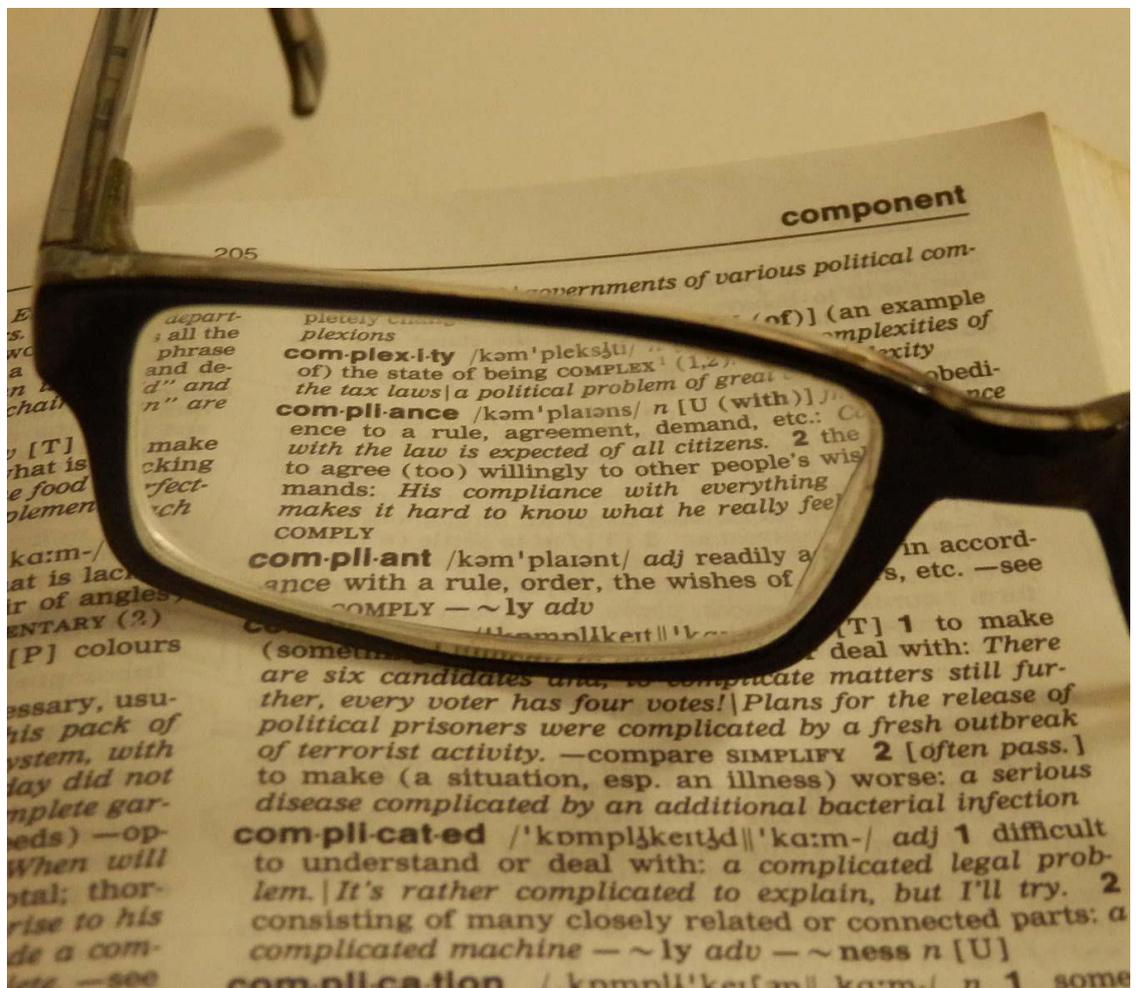




Understanding the Impact of Regulatory Policy Committee Amber Opinions

Prepared for RPC
By IFF Research

21 February 2014





IFF Research

Contact details

Katie Spreadbury and Briony Gunstone

IFF Research Ltd

Chart House

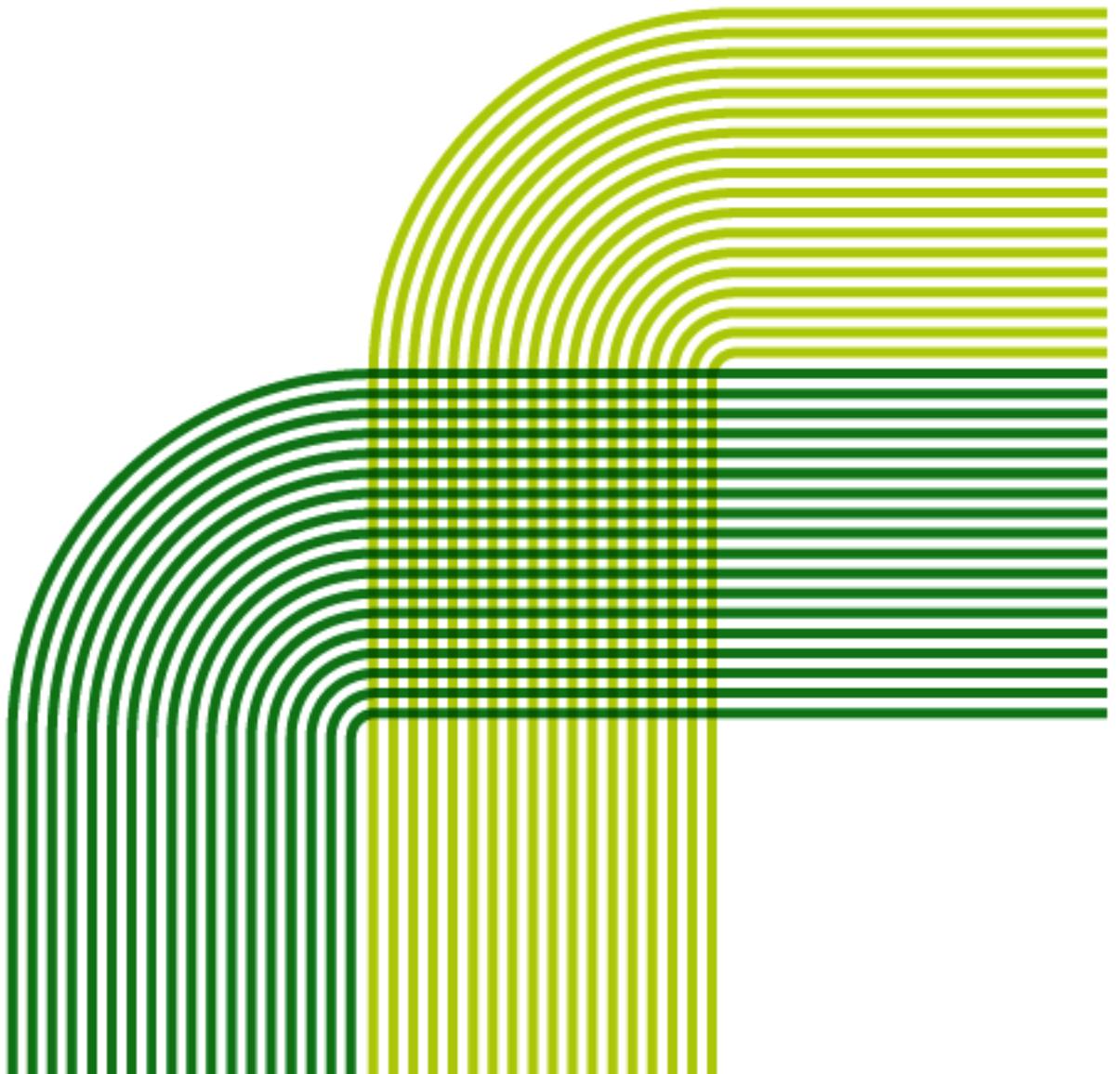
16 Chart Street

London N1 6DD

Tel +44(0)20 7250 3035

katie.spreadbury@iffresearch.com

briony.gunstone@iffresearch.com



Contents

1	Introduction	4
	Background	4
	Objectives	4
	Methodology	4
2	Findings from the Review of Opinions	6
3	Factors affecting IA changes	10
	The Impact Assessment submission process and dealing with the RPC	10
	Barriers to acting on comments	12
	Catalysts for action	14
	Additional support from the RPC	15
4	Conclusions	17



