood and quantified. He has recommended that it (or similar arrangements) should be further explored and vigorously enforced through collective Government agreement mechanisms.

### ***Reviewing Regulatory Impact Assessments***

19. In light of these developments, we have been considering whether Regulatory Impact Assessments can be improved.
20. The objectives we are seeking to achieve are:
- to embed Regulatory Impact Assessments at the heart of policy making;
  - to improve the quality of the economic and other analysis that underpins policy making;
  - to increase the transparency of the analysis underlying policy options.
21. Success would be:
- for impact assessments to be developed for all policy options that are being considered, from the earliest stage of blue-skies thinking when they would inevitably involve back-of-the-envelope estimates impacts on a range of options, through to implementation and beyond, when a single impact assessment would show the ultimate impact of what was delivered;
  - for decision makers to want to have impact assessments when they make their policy judgements, because they provide clear access high quality analysis and identify where costs and benefits may fall disproportionately;
  - for impact assessments to be the accepted basis for cross-departmental discussion within government on the impact of policy proposals;
  - for stakeholders beyond government to want access to impact assessments as part of their involvement in the policy making process because of the visibility provided on costs and benefits.

***A. Do you agree that these would be good tests of success for Regulatory Impact Assessments?***

22. As a result, we propose a number of changes to the Regulatory Impact Assessment so that policy makers:
- Set out the policy problem to be tackled in a clear, unambiguous way;
  - Make much more transparent the costs, benefits and effects of policy options;
  - Set out clearly whether the policy option complies with best practice such as the Hampton principles, and if not, why not;
  - Publish the evidence underpinning the key conclusions.

23. This should result in:
- A process that starts earlier and finishes later – with assessments republished as the costs and benefit estimates change;
  - Higher quality, impact Assessment, focusing on key questions;
  - Information that can be easily scrutinised and challenged by those with an interest;
  - Simpler tracking of the totality of regulatory costs and benefits over time.
24. The proposed approach will be underpinned with shorter guidance, emphasising that the key purpose of Impact Assessments is to set out clearly all the costs and benefits – economic, environmental and social – of the policy options under consideration and the key data and assumptions behind them. It will also underline that the understanding of costs and benefits will inevitably improve through the policy development process, and that early Impact Assessments using back of the envelope calculations are nonetheless valuable initial tools.

## Proposed changes to the Regulatory Impact Assessment

25. The key changes we propose are:

- A one page Summary Sheet
- Shorter guidance
- No requirement to have three policy options
- A new declaration from Departmental Chief Economists or other senior members of the government analytical community
- A focus on assessing the full range of impacts of policy options
- Changing the name to Impact Assessment
- An on-line database bringing a single point of access from the internet to Impact Assessments
- Improved training and support to departments.

### ONE PAGE SUMMARY SHEET

26. Since 2001 Regulatory Impact Assessments have lengthened in response to the additional guidance. Regulatory Impact Assessments often duplicate the consultation document they are published alongside, in particular the background section.
27. Government proposes the introduction of a short summary for all Impact Assessments – see Annex A. This would bring the key information to the front of the Regulatory Impact Assessment, with a greater emphasis on quantification of the costs and benefits of the policy proposals. The Summary Sheet would also include a short number of questions about the impact on key groups, as well as highlighting the impact on competition and small businesses, drawing on a full evidence base that will accompany the summary sheet.
28. The brief Summary Sheet would make it easier for readers to identify the key issues. At the front of every Impact Assessment the reader would be able to see the administrative and policy costs, the benefits of the measures proposed and the assumptions made in costing them. This would help ensure that external stakeholders can help Government get the estimated costs and benefits right. We would welcome views on how to improve this, including how to make the information meaningful and accessible to those who read Impact Assessments.
29. This proposal aims to make the Impact Assessment easier to read, more transparent, more accountable and more open to scrutiny and external challenge. An initial example of the new Impact Assessment can be found in Annex A.
30. The information in the summary sheet will be underpinned by a more detailed assessment of the evidence. This will follow guidelines which will be developed in parallel with the Toolkit described later.

