



National Audit Office

Delivering High Quality Impact Assessments

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL | HC 128 Session 2008-2009 | 30 January 2009

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National Audit Office

Delivering High Quality Impact Assessments

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SUMMARY

1 The purpose of Impact Assessments (IAs) is to assess the need for, and likely impact of, proposed regulations. Departments typically introduce over 300 new or amended regulatory proposals each year. The Government has given a commitment to improve the design of new regulations and the Better Regulation Executive (BRE) works with departments and regulators to establish whether new regulation is necessary.

Impact Assessments help policy makers understand the consequences of proposed regulation and consider how to achieve the desired outcomes while minimising costs. Impact Assessments are also used to seek the views of stakeholders and communicate the policy decision. They are required for all Government interventions that impose or reduce costs on businesses, the third sector or the public sector.

Impact Assessments

The Government aims to intervene only when necessary and, where it does, to identify proposals that achieve policy objectives while minimising costs and burdens. Impact Assessments seek to ensure that those with an interest can understand and challenge:

- why the Government is proposing to intervene;
- how and to what extent new policies may impact on them; and
- the estimated costs and benefits of proposed and actual measures.

In 2007 the Better Regulation Executive introduced a revised Impact Assessment (IA) process. Our examination reviews IAs, which replaced Regulatory Impact Assessments, from 2006 and 2008. As the fundamental purpose of IAs has remained the same, we have used the term 'Impact Assessment' throughout the Report to refer to assessments made both before and after the introduction of the revised process.

2 During 2007, in response to the findings of previous NAO reports, the BRE phased in new arrangements for preparing Impact Assessments, including a new template, guidance and training. The changes aimed to improve the quality and consistency of IAs. We evaluated the impact of these changes by comparing the 'new style' IAs published in the first six months of 2008 with the standard of IAs published in 2006. Part 2 sets out the results of this analysis. Our 2007 report also highlighted the importance of robust scrutiny processes in the development of high quality IAs. We therefore examined whether departments had established effective scrutiny arrangements to encourage the development of IAs that are evidence-based, influential and fulfil their intended objectives (Part 3). Full details of the Report's scope and methodology are provided in Appendix 1.

Key findings

The quality of Impact Assessments

3 The new IA process has helped to improve the standard of IAs. The introduction of a new template, guidance and training has improved the clarity of presentation in IAs. As a result, there is greater consistency in providing the requested information, for example on the proposed timing of post-implementation review. There was also a greater incidence of quantification: the proportion of IAs which quantified costs increased from 56 per cent in 2006 to 67 per cent in 2008, and the proportion that quantified benefits increased from 40 per cent to 60 per cent.

4 The standard of IAs still varied widely. There were marked differences between the best and worst IAs, and variations in quality between different elements within individual IAs. The strengths included the statement of the policy problem; the use of consultation; and the clarity of recommendations. The analysis of costs and benefits of a range of options was the weakest area in 2008: whilst more final IAs quantified the costs and benefits of the preferred option, only 20 per cent presented the results of an evaluation of a range of options – although it is possible that other options were considered, and dismissed, earlier in the development of the IA. The consideration of implementation and enforcement issues, which was the weakest area in 2006, has shown an improvement. Some 80 per cent of IAs stated who will monitor and enforce the new regulation, although there was still insufficient analysis of compliance and enforcement issues; for example, only 20 per cent of IAs included or referenced a detailed implementation plan.

5 There was insufficient analysis of evidence in the weaker IAs. In some cases, the new requirements have led policy officials to provide only the information specifically requested rather than present an analysis of a range of regulatory proposals. There is evidence of a wider use of economic techniques and a greater involvement of specialists in an increasing number of IAs, but many still contained a superficial evidence base or standard of analysis. The level of analysis should be proportionate to the scale of the problem under consideration but 60 per cent of IAs included £0 for either the costs or benefits, which may be justifiable in some cases but approximately one fifth provided no justification for this assessment.

The effectiveness of scrutiny arrangements

6 The BRE's introduction of a new IA process provided a catalyst for change and departments have strengthened scrutiny processes. Departments have increased the frequency of review and the use of economists in developing IAs, including a more prominent role for Chief Economists in reviewing the standard of analysis. The majority of departments have introduced formal scrutiny processes and are making greater use of peer review and challenge panels. These changes are contributing to the development of stronger scrutiny arrangements. Some departments, such as BERR, have gone further than others in seeking to embed challenge into the development of IAs. There are also variations in the thresholds used for the scrutiny of IAs and the extent to which scrutiny processes are applied in practice.

7 The BRE undertakes less real-time external challenge to the development of IAs than its predecessor body. The BRE believes that departments should have primary responsibility for the quality assurance of IAs. It seeks to engage with departments on the implementation of regulatory reform initiatives and more directly with policy officials in the early stages of development of regulatory proposals. Ten of the thirteen departments we surveyed, however, told us that the possibility of external scrutiny was a strong motivator for policy officials in developing IAs and nine departments believed that the BRE provides the most effective form of external scrutiny.

Conclusion on value for money

8 The BRE's introduction of a new IA process, and departments' steps to strengthen scrutiny arrangements, have improved the quality of published IAs in several respects. There is sharper presentation of results, better planning for post implementation review, and a greater incidence of quantification of costs and benefits. But there remains wide variation between the best and worst IAs, and fewer presented an analysis of the costs and benefits for a range of options or summarised an implementation plan. Further improvements in the quality of analysis and evidence are needed for IAs fully to play their part in helping to ensure that new regulations deliver the intended benefits in a cost-effective manner.

Recommendations

9 Good impact assessment is integral to better policy making and essential to achieving value for money. Our recommendations are intended to help departments improve the quality of IAs and embed them in policy formation.

For departments:

a There are still wide variations in the quality of IAs. Departmental Better Regulation Units should analyse the results of the NAO's examination of their IAs to understand their department's strengths and weaknesses; to determine what is driving this performance; and identify how to raise standards.

b Only 20 per cent of IAs included a detailed plan setting out how the proposed regulation would be implemented. The BRE's new IA process and departments' revised scrutiny arrangements focus on improving the standard of economic analysis. Departments should extend this effort to consider implementation and enforcement issues more prominently. They should improve the standard of implementation plans by providing more specific information on the costs of enforcement; the anticipated compliance issues; and the arrangements for post-implementation review.

c IAs do not differentiate sufficiently between the scale of regulatory intervention under consideration. IAs cover a wide range of policy proposals, in terms of size, origin and intention, and the level of analysis should be proportionate to the regulatory proposal. To help ensure resources are directed to the most significant regulatory proposals, departments should make an early judgement on the level and type of analysis expected in each specific case, the impact tests that are applicable and any requirement for expert support.

d Whilst more 2008 IAs quantified costs and benefits of the preferred option, only 20 per cent presented the results of an evaluation of a range of options. Departments should give full consideration to a range of options and conduct an appropriate level of analysis to inform the policy decision.

For the BRE:

e The prospect of external scrutiny is the most effective motivator for departments to produce high quality IAs. To improve the design of new regulations, the BRE and departments should bring external challenge to the development of regulations. In order to target poor performance in departments and raise the standards of IAs, and their use in policy formation, the BRE should:

- periodically review departmental approaches to producing IAs, with an assessment of the standard of a sample of IAs, to develop an understanding of their strengths and weaknesses; and
- where problems are identified in departmental approaches, hold more frequent meetings with departments to ensure that minimum standards of scrutiny are met; common criteria applied; and best practice disseminated.

f The new summary sheet has helped raise awareness and improve presentation but, in some cases, has led to a more superficial approach to producing IAs.

It is important, therefore, that the new template is used to summarise the analysis rather than become the IA itself. Before the introduction of regulatory budgets, the BRE should re-emphasise the need to focus on the evidence base in IAs and revise the guidance to better explain the role and use of the summary sheet. In particular, departments should:

- provide sufficient evidence to justify the inclusion of costs or benefits as £0;
- appraise fully a range of options for achieving the desired policy outcome; and
- ensure all sections of the summary sheet are completed.

PART ONE

The Role and Importance of Impact Assessments

1.1 This Part of the Report sets out the purpose of IAs; explains how the BRE has sought to raise the quality of IAs; and defines the aim and focus of this year's examination.