1 Introduction

Background

- 1.1 Government Departments wishing to introduce new regulation must submit an 'Impact Assessment' (IA) to measure the impact of regulation on business, by assessing the costs and benefits and identifying the risks of the proposed regulation. The Impact Assessment must be rated 'fit for purpose' by the Regulatory Policy Committee (RPC) prior to approval from the Ministerial Reducing Regulation Committee (RRC).
- 1.2 During the consultation stage, the RPC issues a Red, Amber or Green Opinion to the IA - Red being 'not fit for purpose', Amber being 'fit for purpose' if certain changes are made and Green being 'fit for purpose'. Departments receiving an Amber Opinion for their Impact Assessment should make the suggested changes prior to submission to the RRC.
- 1.3 In 2013, work carried out by IFF on behalf of the BRE exploring Departments' experiences of the Impact Assessment process found that around three-quarters of Amber-rated Impact Assessments that involved a difference in opinion between the RPC and the Department are progressed without further discussion, whilst others entered into discussion and correspondence to resolve the difference.
- 1.4 Findings in the previous survey therefore raised new questions concerning these Amber-rated Opinions. In particular, it is not known the extent to which recommended changes from the RPC are implemented prior to submission to the RRC and, in instances where they are not, why this is the case.
- 1.5 To answer these questions, RPC commissioned IFF to explore the Amber-rated Opinions in more depth, with the aim of providing a set of recommendations to the RPC on how its opinions could be improved to better equip Departments to make necessary amendments.

Objectives

- 1.6 The key research objectives are therefore as follows:
 - To determine what actions are taken following the receipt of an RPC Amber Opinion, whether in terms of making changes to the Impact Assessment before final submission, making changes to the policy itself, and/or through pursuing non-regulatory options instead;
 - To explore the barriers to taking action on comments, and the catalysts for action where it is taken;
 - To identify whether there are any particular types of comment more likely to be acted upon, and conversely are any less likely, and the reasons for this.

Methodology

- 1.7 The project involved two phases of research: a review of the Amber-Rated Impact Assessments and Opinions, followed by qualitative depth interviews with Impact Assessment policy officials.

Review of Opinions

- 1.8 To begin, IFF carried out a review of comments given in 41 Amber-rated Opinions. Comments were categorised by type in order to identify the most common types of comments given by the RPC, and to facilitate further analysis of these. Comments were coded into the following groups:



- Cost and benefits (split into more explanation required, some costs not considered, a need to quantify/monetise the costs/benefits, and other comments)
- Consideration of impacts on business
- Comments directly referencing the equivalent annual net cost to business (EANCB)
- Comments relating to small / micro business (SMBA)
- Better description of the policy
- Provide more information / more data on the assessment and/or the approach taken
- Assumptions which need to be checked / tested / justified / validated
- Comments relating to the baseline
- Summary pages / front pages to be amended
- Whether “One in, One out” (OOIO) or “One in, Two out” (OITO) has been mentioned/considered correctly
- Other

1.9 The original Impact Assessment as submitted to the RPC was then compared against the published consultation-stage version, where this was available. There were 27 Impact Assessments for which both the original Impact Assessments and the published consultation-stage Impact Assessment¹ was available. This comparison allowed identification of whether each comment had been addressed in the published consultation IA. It is important to note that in many instances the measure of whether a comment had been fully addressed is a subjective one. Therefore this report provides figures for whether an attempt had been made to address the comment, alongside the researchers’ subjective view of whether the comment had been fully or partially addressed. For this reason the latter figures should be seen as indicative only.

Exploratory phase

1.10 The qualitative phase comprised of ten in-depth telephone interviews with individuals involved in an Impact Assessments that had received an Amber Opinion. These were most commonly the policy official with responsibility for that IA, and were selected to be representative of:

- a range of departments,
- a mix of those for which published IAs were available and not,
- to cover the full range of comments given,
- and different levels of comments identified as having been addressed during the Review phase of the research (with a particular focus on those with a lot of comments and a lot of comments that didn’t appear to have been addressed).

1.11 The findings from the review phase allowed the exploratory interviews to address individual comments to explore the extent to which changes had been implemented and, where applicable, investigate why these changes had not been implemented.