***B. Is the revised Impact Assessment at Annex A easier to read, more transparent and more open to scrutiny and external challenge? How do you think it could be improved?***

***C. Does the proposed Summary Sheet capture the key information required to minimise regulatory burdens on the private, public and third sectors?***

## SHORTER GUIDANCE

31. The existing Regulatory Impact Assessment Guidance is over 60 pages long. In the main, it has instructions on how policy makers can develop an evidence base upon which an impact assessment can be developed. Policy makers' confusion, identified by the National Audit Office, around the purpose of Regulatory Impact Assessments is created by the lengthy guidance and the diverse range of subjects it is trying to cover.
32. Shorter guidance, covering what needs to be included in an Impact Assessment would provide policy makers and external stakeholders with a quick guide (a draft of the guidance is at Annex B). Alongside this, we propose to develop a "Toolkit" which would have detailed guidance on more technical issues – for example information on how to establish competition effects – which is likely to be of particular interest to economists and other analysts working as part of the policy team.

## NO REQUIREMENT TO HAVE THREE POLICY OPTIONS AT ALL STAGES OF THE IMPACT ASSESSMENT

33. The current requirement to have a minimum of three policy options (a "do nothing" option, a non-regulatory option and a regulatory option), can encourage policy makers to create options simply because there is a requirement to do so, rather than because they are genuine.
34. While we strongly believe that a range of policy options should be considered, and that understanding the impact of doing nothing or of non-regulatory approaches are essential, it is inevitably the case that as the policy development cycle moves forward, the number of options reduces. We therefore propose to remove this requirement, and instead encourage policy makers to do an Impact Assessment on each policy option which is being considered. So in the early stages of policy development there may be more than three policy options and hence several impact assessments. And inevitably, as policy is not fully developed, the estimates of costs and benefits are likely to be less certain. At initial consultation stage there might well be three options including a non-regulatory option and the impact assessments would draw on detailed research, However in later stages, there may be fewer options.
35. This would not be aimed at making life easier for Departments or policy makers, but about ensuring that only genuine policy options are put out to consultation, so that stakeholders can engage with and influence the policy making process.

***D. Do you have any comments on the proposed Impact Assessment guidance at Annex B?***

## FOCUS ON ASSESSING THE IMPACT

36. The new Impact Assessment is aimed at focusing on whether regulation will impose an unnecessary burden on the private, public or third sectors. Impact Assessments should focus on whether the analysis of the impact is robust and not on whether a particular process has been followed.
37. The Small Firms Impact Test and the newly developed Competition Assessment<sup>4</sup> are two methods to assess the impact of new regulation on small businesses and on markets. The new Competition Assessment provides a structured framework to assist policy officials to answer the top sheet competition question. The new Guidance requires policymakers to use the Small Firms Impact Test and Office of Fair Trading (OFT) Competition Assessment (see Annex B) where there is likely to be an impact on small- and medium-sized enterprises (SMEs) or the level of competition.
38. The change reflects our intention to increase the amount of analysis dedicated to assessing the impact on different sectors and from simplification measures. It also enables the assessment of potential impacts to be undertaken more proportionately at different stages of the policy making process. However, the requirement recognises that undertaking a full Competition Assessment or Small Firms Impact Test at the very early stages of the policy making process may not always be appropriate.

***E. Do you agree the requirement to use the Competition Assessment and the Small Firms Impact Test on a case by case basis is sufficient to ensure these impacts will be adequately assessed where relevant?***

## DECLARATION FROM CHIEF ECONOMISTS

39. Since 1998, Government has stressed the need for policy officials to work with departmental specialists, including economists, scientists, statisticians and researchers, on the evidence base for their policy options. While many Regulatory Impact Assessments have shown demonstrable evidence of quantitative and qualitative analysis and sensitivity testing, some others have not.
40. While the Minister responsible for the proposals will continue to be required to sign-off publicly available Impact Assessments, we are also proposing a new requirement relating to the quality of the analysis. The second declaration, from the department's Chief Economist regarding the the evidence base of the policy option – should help to improve the quality of the analysis. We are currently taking legal advice to understand the full implications of such a declaration, the wording of the declaration and at what stage in the process the declaration should be made. (Annex A provides an example declaration and how this may fit into the proposed Impact Assessment).

<sup>4</sup> The Competition Assessment is a new tool superceding the old Competition Assessment Filter and will be consulted on separately by the Office of Fair Trading.

**F. Do you agree that including a signed declaration by the Departmental Chief Economist and/or other senior members of the Government's analytical community, will improve the quality of the analysis?**

### UNITED STATES – A Comparison

The United States lead the way with Regulatory Impact Analysis in 1974 with inclusion of cost-benefit analysis in Inflation Impact Assessments. Full Regulatory Impact Analysis (RIA) has been required for major social regulations from 1981. The Office of Management and Budget in the Executive Office of the President has responsibility for quality control.