The role and purpose of Impact Assessments

1.2 The Government requires departments to consider carefully the impact of any new or amended regulation to ensure that the regulatory burden is kept to a minimum. Departments use IAs to challenge the need for the regulation and to identify the most cost-effective policy and method of implementation. They are an integral element of evidence-based policy making and a key strand of the regulatory reform agenda. They have three primary functions:

- as a continuous process to help policy-makers identify and evaluate the impacts that their regulatory policy proposals will have;
- as a tool to enable departments and Ministers to assess the impact of policy proposals, and make informed decisions on the proposed intervention; and
- to support consideration of regulatory proposals by stakeholders and Parliament.

1.3 IAs are required for all proposed regulatory interventions that impose, or reduce, costs on businesses or the third sector, and for any proposal affecting the public sector where costs are likely to exceed £5 million. They are required to consider a range of options, including non-regulatory options or self-regulation, to identify the approach that best achieves the policy objective while minimising costs. The preparation and publication of an IA also helps to ensure that those with an interest can understand and challenge the proposed intervention.

1.4 Departments undertake IAs for all forms of Government intervention, including primary and secondary legislation, codes of practice and guidance. The NAO reviewed 309 IAs published in 2006 and 171 published in the first six months of 2008 – following the compulsory introduction of the new process in November 2007. **Figure 1** provides a breakdown by department. We did not evaluate IAs produced in 2007 while the new system was becoming established. From April 2008, all published IAs are stored centrally in the BRE's Impact Assessment library.

1.5 The IAs covered departments' proposed policy interventions, both domestic and international, and included a diverse range of proposals, from relatively small issues, such as a proposed increase in MOT fees, to major interventions, such as the Childcare Act or the Mental Health Bill. The IAs also included a wide spectrum of policy interventions; including preparations for the control of foot and mouth outbreaks (DEFRA), revised policing powers (Home Office) and a variety of changes to tax legislation (HMRC). The IAs covered proposals to introduce or amend regulations to enhance consumer protections, such as improving food hygiene; to improve the business environment, as illustrated by proposals to amend the Companies Act; or provide environmental protections, including the natural environment and rural communities.

The BRE's role in raising the standard of Impact Assessments

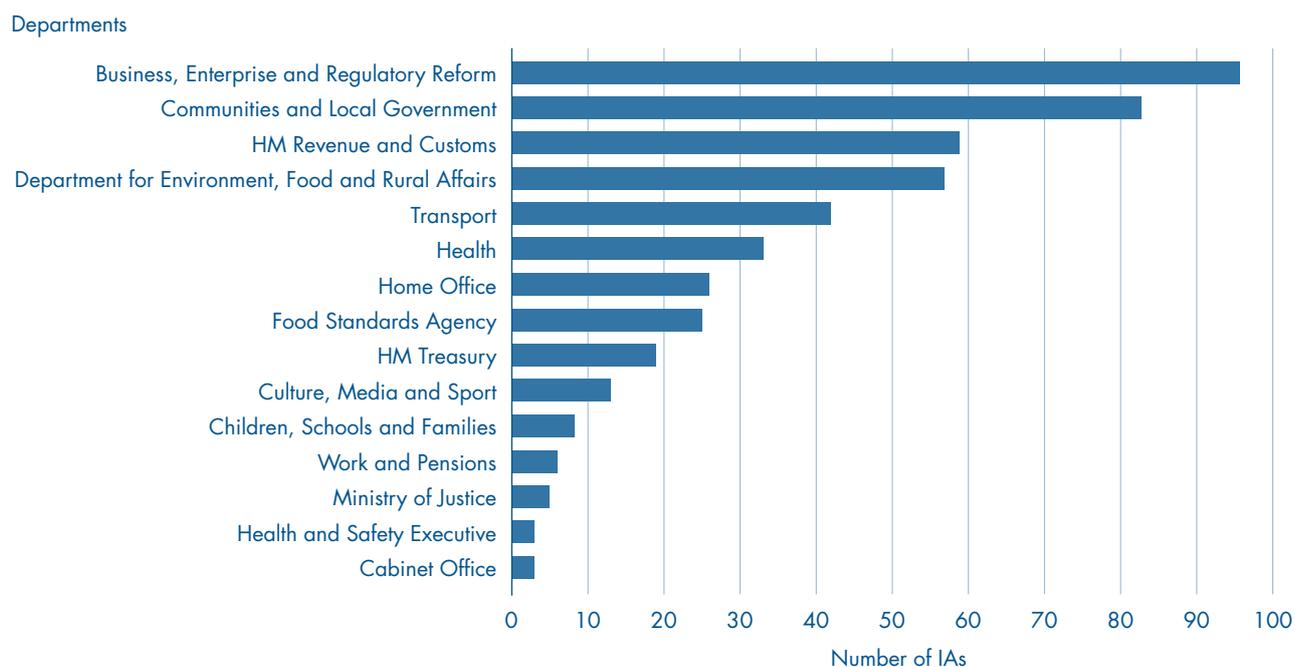
1.6 The BRE is responsible for coordinating the delivery of the regulatory reform agenda across government bodies. One of its aims is to improve the design of new regulations (**Box 1**). The BRE therefore works across Government to assess carefully the impact of any new regulation in order to ensure that it is necessary and is likely to achieve its intended objectives while minimising costs.¹

¹ Enterprise: unlocking the UK's talent. BERR and Treasury. March 2008.

1.7 Using evidence from previous NAO reports, the BRE recognised the weaknesses in IAs, particularly the lack of quantification of costs and benefits. In 2007 the BRE phased in revised guidance, a new template for IAs and training for departments. The key changes are set out in **Box 2**. Its objectives were to:

- embed IA at the heart of policy-making;
- improve the quality of economic and other analysis that underpins policy-making; and
- increase the transparency of the analysis underpinning policy options.

1 A breakdown of IAs in the NAO sample (2006 and 2008), by department



Source: National Audit Office sample of IAs

BOX 1

The BRE's aims for regulatory reform

- To work with departments and regulators to improve the design of new regulations and how they are communicated.
- To work with departments and regulators to simplify and modernise existing regulations.
- To work with departments and regulators (including local authorities) to change attitudes and approaches to regulation to become more risk-based.

Source: BRE website www.bre.berr.gov.uk. March 2008

BOX 2

The BRE's revised IA process

The BRE phased in the following changes during 2007:

- renaming "Regulatory Impact Assessment" (RIA) as "Impact Assessment" (IA);
- a new format for IAs which includes a template that summarises the key information from the rest of the IA;
- a strengthened Ministerial declaration – including the recommendation for an increased role for Chief Economists to sign off that economic analysis is robust;
- revised guidance for policy officials on the new requirements; and
- the provision of training for departments, including an online training module.

Source: Better Regulation Executive

1.8 While the fundamental purpose of IAs – to challenge the need for new regulations and identify the most cost-effective approach – has remained the same, the changes were intended to lead to improvements in the standard of analysis and improve the consistency of presentation. IAs have also been expanded to explicitly calculate the changes in administrative burdens for new or amended regulations. The new process was phased in from April 2007 and became compulsory from November 2007.

1.9 Two Government objectives increase the importance of departments achieving high standards of analysis in IAs. First, the Department for Business, Enterprise and Regulatory Reform has an indicator in its PSA targets measuring the ratio of benefits to costs of new regulations. Second, the use of IAs is an integral element in the system of regulatory budgets that the Government is consulting on introducing in 2009-10. Each is explained further below.

The role of IAs in the Government's PSA target

1.10 In April 2008 the Government introduced a new PSA target focusing on the conditions for business success, which included an indicator measuring the ratio of benefits to costs of new regulations (**Box 3**). The ratio will provide a measure over time of whether the net benefit of regulations is increasing. IAs from departments, the HSE, Food Standards Agency and Forestry Commission will be included in the calculation of the ratio. HMRC and independent regulators, such as the Civil Aviation Authority, Ofcom and Financial Services Authority, are not included.

1.11 The data for calculating the ratio will be taken from IAs. Our previous findings on the weaknesses in cost-benefit analysis raised questions over the robustness of data. The introduction of the revised IA process has encouraged quantification and greater consistency in reporting results, but there are a number of outstanding methodological issues that will need to be resolved if the ratio is to provide a reliable measure. For example, there is uncertainty over how to handle costs and benefits that are not quantifiable in monetary terms; which programmes will be included; and the treatment of different costs and benefits. The Cross Whitehall Economist Group, which is made up of the BRE, departments and regulators, is considering these methodological difficulties.