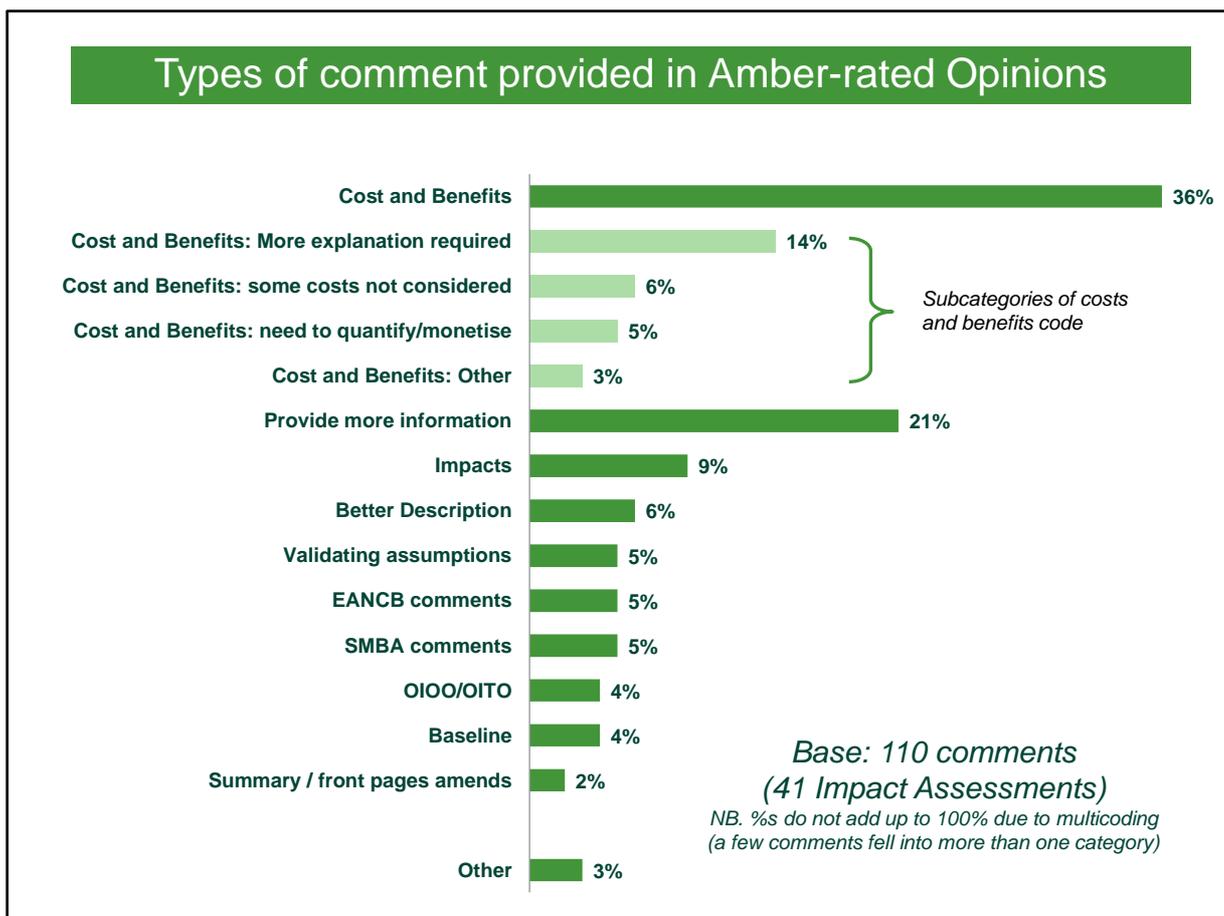
¹ In some cases, departments had not (yet) published the consultation-stage Impact Assessment



2 Findings from the Review of Opinions

2.1 The first phase of the research involved a review of 41 Amber-rated opinions submitted by various government departments. The first stage was to review the comments made, and group them into different “types”, thereby identifying the most common types of comment given in Amber Opinions. The table below shows these comment types, and the proportion of the overall comments each represented.

Figure 2.1: Types of comments provided in Amber-rated Opinions



2.2 As the table shows, the most common type of comment mentioned in Amber Opinions was comments in relation to the cost and benefits covered in the Impact Assessment, making up around a third (36%) of all comments. Other areas commonly mentioned included providing more information / data (21%), more coverage of the impacts of the regulation (9%) and validating or evidencing assumptions.

2.3 Comparing each original Impact Assessment against its corresponding published consultation version allowed identification of whether each comment had been fully addressed, partially addressed, or not addressed at all. As noted in the previous chapter, this is in many cases a subjective measurement and **should be treated as indicative** of the true level to which comments were addressed.

2.4 The following table shows whether an attempt was made to address each type of comment, and the extent to which comments and recommendations in RPC opinions were addressed in the published consultation stage Impact Assessment. Since a published consultation-stage Impact Assessment was



not available for every corresponding original Impact Assessment sampled in the initial coding phase, the table contains information for the 27 proposals with both an original and consultation stage Impact Assessment. Due to the small number of comments in each category, the table shows numbers rather than percentages.