The design of the federal RIA programme is based on several key threshold, cost-effectiveness, and cost-benefit principles:

- The Government should not regulate unless there is adequate information concerning the need for and consequences of regulatory action.
- Regulatory action should not be undertaken unless potential benefits to society justify potential costs.
- Regulatory objectives should be chosen to maximise the net benefits to society.
- Among alternative approaches to a given objective, the one chosen should be that which maximises the net benefits.

Since 1995, the Office of Management and Budget has become more selective about the RIAs it reviews. According to the Organisation of Economic Co-operation and Development<sup>5</sup>, an average of over 2000 agency rules and 75 RIAs per year were reviewed by OMB during the 1980s and early 1990s, but this was reduced to less than 500 rules by 1996, although the number of RIAs remained roughly the same.

The Office of Management and Budget adopted a policy of focusing on areas where the review process could have the highest impact. Alongside this, the Office of Management and Budget has worked more closely with agencies during the development of major rules. This has further helped ensure that rules can be changed during development so that they impose the minimal cost and achieve the maximum benefit. The Organisation of Economic Co-operation and Development suggests that approximately 60% of regulations are changed during review.

<sup>5</sup> Organisation of Economic Co-operation and Development – “Regulatory Reform in the United States – Government Capacity to Ensure High Quality Regulation”, 1999.

## DECOUPLING OTHER ASSESSMENTS – INCLUDING ALL RELEVANT COSTS AND BENEFITS IN IMPACT ASSESSMENTS

41. There is a legal requirement for all policies to undertake a Race Equality Impact Assessment. Alongside this, the current Regulatory Impact Guidance suggests that a number of other assessments, covering areas such as sustainable development, health, older people and devolved countries should be used as a framework for the costs and benefits section of Regulatory Impact Assessments.
42. As a result, these assessments are sometimes carried out as part of the Regulatory Impact Assessment. In the nature of these assessments, costs and benefits are difficult to quantify and are normally addressed through a descriptive approach. The Government believes that this contributes to the Regulatory Impact Assessment as a whole being seen as a descriptive rather than analytical tool.
43. The Government reaffirms the importance of these impact assessments, particularly the Race Equality Impact Assessment, however it believes that they should in future be free-standing rather than form part of the new Impact Assessment. This will enable the analytical nature of new Impact Assessment to be emphasised. All costs and benefits will continue to be represented in the Impact Assessment. When, for example, the Race Equality Impact Assessments identifies cost of benefit these should be included.
44. Environmental and social costs and benefits remain an important part of the new Impact Assessment. It is important for these benefits to be monetised or otherwise quantified wherever possible. The Government will continue to develop guidance on how best to do this.
45. However, there are some areas where it is not possible to quantify all of the costs or benefits of a proposal. In these instances the Summary Sheet provides an opportunity for policy makers to highlight non-monetised costs and benefits.
46. This is in line with the recent findings of the National Audit Office that wider *“issues were often not considered with rigour”*<sup>6</sup> and on considering sustainable development in Regulatory Impact Assessments, *“that few of them identified and analysed Sustainable Development to a sufficient level.”*<sup>7</sup>

**G. The Government invites views on increased emphasis on quantification of social and environmental costs and benefits as part of the proposed new Impact Assessment, including the de-coupling of Race Equality Assessments and assessments of environmental impacts.**

<sup>6</sup> *Evaluation of Regulatory Impact Assessments 2005-06* – [http://www.nao.org.uk/publications/nao\\_reports/05-06/05061305.pdf](http://www.nao.org.uk/publications/nao_reports/05-06/05061305.pdf)

<sup>7</sup> *Regulatory Impact Assessments and Sustainable Development*, Briefing for the Environmental Audit Committee, National Audit Office, May 2006.

### **CHANGING THE NAME “REGULATORY IMPACT ASSESSMENT” TO “IMPACT ASSESSMENT”**

47. The Government believes that the current name can be confusing. One of the Impact Assessment’s objectives is to encourage policymakers to consider alternative approaches to policy solutions and to continue to monitor and manage costs and benefits beyond legislation into implementation. Usage of the word ‘Regulatory’ in the current name is counter-productive. We do not expect this name change to cause confusion as it is widely used by the international regulation community, including the EC.

### **AN ON-LINE DATABASE PROVIDING A SINGLE POINT OF ACCESS TO IMPACT ASSESSMENTS**

48. Stakeholders have commented that it is difficult to find Impact Assessments on departmental websites. To support the use of Impact Assessments in wider stakeholder involvement in policy making, we propose to set up an on-line database that would provide a single point of access to Impact Assessments.