Regulatory budgets

1.12 In August 2008 the Government began a consultation on the introduction of a new system of regulatory budgets. It believes that regulatory budgets could be an effective way to manage and prioritise the total costs of regulation, with the aim of constraining the total costs from new regulation brought in over a given period. The consultation proposes that budgets will be set at a departmental level following discussions with the BRE to identify the main regulatory proposals in the next few years and an assessment of the best estimates of associated costs and benefits. If adopted, IAs will be fundamental to the proposed approach as they will be used to monitor the costs imposed by departments' introduction of new regulations.

1.13 Both the PSA target and the introduction of regulatory budgets may produce perverse incentives for policy teams when completing IAs. In particular, the understatement of costs or overstatement of benefits could potentially lead to incorrect reporting. The BRE and departments are aware of this risk and are considering the scrutiny arrangements needed to mitigate it. Part 3 of the report considers the adequacy of internal and external scrutiny arrangements.

BOX 3

BERR PSA indicators on regulatory reform, 2008-11

PSA target: Deliver the conditions for business success in the UK

The importance of regulatory reform is reflected in two out of six indicators:

- reduce the administrative burden of regulations by 25 per cent by 2010; and
- benefit to cost ratio of new regulations (based on IAs from April 2008) – quantifiable benefits to exceed quantifiable costs.

Source: The Department for Business, Enterprise and Regulatory Reform

The NAO's work in evaluating Impact Assessments

1.14 IAs are an integral part of a wider regulatory reform agenda being pursued by the Government. **Figure 2** shows how, over a period of years, the NAO has examined the main components of this agenda.

1.15 We have reported annually on departmental performance in preparing IAs (Appendix 2 provides more detail on the results of our examinations). Our previous reports have identified some good work by departments, but they have also identified consistent weaknesses, particularly in the analysis of costs and benefits, and the proposed approach to monitoring and evaluation.² Our work has shown that IAs have not fully met their intended objectives of delivering a sound evidence base for regulatory policy formation or sufficient consideration of the impacts of new regulations. A lack of integration into the policy process has also meant that they have not been consistently used to challenge the introduction of new regulations.

1.16 Our 2007 Report highlighted the importance of robust scrutiny processes to the development of good quality IAs. This report, plus the BRE's introduction of a revised IA process, led us to examine departments' scrutiny arrangements for developing high quality IAs. We also assessed whether the revised IA process had improved the standard of the IAs by analysing the standard of IAs produced in 2006, before the introduction of the revised process, and comparing these results with an assessment of IAs published in the first six months of 2008, after the changes had become compulsory.

1.17 This Report extends the NAO's work in evaluating the standard of IAs. Our objective is to help raise the standard of IAs across departments and to help ensure that regulatory proposals are subject to robust and proportionate challenge. Achieving this objective is the first step in designing effective regulations that provide the intended protections and benefits, whilst minimising regulatory burdens.

2 How this report relates to other National Audit Office reports on regulatory reform

The Regulatory Reform Agenda

Has four main components

Simplify and modernise existing regulation

Change attitudes and approaches to regulation to become more risk based

Improve the design of new regulations and how they are communicated

Work across Europe to improve the quality of European regulation

All of which have been examined by the National Audit Office

Examined in *The Delivery of the Administrative Burdens Reduction Programme, 2008* (HC 944, 2007-08)

Reviews of the implementation of the *Hampton Report* published in March 2008

Examined in this Report
Since 2004 we have reported annually on the impact assessment process

Examined in *Lost in Translation? Responding to the challenges of European law* (HC 26, 2005-06)

Source: National Audit Office

² Evaluation of Regulatory Impact Assessments 2006-07 (HC 606, 2006-07).

PART TWO

The standard of Impact Assessments

2.1 This Part sets out our analysis of the standard of Impact Assessments (IAs) before and after the introduction of the new IA process. We examined 480 IAs in total; 309 published in 2006, before the IA process was revised, and 171 published in 2008, after the revisions had been implemented. We assessed whether the standard of IAs had been affected by the changes in procedures and found:

- the introduction of the revised IA process had led to improvements in the standard of IAs, particularly a greater incidence of quantification and firmer plans to review impacts;
- in both samples, there was a wide variation between the best and worst IAs, with a need to improve the standard of the evidence base in the weaker IAs; and
- in 2008, fewer IAs analysed the costs and benefits of a range of regulatory options and only 20 per cent of IAs included a summarised implementation plan.

The standard of IAs

2.2 Drawing on our previous reports, the BRE's guidance and input from our expert panel, we identified criteria and a series of tests for assessing the standard of IAs (**Figure 3**). We used these tests to evaluate the quality of final IA documents, including the summary sheet and supporting evidence, so that our assessment would reflect the way in which stakeholders and decision-makers would use IAs. Each test was allocated a score in order to compare the overall quality of IAs and assess the relative strengths and weaknesses against the five criteria. Our methodology and tests are explained in full at Appendix 1.

3 The criteria of a high quality IA and the NAO's key tests

| Criteria | Key NAO tests |
|--|---|
| A clear statement of the conclusion | Did the IA make comparisons against the preferred option? Did the IA state the recommendation clearly? |
| The use of impact tests and consultation | Did the IA consider social, environmental, small business and competition tests? Was consultation undertaken in accordance with guidance? |
| The consideration of implementation and enforcement issues | Is compliance considered? Does the IA detail who will enforce/monitor? Are there estimates of enforcement costs? Is there a plan? Is there a statement on post-implementation review? |
| Standard of cost benefit analysis | Were costs and benefits of different options quantified? If not, was there a qualitative discussion? What economic methods/expertise were used? Was the data source referenced? |
| Consideration of appropriate options | Did the IA consider a range of options, including the do-nothing option? |

Source: National Audit Office

The impact of the new IA process

2.3 We assessed the IAs in both samples against the five criteria of high quality (Figure 4).

2.4 Our assessment showed wide variations in the thoroughness of IAs published in both 2006 and 2008, with marked differences between the strongest and weakest IAs in both samples. There were relatively few IAs which scored poorly against our assessment criteria and the bulk of IAs demonstrated elements of good practice. In view of the differing size and nature of policy interventions, we would not expect all IAs to exhibit all of the characteristics that we tested for as, in some cases, specific elements may not be applicable. However, our assessment focused on the criteria of high quality (Figure 3) so IAs should demonstrate common characteristics of good practice in order to support evidence-based policy formation. After allowing for the natural variation due to proportionality and applicability, there remains considerable variation in the standard of IAs.

2.5 A clear statement of the policy problem and the proposed conclusion, the use of impact tests and consultation were consistently strong areas of IAs. We therefore considered in more detail the results of our analysis for implementation and enforcement issues; the analysis of costs and benefits; and the consideration of options.

The consideration of implementation and enforcement issues

2.6 IAs are required to consider the practical issues relevant to the implementation of regulations, including compliance issues and methods of enforcement. A full consideration of implementation and enforcement issues can help to design regulatory changes that are practicable and will be effective. Policy officials are also required to consider how to enforce their proposals. While this was one of the weaker areas of IAs in 2006, there have been improvements as a result of the revised IA requirements. The new IA summary sheet specifically requests details on enforcement costs and when post implementation review is to be performed, which has improved the incidence and

4 The assessment of the standard of IAs, 2006 vs 2008

| Tests (See Figure 3) | Trend in standard | Overall assessment | Detailed findings |
|--------------------------------|--|--|---|
| Conclusion | Improvement  | The strongest element of both samples – with a small improvement in 2008 | In both samples virtually all IAs stated the conclusion clearly. More than 80 per cent of IAs made comparisons against a preferred option. |
| Implementation and enforcement | Improvement  | The weakest area in 2006 but a considerable improvement in 2008 | The introduction of the template has clarified the information required and policy officials have supplied this more consistently. There remains a need, though, to consider fully the implementation of regulations at the IA stage (para 2.6). |
| Analysis of costs and benefits | Improvement  | A weak area in 2006 but a number of improvements in 2008 | There has been a greater incidence of quantification and use of supporting calculations. But still a wide variation in standards and a need to improve the sophistication of analysis (paras 2.8–2.10). |
| Impact tests and consultation | Little change  | Scored well in both samples – although no improvement | Variation in the extent to which different impact tests are applied. In 2008, 78 per cent considered the impact on small business; 58 per cent considered social impacts and 32 per cent considered environmental impacts. |
| The consideration of options | Deterioration  | In 2008 fewer IAs presented an analysis of a range of options | In 2008 IAs more frequently presented the costs and benefits of the preferred option only. The guidance states the evidence base should contain an analysis of a range of options but the summary sheet should present the preferred option only (paras 2.14–2.16). |