Table 2.1: Number of comments that were addressed, partially addressed and not addressed, in each category

Type of RPC recommendation	Number of comments	Number change attempted	Number fully addressed	Number partially addressed	Number not addressed
Costs and benefits: more explanation required	19	11 (58%)	7 (37%)	4 (21%)	8 (42%)
Costs and benefits: some costs not considered	6	2 (33%)	2 (33%)	0 (0%)	4 (67%)
Cost and benefits: need to quantify/monetise	5	2 (40%)	1 (20%)	1 (20%)	3 (60%)
Cost and benefits: other	3	2 (67%)	2 (67%)	0 (0%)	1 (33%)
Provide more information / data	12	6 (50%)	0 (0%)	6 (50%)	6 (50%)
Impacts	5	4 (80%)	1 (20%)	3 (60%)	1 (20%)
Comments relating to the equivalent annual net cost to business (EANCB)	4	2 (50%)	0 (0%)	2 (50%)	2 (50%)
Comments relating to small / micro businesses (SMBA)	4	2 (50%)	2 (50%)	0 (0%)	2 (50%)
Better description	3	0 (0%)	0 (0%)	0 (0%)	3 (100%)
Assumptions which need to be checked / tested / justified / validated	1	0 (0%)	0 (0%)	0 (0%)	1 (100%)
Comments relating to the baseline	1	1 (100%)	1 (100%)	0 (0%)	0 (0%)
Summary pages / front pages to be amended	1	1 (100%)	1 (100%)	0 (0%)	0 (0%)
One-in, one-out assessment (OIOO)	2	0 (0%)	0 (0%)	0 (0%)	2 (100%)
Other	3	1 (33%)	1 (33%)	0 (0%)	2 (66%)
Total	68	34 (50%)	18 (26%)	16 (24%)	34 (50%)

“Number fully addressed” and “Number partially addressed” shown in italics due to the subjective nature of this measurement.



- 2.5 In total, there were 68 recommendations included in the 27 Impact Assessments that were analysed in this way. Out of 68 comments, half were partially or fully addressed in the consultation stage Impact Assessment, and 50% had not been addressed. RPC comments were only fully addressed in around three in ten (29%) cases.
- 2.6 In line with the overall profile of comments shown in Figure 2.1, comments relating to cost and benefits remained the most common recommendation, making up almost half of all comments that were compared. This was predominantly a request for more information on how costs and benefits had been calculated and the assumptions behind them; queries about costs that may not have been considered and suggestions to quantify or monetise the costs and benefits were also common. Providing more information/data and comments relating to impacts also featured highly. For the purposes of analysing the extent of implementation of these recommendations, we will focus on these most comment types due to the numbers available for analysis.
- 2.7 In terms of comments relating to costs and benefits, more individual comments were addressed at least partially (17 out of 32) than not addressed at all (15 out of 32). Furthermore, where changes had been made, departments were more likely to fully address than partially address the comment. This was particularly the case for those requiring more explanation of how cost and benefits analysis had been arrived at; it was less common for those requiring the costs and benefits to be monetised (40% addressed) or extra costs be considered (33%).
- 2.8 In contrast, departments were less likely to implement changes to address the comments relating to providing more information or data. None of these 12 comments were fully addressed, with six being partially addressed and six not addressed at all. These findings might suggest a gap between what the RPC and the departments consider sufficient when evidencing their Impact Assessments.
- 2.9 Only one out of the five comments relating to impacts was not addressed at all in the consultation stage Impact Assessment. One comment was partially addressed and three comments fully addressed.
- 2.10 Table 2.2 shows the extent to which RPC comments were addressed by each government department. For analysis purposes, there is insufficient representation of comments for HMT or DEFRA to form significant findings.
- 2.11 The Department of Health was most likely to address RPC comments in the consultation stage Impact Assessment, with 4 out of 6 of comments either partially or fully addressed. BIS also appears to be likely to implement amends to Impact Assessments, with 11 out of 18 of their comments either fully or partially addressed. By contrast, DFT and DCLG both addressed less than half of the comments on their Impact Assessments. The MoJ was somewhat effective in addressing their recommendations, fully addressing half of the comments received. It should be noted however, that the numbers available for comparison are very small.



