



National Audit Office

**REPORT BY THE
COMPTROLLER AND
AUDITOR GENERAL**

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Assessing the Impact of Proposed New Policies

Summary

1 Impact Assessments assess the need for, and likely impact of, proposed government policies. They help policy makers think through and understand the consequences of proposed policy interventions; and enable government to weigh and present publicly the relevant evidence on the likely impacts of such interventions. Impact Assessments are required for all government interventions which affect the private sector and for interventions with costs of over £5 million affecting the public sector, including UK implementation of European Union directives and rulings.

2 In October 2009, the Department for Business, Innovation and Skills (the Department) reported that the estimated annual costs and benefits of Impact Assessments for new legislation enacted in 2008-09 was £13 billion and £24 billion respectively. One of the purposes of Impact Assessments is to bring proper scrutiny and discipline to the development of policy interventions, similar to that undertaken for direct government expenditure. Each Impact Assessment should consider the rationale for intervention, the options for achieving the policy objective, and the costs and benefits to government and society of each option. Robust analysis of costs and benefits is at the heart of quality Impact Assessments and key to their effectiveness in securing value for money from proposed policy interventions.

3 The Better Regulation Executive, situated in the Department, works with departments to improve the design of new regulations and to simplify and modernise existing regulations. Individual departments are responsible for the quality of their own Impact Assessments, while the Better Regulation Executive is responsible for promoting high quality Impact Assessments across government.

4 Following a recommendation by the Committee of Public Accounts in 2002,¹ since 2004, we have published five reports evaluating the Impact Assessments (prior to 2007, Regulatory Impact Assessments) produced by departments. We vary the exact scope of the report each year, providing breadth and depth of analysis across the body of work, whilst also considering departmental culture.

5 The purpose of this year's report is to assess the quality of analysis in Impact Assessments. We also assess departments' capability to produce robust analysis and their internal processes for assuring the quality of Impact Assessments. We reviewed a randomly selected sample of 50 of the 196 final Impact Assessments for new legislation in 2008-09, examining the information and analysis in the published Impact Assessment as a stand alone document. Appendix One sets out our methodology.

¹ HC Committee of Public Accounts, *Better Regulation – Making Good Use of Regulatory Impact Assessments*, Twenty-Sixth Report of Session 2001–02, HC 682, April 2002.

Key findings

On the quality of analysis in Impact Assessments

6 As we reported in previous reports, the quality of analysis in Impact Assessments is still varied. Our results showed marked variation in the level of description, depth of analysis and extent of quantification of costs and benefits.

7 Option development was the strongest area of performance but is often still limited. Almost half of the assessments we reviewed considered only one option, or one option plus ‘do nothing’, at any point during the policy development process.

8 Impact Assessments of proposals originating from the European Union were not often prepared early enough. In cases involving decisions made at the European Union level, guidance from the Better Regulation Executive recommends that Impact Assessments should be carried out to inform negotiations. However, this had been done in only five of the nineteen cases in our sample that involved such decisions.

9 The use of quantification in analysis for Impact Assessments is improving, with 86 per cent of those we reviewed containing some quantification of the costs of their preferred option and 60 per cent containing some quantification of benefits. However, ten had not monetised either costs or benefits of the preferred option and only 22 per cent had some quantification of the costs of alternative options. The depth of analysis and the types of assertion made vary significantly and many Impact Assessments, even larger ones, did not fully consider all likely effects of the policy change.

10 We found a number of technical deficiencies in the Impact Assessment documents. Problems included inconsistency in recording costs and in the presentation of costs and benefits as either recurrent annual figures, or net present values; incorrect treatment of transfers; and incomplete information. Lack of international comparisons was another weakness. Where available, this is a valuable source of evidence, and for European Union derived legislation provides a potential check on ‘gold-plating’. In addition, there was wide variation in the extent to which sources were identified for evidence used in Impact Assessments, and in the recognition of uncertainty.

11 Overall, we assessed nine of the fifty Impact Assessments in our sample (18 per cent) as ‘Red’ (Section two defines our criteria for a ‘Red’ rating), **because the Impact Assessment may not provide sufficient evidence to convince the reader that the best regulatory option had been chosen.** The departments involved were: the Departments for Business, Innovation and Skills; Communities and Local Government; Transport; Work and Pensions; Health; and the Home Office. In a number of cases information had been omitted because departments had considered it too sensitive to publish, for example, because it concerned international relations and market sensitive issues. A further 27 (54 per cent) contained weaknesses causing them to fail some of our quality tests. Only 14 (28 per cent) fully met the quality tests. The absence of quantification in some cases means that extrapolation across the whole population is not possible.

On departments' processes for producing Impact Assessments

12 Departments have increased the resources and analytical expertise they allocate to preparing Impact Assessments. Nine of eleven departments we surveyed produced guidance for their staff on Impact Assessments. Many also offer some training, with half of policy staff involved in Impact Assessments receiving specific training, but a third of staff in departments' Better Regulation Units (whose role is to coordinate and support their department's work on improving regulation) had not received specific training.

13 Guidance to staff is generally good and widely used. Eighty five per cent of staff reported that they found existing Treasury and Better Regulation Executive guidance useful in developing Impact Assessments, and internal departmental guidance was valuable in linking generic requirements to specific policy contexts. However, around a third of policy staff found it technically complex, while a similar proportion of analysts reported technical gaps or lack of clarity. In March 2010, the Better Regulation Executive carried out a major update to its guidance to departments and the standard template departments use to summarise the results of Impact Assessments. The updated guidance seeks to address the different needs of policy staff and analysts.