Source: National Audit Office

NOTE

The analysis focuses on the key criteria of high quality IAs and the inclusion of key tests (Figure 3). For example, the analysis of costs and benefits seeks to assess the sophistication of the IA but does not judge how the tasks were performed or whether the IA was accurate.

consistency of the provision of this information (Figure 5). However, other relevant material was not provided or the supporting evidence was sometimes lacking. We found that:

- in 2006 only 12 per cent of IAs assessed the cost of enforcement for the preferred option, which is important as it should form part of the economic analysis. In 2008, this had risen to 34 per cent, which is an improvement although there is still scope for further progress;
- in 2006 only 29 per cent of IAs stated when post implementation review was to be performed. In 2008 the proportion of IAs providing this information had increased to 82 per cent;
- the number of IAs which stated who would perform post implementation review decreased from 42 per cent to 34 per cent; and
- the number of IAs which included an implementation plan fell from 74 per cent in 2006 to 20 per cent in 2008.

The standard of cost-benefit analysis

2.7 Policy making without robust evidence can result in poorly designed government interventions. The fundamental objective of IAs is to deliver evidence-based policy, and an analysis of costs and benefits is at the heart of impact assessment. Ministers are required to certify that the benefits of a proposal justify the costs before providing approval, and economic analysis provides the basis for this judgement.

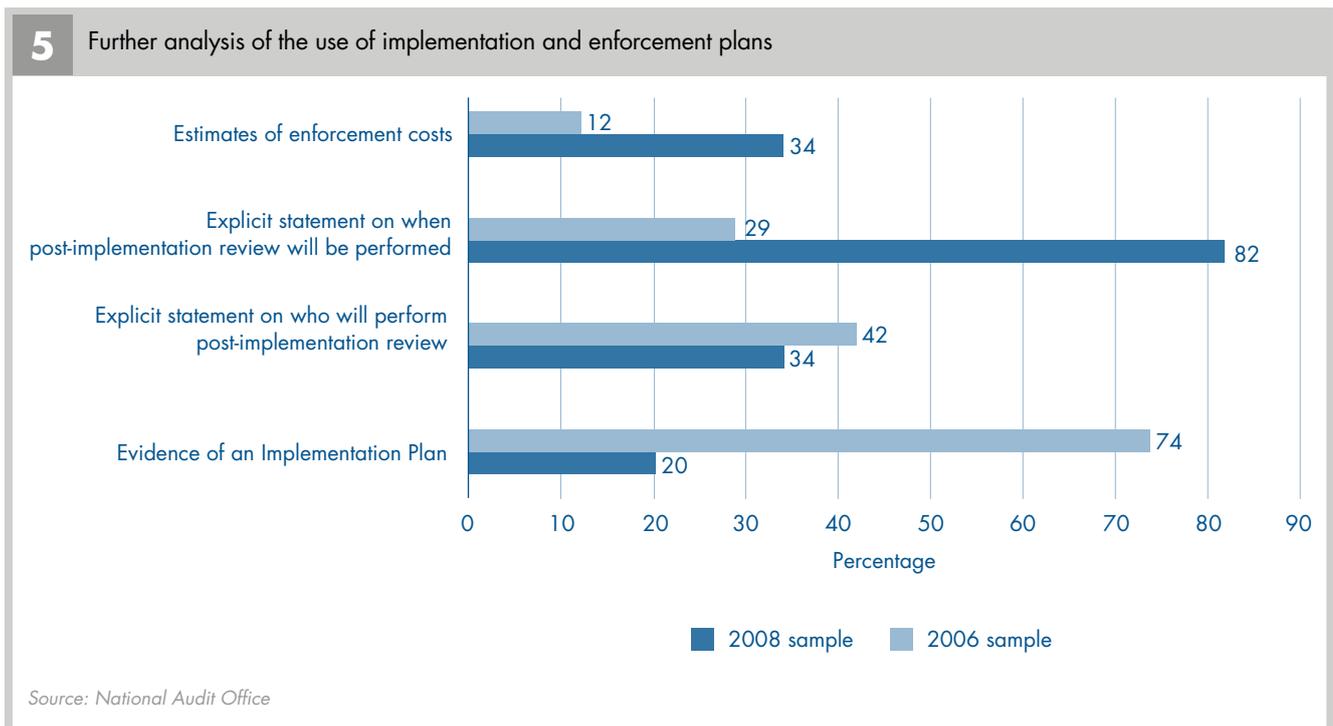
The quantification of costs and benefits

2.8 The new IA now specifically requests details of monetised costs and benefits, and this information must be presented on the summary sheet. This requirement has helped to increase the incidence of quantification. Our analysis showed that:

- the proportion of IAs including some quantification of costs increased from 56 per cent to 67 per cent between the 2006 and 2008 samples; and
- the proportion of IAs quantifying benefits rose from 40 per cent to 60 per cent.

2.9 In many cases, however, the costs and benefits were assessed as £0. Some 60 per cent of the IAs assessed in 2008 presented either the costs or benefits as £0. IAs contained varying degrees of evidence to support these nil figures (Figure 6), with nearly 20 per cent of these cases not justifying the costs as £0 and less than 10 per cent not justifying the assessment of benefits as £0.

2.10 While we would not expect all IAs to include quantified costings, the absence of quantification makes it more difficult to demonstrate convincingly that the benefits of the proposal outweigh the costs. We did not seek to ‘second guess’ the assessments made in individual IAs, but the introduction of regulatory budgets means that it will be important for departments to consider carefully whether there are costs and benefits and provide sufficient evidence to justify an assessment of £0. In some areas, however, it is difficult or unrealistic to place a monetary



value on the costs or benefits and, in these cases, qualitative assessment can provide a valid alternative. For example, BERR advised that it can be more difficult to value costs and benefits for IAs which are technical or set out the policy framework. In both the 2006 and 2008 samples, we found that virtually all IAs included some qualitative discussion of potential costs and benefits.

The type of analysis

2.11 We examined the quality of the cost-benefit analysis by asking a series of questions about the type of analysis undertaken and the standard of the evidence base.

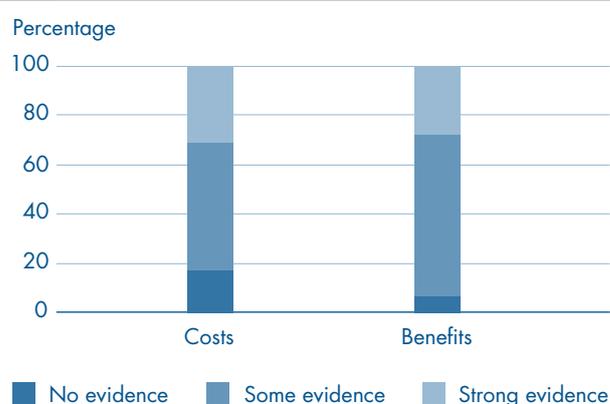
Figure 7 shows that, in 2006, 41 per cent of IAs did not contain any quantified data to support the assessment of either costs or benefits. This proportion had fallen to 21 per cent in 2008. There have also been improvements in the number of supporting calculations used in IAs. Some three quarters of IAs published in 2008 included at least one supporting calculation compared to only half of IAs published in 2006.

2.12 For the IAs which included quantified costs or benefits, we also found that:

- the proportion of IAs that included some use of sensitivity analysis increased from 13 per cent to 24 per cent;
- the proportion of IAs which referenced the use of specialists increased from 14 per cent to 22 per cent; and
- around one fifth of IAs published in 2008 included more complex modelling techniques to assess costs and benefits.