Table 2.2: Number of comments that were addressed, partially addressed and not addressed, for each department

Government Department	Number of comments	Number change attempted	Number fully addressed	Number partially addressed	Number not addressed
Department for Business, Innovation & Skills (BIS)	15	10 (67%)	6 (40%)	4 (27%)	5 (33%)
Department for Transport (DfT)	7	3 (43%)	2 (29%)	1 (14%)	4 (57%)
Department for Communities and Local Government (CLG)	9	3 (33%)	1 (11%)	2 (22%)	6 (67%)
Department of Energy and Climate Change (DECC)	6	4 (67%)	1 (17%)	3 (50%)	2 (33%)
Ministry of Justice (MoJ)	5	2 (40%)	2 (40%)	0 (0%)	3 (60%)
Department of Health (DH)	5	3 (60%)	2 (40%)	1 (20%)	2 (40%)
Health and Safety Executive (HSE)	6	3 (50%)	1 (17%)	2 (33%)	3 (50%)
Department for Culture, Media & Sport (DCMS)	7	2 (29%)	1 (14%)	1 (14%)	5 (71%)
Home Office (HO)	4	2 (50%)	0 (0%)	2 (50%)	2 (50%)
HM Treasury (HMT)	2	2 (100%)	2 (100%)	0 (0%)	0 (0%)
Department for Environment, Food and Rural Affairs (DEFRA)	2	0 (0%)	0 (0%)	0 (0%)	2 (100%)
Total	68	34 (50%)	18 (26%)	16 (24%)	34 (50%)

“Number fully addressed” and “Number partially addressed” shown in italics due to the subjective nature of this measurement.

3 Factors affecting IA changes

- 3.1 Ten policy officials involved in IAs that had received an Amber Opinion were interviewed in more depth about their experience of submitting that particular IA, and their views on the Opinion they received.

The Impact Assessment submission process and dealing with the RPC

- 3.2 In order to set the context, it is important to understand respondents' overall experiences and views of the Impact Assessment process as a whole, and their experiences of dealing with the RPC throughout.
- 3.3 Overall respondents described the submission process in generally positive terms, for example three out of ten respondents described it as 'straightforward'; other comments included that the process is clear, and 'on the whole the process is fine'. One of respondents felt the process might be more difficult for a Department without its own Better Regulation Division, but that they themselves found it "fine". Nine of the ten had at least some positive comments regarding the process.

'The RPC generally is a good idea. It is a good idea for them to be able to do Ambers, and having to go to the RPC means that we have to make sure the analysis is better than we might otherwise do...overall it is helpful.'

[RPC13-BIS-1717]

- 3.4 Overall experiences in dealing with the RPC were mixed – although there were these positive comments about the experience being trouble free and the RPC simple to deal with, there were also more critical comments around issues regarding:
1. **Communication between the RPC and Department** – those who had experienced good communication generally reported the process had gone well and were more positive about the content of the Opinion, others who had not had communication during the process felt the process was 'opaque' and had lower opinions of the comments in the Opinion document;
 2. **Timings** – in terms of the time the process is meant to take and in terms of the time it actually does take (which is on occasion longer); and
 3. **Understanding of the policy** – one or two felt comments were inappropriate and/or misunderstood the policy area.

Communication

- 3.5 Communication between the RPC and Departments, whether regarded highly or poorly, was commonly mentioned by respondents as an important factor in the smooth running of the process. Four of the ten policy officials considered communication to be an important factor driving their satisfaction with past dealings with the RPC. Out of these four respondents, two suggested a recent improvement in communication from the RPC.

'The RPC Secretariat has taken on a more immediate approach to working with Departments. I think earlier on it was very much a 'them and us' thing, but now I believe everybody is willing to talk through issues of concern... It is



sometimes a bit more helpful in that they are able to talk through things with us before issuing an Opinion. I'd like that to be encouraged and to continue.'

[RPC13-DWP-1856]

'They were more helpful and gave us the opportunity to at least meet them, so we could actually address some of their questions and concerns beforehand which basically sped up the whole process.'

[RPC12-DECC-1636]

3.6 The latter respondent in particular felt this new approach contrasted with previous experiences in which *'rather than sitting down and talking through what their issues are, they'll just give a rating and that is that'*. Both of these comments suggest that increased contact with the RPC prior to the submission of the original Impact Assessment improved the overall process as Departments could ensure areas of concern were addressed beforehand.