14 Scrutiny processes have improved since 2008. Departments have adopted different approaches to internal scrutiny, but review by Chief Economists was largely considered to add value and peer reviews were generally well received by staff. One department – the Department for the Environment, Food and Rural Affairs – has also established a process for reporting on the quality of its Impact Assessments to its senior management. The Regulatory Policy Committee was set up by the Department in 2009 to comment on the quality of Impact Assessments, and strengthen external scrutiny. Some concerns remain that the value of scrutiny is sometimes undermined by its application too late in the policy development process.

15 Impact Assessments, and consultations using them, have altered the course of some policy development, but there is scope for them to do more. If Impact Assessments are to influence regulatory decisions effectively, they need to perform a role analogous to that of business cases in relation to spending decisions. The value of Impact Assessments will also be greatest if they are used not just to assess the case for a proposed course of action, but also as a baseline for monitoring and controlling implementation so as to maximise net benefits, and subsequently evaluating the actual impact of policies once implemented.

16 Only half of policy staff felt Impact Assessments were useful in the policy process. Those staff that felt Impact Assessments were not useful in the policy process commented that they were burdensome or conducted largely outside of, or after, the policy development process. Where staff found Impact Assessments useful, they reported benefits including greater clarity and more logical structuring in the consideration of the policy problem and possible solutions.

17 No information is available on the cost of producing Impact Assessments.

We have seen some evidence of a proportionate approach being taken by departments, with better analysis for larger Impact Assessments. There were complaints from staff that the Better Regulation Executive provides insufficient guidance on how much analysis to carry out in particular cases, but the Better Regulation Executive believes that it is for departments to justify the level of analysis they carry out.

Conclusion on value for money

18 Partly in response to our previous reports, there has been an improvement in the proportion of Impact Assessments that are quantifying the costs of their preferred option and an indication of a proportionate approach to allocating resources. Some Impact Assessments are of a high standard but there remains wide variation between the best and worst, and many still do not suitably develop different policy options or support their analysis of costs and benefits with robust evidence. In addition, omission of information, technical flaws, and inconsistencies in the calculation and reporting of estimated costs and benefits, mean that Impact Assessments do not yet consistently provide a sound basis for assessing the relative merits of different policy proposals.

19 Impact Assessments are not being used consistently across departments to contribute to policy development, implementation and evaluation. The best Impact Assessments are providing valuable information to help Parliament and the public judge the merits of proposals, but further improvement in the quality and use made of Impact Assessments is needed fully to achieve value for money. Despite the improvements in scrutiny noted in paragraph 14, the challenge needed to ensure that proposed regulatory interventions are making the optimal use of resources is weak.

Recommendations

20 Our recommendations aim to improve value for money through supporting better quality analysis in Impact Assessments and improving the use made of Impact Assessments in the broader policy process. We would like to see progress made against these recommendations during 2010-11.

a **There is scope to develop the role of Impact Assessments as a baseline for monitoring and controlling policy implementation, and new guidance by the Better Regulation Executive in March 2010 is intended to increase the quality of planning of post implementation review.** Departments' plans should include monitoring of enough data to enable significant variations from expected results to be identified early, and specify review periods. Impact Assessments should also recognise that policy decisions normally contain significant elements of uncertainty as to what implementation will involve. Impact Assessments should not imply false certainty over estimated costs and benefits, and the level of uncertainty should inform decisions on how to proceed.

- b Impact Assessments for interventions originating from European Union decisions are often produced only after a decision has been made at European Union level. This may limit the scope at national level to redefine the policy problem or develop implementation options.** Departments should produce Impact Assessments as early as possible in the process, and certainly by the negotiation stage, to define the problem and identify a range of evidence-based options while there is still an opportunity to influence the collective European Union decision. At the implementation stages, Impact Assessments involving European Union decisions should always include either an analysis of how other countries are planning to implement the decision, or an explanation of why this analysis has been omitted.
- c Impact Assessments continue to omit significant information, contain technical errors and are inconsistent in practice and presentation.** To improve the quality of Impact Assessments:
- In completing final Impact Assessments, departments should include summaries of matters decided at an earlier stage of policy development. For example, where the main choice between implementation options has been made through an initial Impact Assessment published for consultation, subsequent Impact Assessments should provide sufficient explanation for the reader to understand why the selected option has been chosen.
 - To help departments assess how much analysis is proportionate, the Better Regulation Executive should publish examples of good practice by departments.
 - Departments' Better Regulation Units should place greater emphasis on challenging the accuracy and completeness of information contained in Impact Assessments.
 - The review by Better Regulation Units should be supported by sample checks by the Better Regulation Executive or the Regulatory Policy Committee.
 - Chief Economist reviews should be supplemented with a formal requirement for peer review by economists, statisticians and research staff at an earlier stage.
 - Departments should keep under review at a senior level their compliance with the Better Regulation Executive's guidance and the standard of their Impact Assessments.
- d The establishment of the Regulatory Policy Committee provides an opportunity to learn lessons from its scrutiny of Impact Assessments.** Once sufficient material has been reviewed by that Committee, the Better Regulation Executive should feed back lessons learnt to departments.