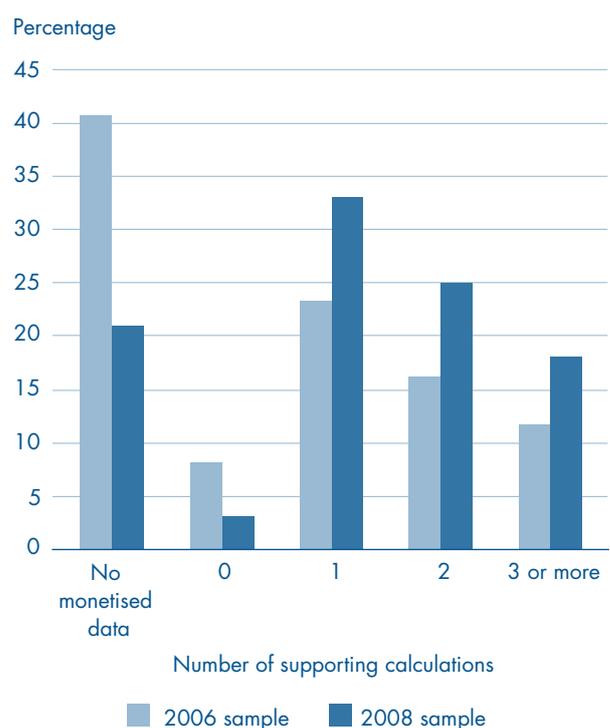
2.13 It is important for departments to optimise the benefits of regulation while minimising the costs of complying. IAs are therefore required to assess a range of regulatory options and the new process requires policy officials to provide evidence on the options that have been considered. The presentation of the supporting evidence is crucial in order to show the rationale and basis for the preferred option. There was wide variation in the level of the evidence provided to support the chosen option and, in the weaker IAs, insufficient analysis. In these cases, there is a risk that the introduction of the summary sheet, which has improved clarity and consistency, has encouraged a “tick box” approach rather than making an assessment of the costs and benefits of different options integral to policy formation.

6 The extent of justification for IAs which stated costs and benefits as £0



Source: National Audit Office

7 The supporting calculations in IAs



Source: National Audit Office

NOTES

1 We tested for evidence of: (i) the use of basic calculations; (ii) the use of more sophisticated methods for calculating costs and benefits; (iii) the use of sensitivity analysis; (iv) the use of modelling techniques; and (v) the use of specialists. See Appendix 1 for further details of our assessment.

2 We would not expect all IAs to show all of these supporting calculations, since some regulatory proposals will be more complex by their nature, but we would expect some indication that figures included have been subject to robust analysis.

The consideration of options

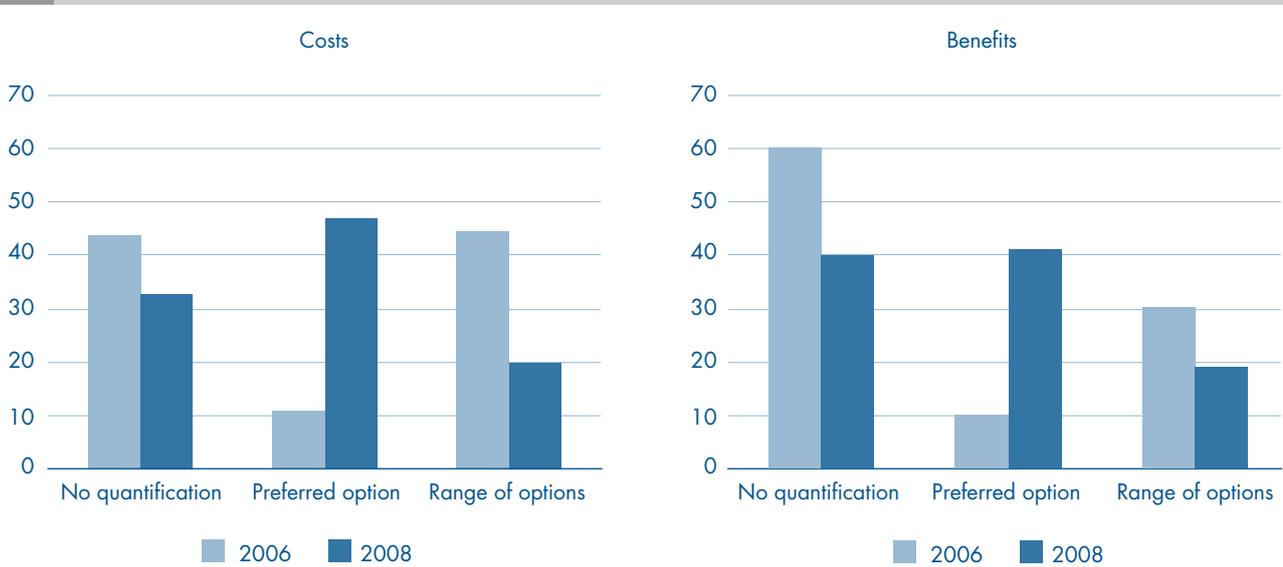
2.14 In evaluating the need for regulation, it is important for departments to explore a range of options in policy formation, including non-regulatory options. The revised guidance for IAs states that the final IA should focus on the costs and benefits of the preferred option but the evidence base should “cover all of the policy options under consideration”. We found, however, that in 2008 fewer IAs included an analysis of a range of options in the evidence section. **Figure 8** shows that although more IAs quantified the likely costs and benefits in 2008 (paragraph 2.8), a higher proportion quantified these for just the preferred option. In 2006, 42 per cent of IAs presented an analysis of costs for a range of options and 30 per cent analysed the benefits. In 2008, just 20 per cent presented the costs for a range of options and 19 per cent quantified the benefits.

2.15 The IA guidance states that evidence base in IAs should capture key data and information on each of the policy options being considered, including the benefits, costs and effects. Around a quarter of IAs, however, did not reference the source of the data used. While we found that the number of IAs which did not quantify costs and benefits had decreased, the level of evidence to support the analysis had, in many cases, not improved.

Wider benefits of the new IA process

2.16 The introduction of the new IA process, particularly the requirement to complete a summary sheet, has improved the consistency of presentation in nearly 90 per cent of IAs. A common set of data is now provided in a readily accessible format, which should help to make IAs more usable for stakeholders. It has also clarified the key information that officials should include in an IA, which should help to improve the standard of analysis. 11 per cent of IAs, however, did not include a summary sheet, and 44 per cent did not include an estimate of the impact on administrative burdens, which is a requirement of the new IA process (although there may not be an impact in every case).

8 More IAs quantified costs and benefits in 2008 than in 2006, but fewer did so for a range of options



Source: National Audit Office

NOTE

Presents the number of IAs which assessed the costs and benefits for (i) the preferred regulatory option; and (ii) a range of regulatory options for achieving the intended objective.

PART THREE

Scrutiny of Impact Assessments

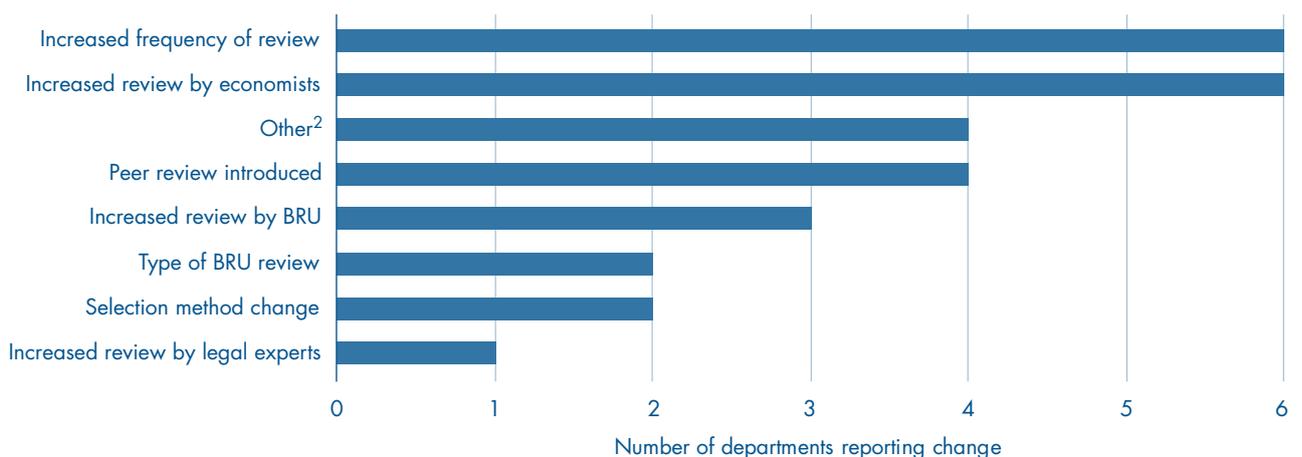
3.1 This Part examines the departmental and external arrangements for the real time scrutiny of Impact Assessments (IAs), and reviews how those processes have evolved. We found that:

- the introduction of a new IA process has provided a catalyst for change and departments have strengthened arrangements for the scrutiny of IAs; and
- there is limited external scrutiny of IAs as primary responsibility rests with departments.