3.7 Nevertheless, two respondents felt that the interaction between the RPC and Departments was lacking, both describing the process as 'opaque'. In particular these respondents felt the RPC could better communicate timings and what is required from the Department when submitting their proposals. It is therefore important that the opportunity to meet and communicate with the RPC is made clear to all at the outset, to avoid unnecessary issues later in the process.

'It's been very negative. Their opinions seem to be rather partial, the process is cumbersome and seemingly purposely so. It's completely opaque and we don't quite understand what's required of us and the process doesn't seem to make any sense when you have to submit a proposal.'

[Anonymous respondent]

3.8 A further respondent also highlighted a lack of understanding of what is required from the RPC as an issue, although felt this was due to the technical content of the RPC's request rather than ineffective communication. As a policy official they did not understand even what was being asked of them, which made it difficult to amend the IA (however they did have an analyst and an economist on board who were able to understand it).

Timings

3.9 Four respondents were dissatisfied with the length of time taken by the RPC to issue its opinions. Respondents were either dissatisfied due to Impact Assessments reviews taking longer than the stated timeframe, or because they considered the turnaround time itself to be inadequate in the context of 'fast-paced' policy areas with associated time pressures.

'The only thing that causes slight difficulty is the length of time they take to review their Impact Assessments. The claim from the RPC is that they turn around on average in around three weeks or fifteen working days. [Referring to Impact Assessment] this took 41 days - they tend to take longer to review our Impact Assessments on average.'

[RPC13-DH-1929]

'I just think the timescale of 6 weeks when you're working in a fast-paced policy area is quite long.'

[Anonymous respondent]



- 3.10 An additional point raised around timings (not central to this research but worth recording nonetheless) was one policy official who was satisfied in general with the timing of RPC Opinions yet had experienced delays due to problems encountered with the (then) newly implemented fast-track system. They had found that the criteria used to determine eligibility for fast-tracking lacked clarity and that the information required in earlier policy guidance was not enough for the BRE to determine whether a measure was trivial or mechanical.
- 3.11 These issues in determining fast-track eligibility compounded dissatisfaction with the time taken, as not only did they lead to delays in the process but also raised the hope of the process taking very little time at all, by raising hopes that the fast-track process would be an option.

Understanding of the policy

- 3.12 One suggested that problems often arise because of the differences of opinion between the RPC, the BRE and Departments over policy.

'In terms of Impact Assessments generally I think there is still a bit of inconsistency. There is always a trilogy of views – one from RPC, one from the Better Regulation Executive and one from Departments and sometimes they aren't always consistent which causes problems – that's my main bugbear.'

[RPC13-DWP-1856]

- 3.13 There were mixed views on the nature and usefulness of the comments generally. One respondent said they appreciated the outside view as it's possible to get "pigeon-holed" and not recognise wider ramifications of proposed legislation; however one felt the RPC comments went beyond their remit, commenting on the policy itself and the scope of its actions rather than just the way in which the IA had been conducted.
- 3.14 In summary, respondents tended to be satisfied with their overall dealings with the RPC despite having received an Amber Opinion. However they highlighted the importance of early communications between Departments and the RPC, the timeliness of Opinions, clarity around eligibility for fast-track and a couple queried the consistency of RPC views as areas for improvement. It is important to note that some IAs being discussed were completed up to 18 months prior to the research so it may be in some cases changes have already been implemented – in which case the research emphasises the importance of communicating these changes to all so all benefit from a simple, efficient process.

Barriers to acting on comments

- 3.15 Findings from the first phase of the research suggested that around half of comments received as part of Amber Opinions were not addressed prior to publication of the consultation IA. Reasons given for this varied, with some relating to the nature of the comment itself and others relating to external factors. The main barriers were perceived to be:
- They need to use the consultation to get the necessary information;
 - They did not realise they were required to make changes pre-consultation;
 - The suggested changes were not feasible due to a lack of data or perceived feasibility of sourcing the required data;
 - Time pressure;
 - Unclear comments;



- Comments perceived to be invalid.

3.16 Among the most common reasons given was a perception that the purpose of the consultation is to test propositions and gather more evidence, therefore it can be **more useful to address some comments post-consultation**, when it is possible to add more supporting evidence. This view was mentioned by four respondents, and generally related to comments requesting more details or quantification of costs and benefits or impacts. Whilst Amber Opinions regularly make suggestions for the final stage IA along these lines, these comments refer to suggestions for the consultation stage IA or where more evidence needs adding to aid the consultation process.