### **TRAINING AND SUPPORT**

49. To realise the benefits of the proposed approach to Impact Assessments, the Better Regulation Executive will work with departmental stakeholders to develop high quality training for policy makers and analysts and ongoing practical support for those involved in developing policy and hence using Impact Assessments.

## Conclusion

50. The three key objectives of the changes proposed are to ensure that Impact Assessments are transparent, carried out at all stages in the policy making cycle and more focussed on robust cost/benefit analysis. Government has committed to one of the most radical programmes of regulatory reform in the world and a revised Impact Assessment will help ensure that it can be delivered.
51. The key changes proposed are:
- A one page Summary Sheet – to make the Impact Assessment easier to read, clearer, more transparent, more accountable and more open to scrutiny and external challenge.
  - Shorter guidance – cutting the current guidance down from 65 pages to provide policy makers and external stakeholders with a quick guide.
  - No requirement to have three policy options – to ensure that genuine policy options are presented.
  - A new declaration from Departmental Chief Economists – to help improve the quality of the analysis in Impact Assessments.
  - A focus on assessing the full range of impacts of policy options.
  - Decoupling other Assessments which are difficult to quantify, in order to emphasise the analytical nature of the new Impact Assessment, while reaffirming the importance of such assessments.
  - Changing the name to Impact Assessment
52. Government has proposed these changes to improve Impact Assessments so that they:
- Start earlier and finish later in the policy development cycle;
  - Contain high quality analytical information that can properly inform government policy makers and wider stakeholders of the potential impact of policy proposals;
  - Present transparent information that can help ensure that external stakeholders can help Government get the estimated costs and benefits right.

**If you have any suggestions that will help ensure that the Impact Assessment can deliver these outcomes, or comments on the proposed changes, then we are keen to hear from you.**

## The Consultation

53. The Government wishes to consult individuals and organisations about the proposed changes to the Regulatory Impact Assessment during the 12 weeks from 24 July to 16 October 2006.
54. This document and the consultation process has been planned to adhere to the Code of Practice on Consultation issued by the Cabinet Office and is in line with the six consultation criteria, which are:
  - I. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
  - II. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
  - III. Ensure that your consultation is clear, concise and widely accessible.
  - IV. Give feedback regarding the responses received and how the consultation process influenced the policy.
  - V. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
  - VI. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.
55. Electronic versions of this document and the questionnaire for responses (Annex C) can be found at **[www.cabinetoffice.gov.uk/regulation](http://www.cabinetoffice.gov.uk/regulation)**.
56. You can also contact us via email at **[RIAconsultation@cabinet-office.x.gsi.gov.uk](mailto:RIAconsultation@cabinet-office.x.gsi.gov.uk)**
57. We are able to supply copies of this consultation document in alternative formats (such as larger print or Braille) on request.
58. Following consultation, the Government intends to consider responses and make final proposals in autumn 2006. A summary of responses to the consultation will also be published.
59. Please send your responses to this consultation by 16 October 2006 to:

Email: [RIAconsultation@cabinet-office.x.gsi.gov.uk](mailto:RIAconsultation@cabinet-office.x.gsi.gov.uk)

Address: RIA Consultation, Better Regulation Executive, 4th Floor, 22 Whitehall, London, SW1A 2WH
60. Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions, when they respond.
61. The information you send us may need to be passed to colleagues within the Cabinet Office or other Government departments and may be published in full or in a summary of responses received in response to this consultation.

62. All information in responses, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004). If you want your response to remain confidential, you should explain why confidentiality is necessary and your request will be acceded to only if it is appropriate in all the circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department. Contributions made to the review will be anonymised if they are quoted.
63. Individual contributions will not be acknowledged unless specifically requested.
64. Your opinions are valuable to us. Thank you for taking the time to read this document and respond.
65. If you have comments or complaints about the consultation process itself, please contact Ian Ascough in the Better Regulation Executive: [ian.ascough@cabinet-office.x.gsi.gov.uk](mailto:ian.ascough@cabinet-office.x.gsi.gov.uk)

## Annex A – Impact Assessment Cover Sheet

<b>Department</b>	<b>Impact Assessment of...</b>	
<b>Stage</b>	<b>Version #</b> dd/mm/yy	<b>Related Publications</b> <i>General Markets White Paper</i>

Available to view or download at: [www.](http://www.)