The strength of scrutiny processes in departments

3.2 In 2007 the BRE phased in a revised IA process, including a new template and updated guidance (paragraph 1.7). Departments have responded by seeking to improve the scrutiny and quality assurance of IAs. Eleven of thirteen Better Regulation Units (BRUs) said that they had changed, or were planning to change, the challenge processes for signing off IAs. The other two departments produced low numbers of IAs and felt that their existing processes were sufficient. The most common changes involved an increased numbers of reviews by economists and increased frequency of reviews (**Figure 9**). Departments now obtain sign-off on the quality of evidence and analysis from the Chief Economist prior to sending the IA for Ministerial approval.

9 Departmental changes to the scrutiny processes for IAs



Source: National Audit Office

NOTES

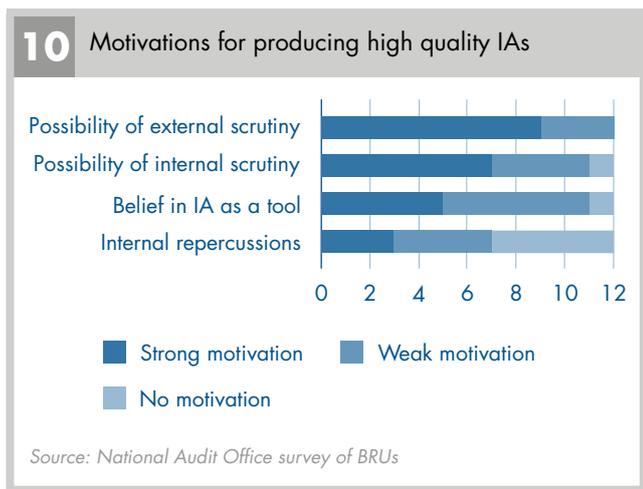
- 1 Departments had often made changes in more than one category.
- 2 Other includes the process becoming more formal, improved relationships with policy officials and work with specialist areas.

3.3 Ten of thirteen BRUs stated that there has been no compulsion on policy officials to include recommendations from challenge although only one BRU indicated that policy teams do not include some of their recommendations, suggesting some degree of influence over the development of IAs. Embedding the role of the Chief Economist in signing off the analysis in IAs provides a stronger lever to influence policy teams and to encourage the appropriate use of evidence.

3.4 We reviewed the extent to which departments were applying the principles of an effective challenge process.

(i) The existence of a formal scrutiny process

3.5 The most significant factor cited by BRUs as a motivation for high quality IA was the prospect of scrutiny – external scrutiny being cited as a strong motivation by nine BRUs and internal scrutiny by seven (**Figure 10**). Only five of thirteen BRUs stated that “belief in the use of IAs” was a strong motivator for policy teams. Further, only three teams believed that the possibility of internal repercussions – such as poor performance appraisal – was a strong motivator for policy officials. Our discussions with BRUs and economists highlighted that, in many cases, departmental recognition is for getting policy approved and not for producing high quality IAs, or considering fully the impacts of new regulations. These results demonstrate the difficulty of holding policy officials to account for developing high quality IAs, and the importance of scrutiny as a motivator for improving the standard of IAs.



3.6 Our survey showed that ten of thirteen departments had established a formal scrutiny process. In most departments there were clear responsibilities and thresholds for scrutiny processes; in others, there was a more ad hoc approach or scrutiny was not compulsory. Some departments reported that procedures had been established but were not necessarily enforced. The increased involvement of the Chief Economist in the development of IAs has helped to formalise arrangements as sign-off is now commonly provided as part of the Ministerial submission.

3.7 It is important that responsibility for the scrutiny of IAs is communicated to policy officials. There was a wide range of views amongst departments about who was responsible within departments, with most stating it was the responsibility of Better Regulation Units (Appendix 3 shows our analysis of the role of BRUs). We identified good practice where departments had sought to improve the transparency of scrutiny arrangements. For example, DEFRA has sought to embed IA in policy development and has disseminated the revised approach, which specifies the points at which challenge will take place. CLG has also run seminars to raise awareness of the IA process and the type of input that economists can provide.

(ii) Independent scrutiny

3.8 Departments have revised arrangements to facilitate greater input from economists and other specialists, although the extent of their involvement and level of input varies. In many departments, economic input is provided in the development of policy, which helps to improve quality, but there were fewer instances of independent scrutiny of IAs.

3.9 Other methods of scrutiny, such as peer review and challenge panels, were in place in some departments but were not widespread. Real-time challenge from outside the department was rare. There were, though, examples of good practice:

- BERR uses a challenge panel for reviewing IAs, which provides independent scrutiny (**Box 4**);
- HSE has shared draft IAs with other departments to seek views on an informal basis; and
- CLG asked economists from other departments to review a sample of IAs to assess the use of evidence and standard of analysis.

(ii) The use of thresholds to target scrutiny

3.10 The application of thresholds is important as they help departments to apply resources proportionately. Most departments have established challenge processes that vary depending on the size or importance of the IA, although thresholds vary between departments. The most important factors were the expected costs and the likely political interest in the proposed policy. For example, DEFRA scrutinises all IAs but subjects high value or high profile IAs to more intense challenge and peer review (**Box 5**). Some departments have decided that Chief Economist sign-off for all IAs would not represent the best use of resources and have established levels of delegated authority for reviewing the standard of economic analysis. The thresholds are not always strictly applied, however, and few departments had established a fully documented process with clear triggers for different levels of scrutiny.

External scrutiny of IAs

3.11 Challenge is most effective when it is performed by a knowledgeable but independent third party, as the challenge is well informed but there is no risk of self-review. An important element of this is real-time external review. In our survey, ten of thirteen BRUs stated that the possibility of external review was a strong motivator for policy officials in producing good quality IAs. Nine of thirteen departments felt that scrutiny by the BRE was the most effective form of external scrutiny.

3.12 The BRE's predecessor, the Regulatory Impact Unit, devoted a large proportion of its resource to scrutinising IAs produced by departments. It scrutinised a large number of IAs and contributed directly to their development. The BRE does not play an equivalent role in the real-time scrutiny of IAs. It believes that departments should have primary responsibility for the quality assurance of IAs to encourage them to strengthen their own processes and to discourage reliance on the BRE. The BRE is now delivering a broader regulatory reform agenda (outlined in Figure 2) and engages more directly with departmental policy officials throughout the whole of the policy development process. It has introduced a system of departmental account managers to operate this approach.

3.13 The BRE seeks to work with departments and regulators using a risk-based approach to help develop good quality regulatory policies. It focuses on areas which impose the highest cost or cause the greatest impact. Seven departments stated that the BRE had reviewed 'some' of their IAs, while four stated 'most' had been subject to BRE scrutiny. The BRE reviews some IAs, although the extent and nature of input varies. Discussions with account managers at the BRE and BRUs demonstrated that, in many cases, the BRE's role has been to input into the policy process rather than provide independent scrutiny or challenge.

BOX 4

Good practice example: BERR's Impact Assessment Peer Review Group

The Group aims to facilitate the production of high quality IAs that improve policy making. This is achieved by engaging early in the policy development process to advise on best practice, promoting a consistent approach and providing a challenge function. The Group also provides a quality control function prior to final clearance.

Members of the Group include the Performance and Evaluation Team, Better Regulation Team, Better Regulation Champion and economists from across the department.

The Group focuses on IAs which are likely to represent a costly regulatory burden on business or are politically sensitive. The timing and nature of Group meetings has been communicated clearly to policy teams.

BOX 5

Good practice example: the use of economist challenge in DEFRA

DEFRA has introduced a threshold system for economic input and uses layers of scrutiny. High value (i.e. over £20 million per annum undiscounted cost) or politically sensitive IAs are subject to scrutiny by economists that were not involved in the policy development. In these cases, the Chief Economist reviews the economist's recommendation and acts as the final arbiter on the standard of analysis.

