

 Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	The appointment of small businesses appeals champions	
Lead Department/Agency	Department for Business, Skills and Innovation	
Stage	Final	
IA number	Not provided	
Origin	Domestic	
Expected date of implementation	October 2015 (SNR10)	
Date submitted to RPC	24 April 2014	
RPC Opinion date and reference	15 May 2014	RPC14-BIS-2021(2)
<i>Departmental Assessment</i>		
One-in, Two-out status	IN	
Estimate of the Equivalent Annual Net Cost to Business (EANCB)	£0.07 million	
RPC Overall Assessment	GREEN	
RPC comments		
<p>The IA is fit for purpose. The Department has addressed the Committee’s key comments in its opinion dated 26 February 2014 on the consultation stage IA. In particular, the equivalent annual net cost to business (EANCB) figure now includes the costs relating to small business appeals champions (SBAC) and support staff that will be recovered from business. The EANCB of £0.07 million has been estimated from cost data provided by regulators and, based upon the evidence presented, appears to be robust.</p> <p>Prior to publication, the Department should strengthen the IA in relation to the areas identified below, in particular by providing an explanation for why the cost estimates are now much lower than those in the consultation stage IA.</p>		
Background (extracts from IA)		
What is the problem under consideration? Why is government intervention necessary?		
<p><i>“Evidence from the Government’s Focus on Enforcement reviews and supplementary research has shown widespread inadequacy in the provision of appeals and complaints mechanisms by national non-economic regulators – including an absence of transparent, effective procedures and poor explanation and signposting. Intervention is necessary to correct this failure and reduce the risk that poor enforcement decisions are left standing because of businesses’ – and particularly small businesses’ – inability to challenge them effectively.”</i></p>		

What are the policy objectives and the intended effects?

“The overall aim is to drive greater efficiency, accountability and transparency in the interaction between regulators and those they regulate. The key objective of this specific measure is to provide assurance to business and government that regulators are delivering against the goals relating to appeals and complaints set out in the new statutory Regulators Code.”

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

- *Option 1. Do nothing, relying on the new code, but making no provision for assurance of compliance.*
- *Option 2. Legislate to appoint an independent Small Business Appeals Champion within each non-economic regulator, responsible for delivering that assurance. (Preferred option)*
- *Option 3. Appoint such an officer by agreement with each non-economic regulator, without any legislative basis.*
- *Option 4. Create a single stand-alone body to deliver assurance in respect of all non-economic regulators.*

Comments on the robustness of the OITO assessment

The IA says that this is a regulatory proposal that would impose a net cost to business (an IN) with an EANCB of £0.07 million. The Department has addressed the Committee’s comments in its opinion dated 26 February 2014 on the consultation stage IA. In particular, the EANCB figure now includes the costs relating to the SBAC and support staff that will be recovered from business. The OITO assessment is consistent with the current Better Regulation Framework Manual (paragraph 1.9.10) and, based on the evidence presented, appears to provide a reasonable assessment of the likely impacts.

Comments on the robustness of the Small & Micro Business Assessment (SaMBA)

While this proposal does not regulate business in itself, it will affect small and micro-businesses. The IA therefore includes a SaMBA (paragraphs 80-82). This explains why it would not be proportionate to exempt or mitigate any impacts on small businesses resulting from the recovery of the costs. The IA explains that revising the cost recovery structures of the regulators would be a complex undertaking and that any costs to small businesses would be extremely small. Moreover, the policy proposal is intended to be for the benefit of small and micro-businesses. The SaMBA is sufficient.

Quality of the analysis and evidence presented in the IA

The Department proposes to legislate to appoint an independent SBAC within each of the 58 non-economic regulators. This is to provide assurance to business and government that regulators are delivering against the goals relating to appeals and complaints set out in the new statutory Regulators' Code.

As part of the consultation, the Department undertook a survey of the regulators, asking for their assessment of the likely resource commitment and intentions regarding recovery of these costs from business. Responses were received from 31 of the 58 regulators. Most of these provided at least some quantitative information on costs. This data informed an overall estimated annual cost to regulators of £0.171 million, of which just over half is expected to be recovered from business. The latter results in an equivalent annual net cost to business (EANCB) of £0.07 million. Based on the evidence presented, this appears to be robust.

The Department has addressed the Committee's key comments in our consultation stage opinion. These were:

Funding arrangements for non-economic regulators and cost recovery assumptions. The Department's survey asked regulators whether they would recover the costs of the SBAC from business. This has informed an estimated cost recovery of just over 50%. This appears to be a more robust figure than the previously assumed 32%. The Department has also now provided a sensitivity analysis on a move towards full cost recovery, and this is reflected in the high estimate of costs.

Costs of the Champion and support staff. The Department's survey asked regulators for their assessment of the time, wage and travel & subsistence costs associated with the SBAC. The Department's cost estimates are drawn from the regulators' responses. These are much lower than those assumed in the consultation stage IA (see comment below) but appear to be better evidenced.

Comparison of Options 2 and 3. The IA now provides a clearer differentiation between Options 2 and 3 and their likely respective costs and benefits (page 12).

There are, however, some areas where further information or clarification would strengthen the IA. It would be helpful if the Department could address these before the IA is published.

Comparison of costs against the consultation stage IA. Upon the Committee's request for clarification, the Department explained that it used lower estimates of time and wage costs in the survey questionnaire provided to regulators. This was because informal consultation with a few regulators suggested that the cost estimates in the consultation stage IA were too high. The Committee accepts that the estimates provided in the survey questionnaire, where regulators were asked about this particular policy proposal, can be considered to be more robust than the more generic assumptions used in the consultation stage IA. However, the IA should incorporate the information provided separately to the Committee on this issue, including an explanation for why the cost estimates are now so much lower than those in the consultation stage IA (where the annual cost was £1.9 million).

Resource commitments and achievement of the policy objectives. Following the survey of regulators, the time commitment for champions and support staff is now estimated to be up to 50 hours and 128 hours per year, respectively. (These estimates are for large regulators. The estimates for smaller regulators are significantly lower.) The estimates in the consultation stage IA were 36 days per year for champions, and the same amount for support staff, across regulators of all sizes. The Department should address how far the presently assumed time commitment of the champions and support staff is consistent with achievement of the policy objectives.

Changes in cost recovery rate over time. We accept the Department's position that it does not have the information to reliably make any adjustments to its assumptions on cost recovery, to allow for likely changes over time. However, the Department could explain further the difficulties in obtaining such information.

Travel and subsistence costs. The consultation stage IA assumed travel and subsistence costs would be equivalent to 30% of the wage costs. This has now been revised to 5%. Given that this appears to be on the basis of only one survey response (footnote 7, page 11), the IA would benefit from some further consideration of the uncertainty of travel and subsistence costs.

Effectiveness of the appeals system for larger businesses. Although the IA reports survey evidence that “larger businesses were more likely to say there was an appropriate channel for complaints” (paragraph 9, page 16), the IA also says that the policy proposal is “also likely to work well for businesses of all sizes” (paragraph 10, page 3). The IA would benefit from inclusion of any evidence from the consultation on this point.

Findings from the wider consultation. The IA focuses on the results of the survey of regulators, as this is the best source for the cost estimates. The IA would benefit from the inclusion of a summary of the findings from the wider consultation, where these are potentially relevant to the IA, as provided separately to the Committee.

Signed



Michael Gibbons, Chairman