Contact name for enquiries:

Contact telephone number:

### Summary [250 words maximum]

- Briefly summarise the proposal's purpose and intended effect, noting any significant or unique aspects of the intervention.
- Say what the expected monetary benefit will be for the Government's recommended option (in brackets if negative).

### [Chief Economist's] Sign-off

I have read the Impact Assessment and I am content the evidence base supports the proposed costs, benefits and impact of the policy options.

Signed by the [Chief Economist]:

Date:

### Ministerial Sign-off

I have read the Impact Assessment and I am satisfied that the benefits justify the costs.

Signed by the responsible Minister:

Date:

## Policy Option

Net Present Value of option				£
Benefits	Citizens	Public Sector	Private & Voluntary	Total
Current (No Action)	£5m	0	0	£5m
One-off Benefits				
Annual Benefits	<b>£10-£15m</b>	<b>0</b>	<b>0</b>	<b>£10-£15m</b>
Non-monetary benefits	Improved financial access and quality of service			
Annual Costs	Citizens	Public Sector	Private & Voluntary	Total
Current (No Action)	0	0	£7m	£7m
New Administrative	0	0	£1m	£1m
New Policy	0	0	£8m	£8m
New Annual Costs	<b>0</b>	<b>0</b>	<b>£9m</b>	<b>£9m</b>
Non-monetary costs				
Annual Regulatory Benefit (in brackets if negative)				£1-£6m
One-off Costs	Citizens	Public Sector	Private & Voluntary	Total
New Administrative	0	£0.5m	0	£5m
New Policy	0	0	0	0
New Transitional Costs	<b>0</b>	<b>£0.5m</b>	<b>0</b>	<b>£0.5m</b>
Which business sectors/organisations are impacted?				<i>Banks, Building Societies</i>
What's the average pa cost for organisations?				<i>£5,000</i>
What's the average pa cost for a representative small organisation?				<i>N/A</i>
Will this prevent, restrict or distort competition?				<i>No</i>
Will there be any disproportionate impacts? On whom?				<i>No</i>
Does the policy comply with sustainable development principles?				<i>Yes</i>
Who will enforce this?				<i>FSA</i>
What's the average pa cost for enforcement?				<i>£1m</i>
To what extent does enforcement comply with Hampton principles?				<i>Low/Medium/High</i>
Will implementation go beyond minimum EU requirements?				<i>N/A</i>
Is a sunset clause included? If so, when?				<i>Yes. 10 years</i>
What is the average pa value of the proposed offsetting measure?				<i>£250,000</i>
When will you review the policy to establish:				<i>December 2007</i>
<ul style="list-style-type: none"> <li>● The actual costs and benefits?</li> <li>● Whether it has achieved the desired outcomes?</li> </ul>				

## Evidence Base

*[Detailed narrative and analysis underpinning this policy option]*

## Annex B – Draft Impact Assessment Guidance

### What is an Impact Assessment?

An Impact Assessment is a tool to assess both the positive and negative effects of proposed policy changes on the public, private and third sectors.

Impact Assessments are applicable for all Government interventions regardless of source: domestic or international. Their preparation and publication ensures that those affected by Government intervention understand how and to what extent new policies will impact on them and have a chance to comment on the estimation of costs and benefits, and any unintended consequences.

As Government aims to regulate only when necessary and since most policy objectives can be achieved through a range of options, Government's aim is to identify the policy option or options that best achieve its objectives while minimising costs and burdens.

### What triggers the need for an Impact Assessment?

Any proposal which imposes or reduces costs on businesses, the third sector, or the public sector requires an Impact Assessment. This means an Impact Assessment needs to be completed for all forms of intervention including primary or secondary legislation as well as codes of practice or guidance etc – wherever the department or a regulator considers that the effect will be to increase or decrease costs. This includes proposals which encourage self-regulation or opt-in regulation.

In relation to the public or third sectors, Departments must also produce Impact Assessments for proposals that are not regulatory in source, but nevertheless impose costs on those delivering public services. For example, changes to reporting requirements, revisions to criteria by which funding is released and imposition of new targets could all have an impact on costs which should be assessed.

Departments must also produce an Impact Assessment when there is no overall net change but some kind of redistribution (such as in cases where there is an exchange or transfer of costs and benefits) or where there is a change in administrative costs.

You also need to produce an Impact Assessment when seeking collective agreement for UK negotiating positions on EU proposals, and also when submitting bids for primary legislation to the Legislative Programme Cabinet Committee.