APPENDIX ONE

Scope and Methodology

Impact Assessments are intended to increase transparency around policy choices and enable stakeholders to assess the need for and impact of new regulations. Since IAs are required by Government as an important part of policy development and implementation, the NAO has examined their quality and reviewed how departments have used IAs in the formation of regulatory proposals. Our work therefore provides independent evidence on the quality and use of IAs and seeks to use this to raise standards across departments.

In previous years we have focussed our examination on particular departments and reviewed a small sample of Impact Assessments in detail. During 2007 the BRE introduced a revised IA process and we decided that a similar kind of study would have limited value. We decided, therefore, that more value would be obtained by taking a wider look at the scrutiny processes in place across departments for improving the quality of IAs. We also compared the quality of IAs produced in the first six months of 2008, immediately following the compulsory requirement to use the new IA process, with the 'old style' IAs produced in 2006. We did not select a sample from 2007 as the new requirements were being phased in.

The key test in this year's examination is, therefore, whether the standard of IAs has improved as a result of the new IA process, and the efforts made by departments to strengthen scrutiny arrangements. The key areas we examined were:

- the scrutiny processes that are in place within departments to challenge the preparation of IAs;
- the scrutiny processes that are in place within wider Government, including the Better Regulation Executive and the Panel for Regulatory Accountability; and
- an analysis of virtually all IAs published in 2006 and 2008 using a scoring methodology devised by the NAO.

In order to find this information we developed a methodology comprising three strands:

- A high level assessment of the quality of Impact Assessments published in 2006 and 2008. The assessment produces findings on the standard of Impact Assessments and the impact of the new arrangements.
- A survey of Better Regulation Units to identify processes that are in place in departments for delivering IAs, and how these are changing. Our focus was on the strength of quality assurance and scrutiny arrangements. We also wanted to identify issues with resources and the perception of external scrutiny processes.
- A series of meetings to follow up the findings of the first two strands in order to add depth to our findings and to gain different perspectives on the issues raised.

High level assessment of the quality of Impact Assessments

We undertook a high level review of final IAs produced in 2006 and 2008. We identified Impact Assessments from the Cabinet Office Command Papers, departmental websites and the new Impact Assessment Library. Of these we have scored 309 IAs from 2006 and 171 from 2008 using our scoring methodology (see below).

Scoring methodology

We identified a set of 29 objective questions, based on the assessment criteria used in our previous reports and amended to incorporate the suggestions of our Expert Panel. The set of questions, their possible answers and the associated score for that answer are shown below. The comparisons in the report are based on percentages scored in order to minimise the effect of certain areas

having more questions. Answers of “not applicable” were generally not included in the scoring except where indicated otherwise.³

After scoring around half of the IAs, we undertook a quality assurance exercise whereby each scorer rescored a random sample of three of the other scorer's IAs. As a result, we removed one question from our analysis as it became apparent that scorers had interpreted the question differently. The results for other questions had only minimal differences.

Survey to Better Regulation Units

We developed a survey to send to all the BRUs to find their views on a range of issues relating to the scrutiny of IAs. We obtained responses from the following bodies:

Department for Business, Enterprise and Regulatory Reform (BERR)

Department for Children Schools and Families (DCSF)

Department for Communities and Local Government (CLG)

Department for Culture Media and Sport (DCMS)

Department for the Environment, Food and Rural Affairs (DEFRA)

Department for Transport (DfT)

Department for Work and Pensions (DWP)

Department of Health (DoH)

Forestry Commission

Her Majesty's Revenue & Customs (HMRC)

Home Office

Ministry of Defence (MoD)

Ministry of Justice (MoJ)

The only BRU not to provide a response was HM Treasury which was due to staffing changes.

We asked questions about internal scrutiny including the processes in place in departments; the formality of these processes; and how the processes have changed, in particular following the introduction of the revised Impact Assessment. We also asked about resources within BRUs and how this affected the amount of work they are able to complete. Additionally we sought to obtain the view of BRUs on the effectiveness of external scrutiny processes including the BRE, the PRA and the NAO.

Interviews

Interviews were conducted with Better Regulation Units in nine departments (BERR, DCSF, CLG, DCMS, DEFRA, DfT, DoH, HMRC and the Home Office). These departments produced the greatest number of IAs. We also held a meeting open to all BRUs at the end of our fieldwork to check our emerging findings.

During the course of our examination it became apparent that economists were playing an increasingly important role in many departments so we incorporated meetings with them in our methodology. We held a meeting with economists from 10 departments to test our findings.

In order to obtain an overview of external processes we held meetings with account managers at the BRE as well as maintaining regular contact with the BRE throughout the study and sharing our emerging findings with them.

Expert Panel

We used our Regulation Expert Panel to test our methodology and key findings at various stages of the study. We also obtained feedback on the proposed scoring methodology from some members of the Panel. Our expert panel consists of:

- Professor Rob Baldwin, a Professor of Law at the London School of Economics where he teaches Regulation and is the Director of the LSE Short Course on Regulation;
- Professor Claudio Radaelli, Anniversary Chair (Political Science) and Jean Monnet; Chair in EU Policy Analysis at the University of Exeter, where he directs the Centre for Regulatory Governance;
- George Yarrow, the Director of the Regulatory Policy Institute (RPI), Emeritus Fellow of Hertford College, Oxford and an adviser to a number of regulatory agencies;
- Michael Spackman, a Specialist Consultant to NERA Economic Consulting, and Visiting Fellow of the Centre for Analysis and Risk Regulation, London School of Economics and Political Science; and
- John Howell, Director, John Howell & Co. Ltd, a risk and regulatory consultancy.

³ In the case of the impact tests it was identified that scorers were answering “not applicable” where the Impact Assessment had identified that the test was not applicable to the regulation. It was therefore decided to score these as 1 rather than removing them from the scoring.

Questions used to assess the quality of IAs

Source of Impact Assessment

| | | | | | | |
|---|---|---------|-----------|-----------|----------------|---|
| 1 | What kind of legislation does the RIA cover? (these responses not mutually exclusive) | Primary | Secondary | Amendment | EU legislation | – |
|---|---|---------|-----------|-----------|----------------|---|

Consideration of options

| | | | | | | |
|---|--|--|--|---|----------|----------|
| 2 | Was a “do nothing” option presented? | yes 1 | no 0 | n/a – | n/a – | n/a – |
| 3 | Was more than one option presented (excluding “do nothing”)? | yes – a range of feasible options 2 | yes – but all variations of the same option 1 | yes – but obviously only one feasible option 1 | no 0 | n/a – |

Costs and benefits

| | | | | | | |
|---|--|------------------|-------------------|----------------------------|-----------|----------|
| 4 | Were costs quantified? | all options 3 | some options 2 | preferred option only 1 | none 0 | n/a – |
| 5 | Were benefits quantified? | all options 3 | some options 2 | preferred option only 1 | none 0 | n/a – |
| 6 | Was there a qualitative discussion of costs? | all options 3 | some options 2 | preferred option only 1 | none 0 | n/a – |
| 7 | Was there a qualitative discussion of benefits? | all options 3 | some options 2 | preferred option only 1 | none 0 | n/a – |
| 8 | Did the presentation allow for a comparison between options? | yes 1 | no 0 | | | n/a – |

Impact tests and consultation

| | | | | | | |
|----|--|----------|---------|--|--|----------|
| 9 | Did the department consider economic impacts? | yes 1 | no 0 | | | n/a 1 |
| 10 | Did the department consider social impacts? | yes 1 | no 0 | | | n/a 1 |
| 11 | Did the department consider environmental impacts? | yes 1 | no 0 | | | n/a 1 |
| 12 | Did the department consider impacts on small businesses? | yes 1 | no 0 | | | n/a 1 |
| 13 | Was the small firms impact test used? | yes 1 | no 0 | | | n/a – |
| 14 | Was a competition assessment undertaken? | yes 1 | no 0 | | | n/a – |
| 15 | Was a consultation undertaken in accordance with guidance? | yes 1 | no 0 | | | n/a – |

Supporting Calculations

| | | | | | | |
|----|--|----------|---------|--|--|----------|
| 16 | Does the IA use sensitivity analysis? | yes 1 | no 0 | | | n/a – |
| 17 | Does the IA use basic calculations for costs and/or benefits (extrapolation or multiplication by no of cases)? | yes 1 | no 0 | | | n/a – |

Questions used to assess the quality of IAs *continued***Supporting Calculations** *continued*

| | | | | | |
|----|--|---------------------------|----------------------------|---------|----------|
| 18 | Does the IA use more complex modelling techniques for costs and/or benefits? | yes 1 | no 0 | | n/a – |
| 19 | Does the IA reference specialists who have calculated costs and benefits? | yes 1 | no 0 | | n/a – |
| 20 | Does the IA use another method for calculating costs and benefits? | yes 1 | no 0 | | n/a – |
| 21 | Did the RIA demonstrate that the source of the data was robust? | yes – all referenced 2 | yes – some referenced 1 | no 0 | n/a – |

Implementation and enforcement plans

| | | | | | |
|----|---|-----------------------------------|---|---|----------|
| 22 | Does the RIA discuss levels of compliance? | | | This question removed as a result of QA process | |
| 23 | Does the IA include details of who will perform monitoring and/or enforcement activities? | yes 1 | no 0 | | n/a – |
| 24 | Did the RIA include any estimates of enforcement costs? | yes 1 | no 0 | | n/a – |
| 25 | Is there an explicit statement on when post-implementation review will be performed (not monitoring)? | yes 1 | no 0 | | n/a – |
| 26 | Is there an explicit statement on who will perform post-implementation review (not monitoring)? | yes 1 | no 0 | | n/a – |
| 27 | Did the RIA include evidence of an implementation plan? | yes – complete plan included 2 | yes – limited detail or referenced 1 | no 0 | n/a – |

Conclusion

| | | | | | | |
|----|---|-------------------------|------------------------|----------------------|---------|----------|
| 28 | Did the RIA compare costs and benefits of the preferred option? | yes – quantitative 1 | yes – qualitative 1 | yes – a mixture 1 | no 0 | n/a – |
| 29 | Did the RIA state the recommendation clearly? | yes 1 | no 0 | | | n/a – |

Source: National Audit Office

APPENDIX TWO

Previous NAO findings on Impact Assessments

The NAO has produced annual reports which have examined the quality of IAs in different departments:

- in 2003-04 we reviewed ten IAs from across Government on the basis of recommendations from the Better Regulation Task Force;
- in 2004-05 we performed a similar investigation, again on the basis of recommendations made by the Better Regulation Task Force;
- in 2005-06 we selected four departments for the focus of our report: the Department for Trade and Industry (now BERR), the Home Office, the Department for Transport and the Department for Culture Media and Sport; and
- in 2007 we focussed on two departments: the Department of Health and the Department for Communities and Local Government.

In all of our previous reviews we undertook detailed examinations of a sample of IAs and, in the last two years, we also examined wider issues on departments' approaches to using IAs in policy development. The reports have several common messages which are highlighted below. While the IA format and guidance has been revised within the last year many of the messages will still be relevant.

Defining the problem, scope and purpose

It is essential for the development of robust and suitable policy options that there is a clearly defined scope and purpose for the action to be taken. Without this objectives will be unclear and there will be no baseline for comparison of options or for post-implementation review.

Although the departments under review differed, our reports have shown that this element of IAs has improved over time with 15 of 19 departments providing a clear objective in 2006-07, compared with only 5 of 10 in 2003-04. Previous NAO recommendations on defining the problem, scope and purpose include:

- departments should have a clear objective of what they aim to achieve with the proposed policy;
- the problem to be solved should be clearly defined;
- there should be robust analysis of the problem allowing departments to consider how their objectives relate to the problem; and
- the definition of the problem should be sufficiently flexible that a range of solutions may be considered.

Identification of alternative solutions

The use of alternatives and the "do nothing" option is vital in aiding the successful completion of a cost-benefit analysis. Without a clearly defined "do nothing" there is no baseline for comparing the impacts of the proposed action.

Our 2006-07 evaluation showed that all IAs included a "do nothing" option compared with only two of ten in our first review. Previous NAO recommendations on the identification of alternative solutions include:

- a "do nothing" option should be included;
- the IA process should be started as early as possible to increase the range of possible options; and
- the IA should justify the choice of the preferred option.

The consultation process

Consultation is important in developing IAs in order to establish the impact that the proposed solution will have on a range of stakeholders. Our previous reports have identified this is one of the strongest elements of IAs. Previous NAO recommendations on the consultation process include:

- public consultation must last at least 12 weeks;
- for a consultation to add value the document needs to be accessible to all parties and use appropriate techniques; and
- the results of consultations should be published to increase transparency.

Analysis of costs and benefits

Robust economic analysis is at the heart of IAs and Ministers must sign-off that the benefits outweigh the costs. Cost-benefit analysis has been one of the weakest areas of IAs with our 2006-07 report stating that there was room for improvement in 14 of the 19 IAs reviewed. Problems have stemmed from not having a strong evidence base and, in particular, a lack of quantified evidence.

The nature of predicting costs and benefits of proposed regulatory interventions means that there will be some uncertainty in the figures. This uncertainty should be displayed in the IA. Our previous reports have identified that this often does not happen with no use of ranges shown in our 2003-04 report. Six of 19 IAs used sensitivity analysis in our 2006-07 review, which may be indicative of improvement. Additionally, in many cases the costs and benefits have only been shown for the preferred option, which reduces the transparency of the decision making process. Previous NAO recommendations on the analysis of costs and benefits include:

- a range of values should be used for costs and benefits where uncertainties exist;
- reliable data should be collected for the values of costs and benefits; specialists should be used where possible and consultants engaged where data is not available;
- costs and benefits should be disclosed in full to ensure transparency of the IA process; and
- where estimates cannot be made of the economic value of costs and benefits, use should be made of qualitative techniques.

Analysis of compliance

Compliance represents a key cost of any regulation and should be included in IAs. Our previous reports have found that the majority of IAs have shown room for improvement in this area. A consistent weakness is for departments to assume 100 per cent compliance with new (or amended) regulations. Previous NAO recommendations on the analysis of compliance include:

- analysis of compliance should inform a department's choice of options and enforcement strategy;
- where compliance is not expected to be 100 per cent, departments should include estimates of the upper and lower estimates for compliance in the IA; and
- a similar range of estimates should be made for the cost of compliance.

Monitoring and evaluation

Any regulation that comes into force should be monitored and evaluated. In 2004-05 we identified that only four of the ten IAs reviewed stated that there was a need for formal evaluation. In 2006-07 just over half of IAs included details of monitoring arrangements. In 2005-06 five of 13 IAs received a green rating for monitoring and evaluation. Previous NAO recommendations on monitoring and evaluation included:

- the methods for monitoring and evaluating the proposal should be disclosed in the IA. The timing for post-implementation review should be disclosed along with details of who is responsible for ensuring it is undertaken;
- a systematic review procedure should be in place; and
- departments should use the results of post-implementation review to inform future proposals.

APPENDIX THREE

The changing role of Better Regulation Units

Departments have established Better Regulation Units (BRUs) to support policy teams in delivering the better regulation agenda. The BRUs have responsibility for implementing better regulation initiatives in their departments and work with policy teams to identify and implement measures. BRUs also liaise with the BRE on regulatory reform initiatives.

The regulatory reform agenda has expanded and BRUs have met these responsibilities with the same level or fewer resources. Over the last two years, eight BRUs stated that resources had decreased and four indicated resources had stayed the same, while over the same period, all BRUs reported that their workload had increased. This has placed competing demands on the time of BRUs as other initiatives, including the reduction of administrative burdens and the consideration of regulatory budgets, now place additional demands on resources. Seven BRUs reported that their workload was manageable with careful planning; three BRUs indicated that their workload was not manageable but all areas were covered to some extent, while one BRU reported that resource constraints meant that some areas were entirely ignored.

The proportion of their time that BRUs spent reviewing IAs ranged from 15 to 70 per cent. Four departmental BRUs stated that they had adequate resources to undertake scrutiny of IAs; seven had to limit their work; and two reported that scrutiny was severely limited. All BRUs have, however, maintained a role in reviewing draft IA documents, providing advice on the development of IAs and, on occasions, offering more specialist input. Some of the BRUs in departments which produce small numbers of IAs continue to review all IAs and provide a challenge function. BRUs in departments that produce a large number of IAs have begun to undertake a more strategic 'project manager' role. Departments have sought to ensure that scrutiny is formalised and provided by other specialists in the department and the role of the BRU is to ensure appropriate and timely challenge, rather than scrutinising IAs themselves.

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