An Impact Assessment is **not** required where policy changes will not lead to costs or savings for business, charities, voluntary organisations, regulators and citizens. Nor are they required where increases in statutory fees are covered by a predetermined formula such as the rate of inflation. Impact Assessments are also not required for taxation.

### When, and how often, do I need to produce an Impact Assessment?

The Impact Assessment should be a living document – which will need to be revised a number of times as information about the likely costs or benefits becomes clearer. In the early phase of policy making there are likely to be a number of options and departments should produce an Impact Assessment for each of these – even where the information is somewhat rudimentary.

Following public consultation, when policy options become clearer, the Impact Assessment should start to focus on the costs and benefits of the preferred option. It is important that departments and regulators revise their Impact Assessment on every occasion that they make decisions which impact on the actual costs and benefits – this will often include finalising guidance on how the policy will be implemented or changes in the procedures of enforcement organisations. The or last version of the Impact Assessment should be completed once the actual costs and benefits of the proposal are clear – i.e. after it has been implemented.

Whenever Government policy proposals are made public (or the details of implementation which impact on the likely costs and benefits), it is essential that an Impact Assessment is published alongside them. This does not include independent reviews which are advising the Government, but does apply to any Government response.

All new proposals bearing on business should be timed to commence on one of the following Common Commencement Dates: 6 April and 1 October. Guidance for business should be available 12 working weeks before a regulation is implemented.

**All public versions need to be signed off by your Chief Economist and Minister.**

Regulators and enforcement organisations should also publish Impact Assessments whenever the criteria are met – although these do not need to be signed by a Minister.

Points at which versions must be made public include:

- When you take proposals out to consultation;
- Immediately prior to implementation of any regulatory proposal or measure;
- After the regulation has been implemented.

This means Impact Assessments must be published alongside any Government papers where options or measures that will result in regulatory burdens are included.

To increase transparency, the Government is setting up a new area on the internet where all published Impact Assessments will be available. Your Better Regulation Unit can post directly to this area, or you can email your impact assessment to the Regulatory Reform Team in the BRE who can post it for you. If you do not have a contact point, you should email [impactassessments@cabinet-office.x.gsi.gov.uk](mailto:impactassessments@cabinet-office.x.gsi.gov.uk).

## What do I need to cover in an Impact Assessment?

One Impact Assessment should support each policy proposal. There are three components of the Impact Assessment:

- The **Cover Page** captures key information about the Impact Assessment and the proposal to which it relates.
- A **Summary Page** which captures key data and information on each of the policy options you are proposing and requires you to answer key questions about benefits, costs, and effects.
- An **Evidence Base** where you set out the evidence for the answers you gave on the Summary Page.

## What do I need to include on the Cover Page?

You need to include:

- The name of your department and a title for the policy option or proposal which the Impact Assessment relates to (eg self regulation scheme for dairy farmers).
- The stage of policy development – eg initial consultation, implementation phase or post implementation review.
- The version number of the Impact Assessment and the date on which it is prepared.
- Key related publications which might make it easier for the reader to understand the policy.
- A weblink where the document can be accessed and a contact name and telephone number for queries.
- A summary in not more than 250 words of the proposal.

You should also include two declarations for publicly available Impact Assessments – one from your departmental Chief Economist regarding the evidence base for the policy option. The second declaration should be from your Minister certifying that the benefits justify the costs. If you do not have a Minister, then this declaration should be signed by your Chair or Chief Executive.

## What do I need to address on the Summary Page?

At the top, you should repeat the title of the policy option or proposal which the Impact Assessment relates to.

### ***Costs and Benefits***

The bulk of the information on the Summary Page captures the likely costs and benefits and how they fall.

Departments and enforcement organisations should estimate the costs and benefits for each proposed option compared with taking no action. You should use appropriate option appraisal tools consistent with Treasury guidance.<sup>7</sup> In many cases you will need to use a discounted cash flow analysis to calculate the net present value of the option compared with taking no action. While the Summary Page requires a different and simpler presentation of the key figures, the starting point for both analyses will be a year-by-year estimate of the costs and benefits of the option over its lifetime.

You should include environmental and social as well as economic costs and benefits and costs falling on other Government Departments (such as the costs of the judicial system, of legal aid or the burden being placed on Local Authorities). In carrying out the options appraisal and completing the Summary Page, you should monetise costs and benefits wherever possible, and where relevant demonstrate their incidence, for example, by size of business. There are some instances where it may

<sup>7</sup> See the Green Book: appraisal and evaluation in central Government.

prove impossible to arrive at monetary estimates for benefits; in such instances you should seek to quantify the benefits and if that proves impossible, you should describe the benefits qualitatively. For further guidance on monetising costs and benefits, see the Impact Assessment Toolkit. The costs and benefits on the Summary Page should normally be given in present day prices (i.e. an Impact Assessment carried out in 2006-07 should be in constant 2006-07 prices); however if this not feasible for any reason you should state clearly the year to which the price-basis relates.

In completing the Summary Page, costs and benefits should be presented on an annual basis after taking account of transition effects. Transitional costs and benefits should be itemised separately – see below. Beyond transitional costs and benefits, you should calculate the annual costs and benefits to be the average over the first 10 years following implementation. If there are longer-term costs and benefits that are not adequately captured here, you should note this and provide the details in the supporting evidence.

**No action:** You should include an estimate of how costs and benefits will change over time for the status quo – i.e. what would happen if Government did nothing in this area? These estimates will often be zero but there will be cases where maintaining current policies leads, for example, to costs increasing. You should set out estimates for each of three groups: Citizens (including individuals and the environment); the Public Sector (including central and local Government, schools, hospitals etc); and the Private and Third Sectors (including business, voluntary and community organisations). These should include, wherever possible, a quantification of the economic, social, technological, legal and environmental costs and benefits. These estimates form the baseline for the other estimates.

**New annual costs and benefits:** You should then estimate the likely costs and benefits associated with the proposal covered by the Impact Assessment.

**Administrative and Policy costs:** Administrative costs are those incurred in order to demonstrate compliance with the regulation, for example, form filling, keeping records or responding to information requests or inspections. Policy costs are all other costs – e.g. higher wages associated with an increase in the minimum wage. A reduction in either policy or administrative costs should be shown as a negative policy or administrative cost. Neither should be shown in the benefits section.

Departments have targets for the reduction of administrative costs – and the estimates in Impact Assessments will help establish whether they are being met. For more information on the definition of administrative and policy costs, and how to estimate them, see the Impact Assessment Toolkit.

**Annual regulatory benefit:** You should subtract the annual steady-state costs from the annual steady state benefits (in brackets if negative). Where there are ranges in both estimates, then you should set out the range of possible annual regulatory benefit.

**Transitional costs:** You should estimate the likely costs of change associated with the proposal and where they fall. These include the costs of training staff, or the initial costs of migrating to a new licensing regime. In doing so, you should split out administrative and policy costs.

You should not include any of your detailed workings out on the Summary Page – but all estimates on the sheet must be backed by evidence in the Evidence Base. You must allow for optimism bias as specified in the Green Book.

## ***Other questions***

You are also required to answer a number of other questions on the Summary Page.

1. **Business sectors/organisations affected** – identify the key business sectors or organisations on which this policy will have a significant impact. If it is a policy that will impact on all sectors, such as employment legislation, then say so. If it is a policy that will impact on certain sub-sectors, such as teachers, then say this instead. You may want to use this list of SIC codes to help identify which sectors are affected. See the Impact Assessment Toolkit
2. **Average annual costs for affected organisations** – where you need to provide the annual cost for a typical organisation affected and for a representative small business or third sector organisation. You will need to describe in your evidence base what kind of organisation you think is typical.

There are a number of different definitions of small organisation – you do not need to use any of these, but instead you should think about the characteristics of the representative small organisation affected by your proposal and make sure the Evidence Base explains this. Completing the Small Firms Impact Test can help you determine the likely cost of different policy options on a representative small business or third sector organisation. See the Impact Assessment Toolkit for further information.

3. **Competition effects** – identify whether the policy option will make it more difficult for new or existing businesses to enter the market, or whether it will decrease competitive pressures in the market. Completing the Competition Assessment can help you determine the effect of different policy options on competition. See the Impact Assessment Toolkit
4. **Disproportionate impacts** – identify whether the policy option will result in any disproportionate impacts on different types or sizes of business. For example, where costs on a particular sector of the economy represent a large proportion of its turnover. See the Impact Assessment Toolkit.
5. **Sustainable development** – identify whether the policy option will underpin sustainable development principles; achieving a strong, healthy and just society within environmental limits. You should include implications for future generations, social impacts such as on health and racial equality, and environmental impacts including greenhouse gas emissions, water use and biodiversity. Impacts should be costed where possible. See the Impact Assessment Toolkit.
6. **Enforcement arrangements and costs** – say which organisation(s) will enforce the new proposals, how much they estimate it will cost them to do so on an annual basis, and the extent to which you think the proposed approach is in line with Hampton principles for enforcement and inspection. In addition, you should be clear as to whether it is an existing organisation, such as a Local Authority, or a new organisation. See the Impact Assessment Toolkit which sets out Hampton principles.

7. **Implementation of EU Directives** – say whether your proposal goes beyond the minimum requirements of the EU Directive<sup>8</sup>. If Yes, you will need to make the case for this in the Evidence Base.
8. **Sunset clauses** – indicate whether you are proposing that a sunset clause should apply – and where it only applies to part of the policy, you should set this out.
9. **Value of proposed offsetting measures** – quantify the value of the offsetting measure you are proposing. Departments must actively look for opportunities to simplify or remove existing requirements when they want to introduce new regulation. You will need to complete Impact Assessments for these – and your Evidence Base should explain where they can be accessed.
10. **Timing of post-implementation review** – specify the date you will establish the actual cost of your policy after implementation, and also the date on which you will establish whether the policy is having the intended effect.

### What do I need to cover in the Evidence Base?

For each of the policy options, you need to include a mix of narrative, analyses (using spreadsheets where relevant), and independent research that support the answers you gave on the Summary Page.

There is significant discretion for departments and regulators as to how you set out the Evidence Base. The key is that the Evidence Base should set out **clearly** the basis for all the information on the Summary Page. This information must stand up to external scrutiny – ie it must be accessible to the lay reader, and external parties with an interest must be able to contest the data. It should be consistent with the Treasury’s Green Book guidance on appraisal and evaluation.

The Evidence Base should address any risks or uncertainties associated with the policy option.

### Do I need to do other Impact Assessments too?

The Government has developed a range of tests and assessments, for example on health and sustainable development, to ensure that policy development is joined up and that individual policy proposals take account of the Government’s priority objectives. Cabinet Office guidance:

[http://www.cabinetoffice.gov.uk/secretariats/cabinet\\_committee\\_business/handling/checklist.asp](http://www.cabinetoffice.gov.uk/secretariats/cabinet_committee_business/handling/checklist.asp)

sets out the range of issues which departments must consider and, where appropriate, cover in papers for Ministerial decision. In many cases it will be appropriate to provide the relevant assessments for public scrutiny alongside consultation documents and legislative proposals.

<sup>8</sup> For guidance on how to implement European directives effectively, see <http://www.cabinetoffice.gov.uk/regulation/documents/pdf/europe/tpguide.pdf>

The inclusion of environmental and social costs and benefits as well as economic costs and benefits and costs falling on other Government Departments remains an important part of the new Impact Assessment. It is important for these benefits to be monetised or otherwise quantified wherever possible. See the Impact Assessment Toolkit for specific guidance on the range of impact assessments and the circumstances in which they should be completed.

### **Where can I get more information about completing an Impact Assessment?**

You should first talk to your departmental Better Regulation Unit. You can also seek advice from the Better Regulation Executive – a list of contacts is available at the Impact Assessment Toolkit.

## Annex C – Consultation Questions

- A. Do you agree with the tests of success, outlined earlier in the document, for Regulatory Impact Assessments?
- B. Is the revised Impact Assessment easier to read, more transparent and more open to scrutiny and external challenge? How do you think it could be improved?
- C. Does the proposed Summary Sheet capture the key information required to minimise regulatory burdens on the private, public and third sectors?
- D. Do you have any comments on the proposed Impact Assessment guidance at Annex B?
- E. Do you agree the requirement to use the Competition Assessment and the Small Firms Impact Test on a case by case basis, is sufficient to ensure these impacts will be adequately assessed where relevant?
- F. Do you agree that including a signed declaration by the Departmental Chief Economist and/or other senior members of the government's analytical community, will improve the quality of the analysis?
- G. The Government invites views on increased emphasis to quantify social and environmental costs and benefits as part of the proposed new Impact Assessment, including requiring stand-alone Race Equality Assessments and assessments of environmental impacts.

**If you have any suggestions that will help ensure that the Regulatory Impact Assessment can deliver these outcomes, or comments on the proposed changes, then we are keen to hear from you.**

Please send your responses to this consultation by 16 October 2006 to:

Email: [RIAconsultation@cabinet-office.x.gsi.gov.uk](mailto:RIAconsultation@cabinet-office.x.gsi.gov.uk)

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