'It was quite tricky to take on because the reason you go out to consultation is to get these answers so we were asking questions to ascertain whether fixed cost regime would work in [these cases], and that was the reason we went out to consultation; so you can't answer the question until we've got the answers. So that was a bit back to front.'

[Anonymous respondent]

3.17 There was a view among a minority of respondents that it was **unnecessary to make any changes** at all to the IA prior to the consultation, since 'an Amber rating means you can go to consultation'. They made the changes for the final version of the IA instead. One felt this very strongly to the extent they were confused by the intention of the research; another two mentioned it more loosely i.e. it's better to make changes but not essential.

'Unless I've picked it up wrong, we were never led to understand that you had to amend an IA [at this stage]. Because it says it's fit for purpose so we consulted on that basis, so why is the research asking did you change it before you went out to consultation?'

[Anonymous respondent]

'This was seen as a lower priority, a 'nice to have''

RPC13-BIS-1717

3.18 There were also instances where the suggested change was simply **not seen as feasible**, due to a lack of data available or the perceived feasibility of sourcing the required data. This issue related to comments requesting more evidence or quantification, such as cost and benefits analysis, and was mentioned by three respondents. One respondent commented that it would require:

'A research exercise that would cost millions of pounds to do.'

[Anonymous respondent]

3.19 Another respondent explained:

'There is no data to support that (quantifying the cost of dealing with graffiti) – there are small amounts of information kicking around in a number of studies, none of them particularly statistically significant or robust, which is why our economists generally didn't want to use it.'

[RPC12-HO-1812(3)]

3.20 In two cases, respondents reported that **time pressure** meant it was not possible to make the suggested changes, although they would have been feasible in principle. This occurred in situations



where the preparation for the consultation took place concurrently with the RPC's review, with the intention of proceeding fairly swiftly once the Opinion was received, as explained by this respondent:

'[To what extent were you able to make the amendments] Not at all, even the ones that were deeply practical. Just because we were in quite a rush... Once we had got the Opinion, we were already at the stage of writing round and getting ready to publish the consultation (providing we didn't get a Red of course), so at that stage there wasn't any time, whereas if we'd been given the comments a couple of weeks earlier, we could have acted on them.'

[RPC13-BIS-1717]

- 3.21 This emphasises the importance of issuing the Opinions in a timely fashion and the impact of not doing so, as identified in the previous comments regarding general dealings with the RPC.
- 3.22 Another barrier was **comments that were either unclear or the relevance of them was unclear**. This was raised by two respondents; in one case the respondent stated that a supporting information supplied by RPC on a separate spreadsheet contained errors, while in the other case, the respondent questioned the relevance of the comment to the policy proposal.

'The only opaque aspect was that one of their recommendations which included the EANCB calculation on a spreadsheet which had errors on it.'

[RPC12-DECC-1636]

- 3.23 In one case, the respondent **did not feel that the RPC's comments were valid**. They disagreed that the impacts highlighted by the RPC were actually impacts on businesses, and felt that the information they had been required to include essentially misrepresented the costs and benefits involved in their proposal through calculations that were 'arbitrary'.

'There is nothing we could do to address their comments; we also made it perfectly clear that we didn't think their comments were valid. But they just came straight back to us with exactly the same comments... They are not impacts that we acknowledge to be impacts on businesses... We changed the narrative, but what we weren't able to do was put quantitative numbers in...in the end we asked the Association of Convenience Stores what proportion of their members would clean off graffiti, and they said about 99%, so we worked on the assumption that 1% of businesses wouldn't clean off graffiti, graffiti affects 10% of businesses, and the average cost of cleaning off graffiti is X, therefore X times Y times Z = a completely made up number that was completely pointless.'

[RPC12-HO-1812(3)]

Catalysts for action

- 3.24 Typically, the comments more likely to be addressed were those requesting more **minor changes**. Where changes were made, respondents typically described this as a not particularly onerous process, requiring a day's work or less. By contrast, in reference to some comments that were not acted upon, respondents mentioned longer timeframes, with two respondents estimating that it would have taken a month or longer to implement the change.



'We did address the recommendations prior to consultation, particularly if there were a few small presentation things and a couple of checks that they recommended.'

[RPC12-DECC-1636]

- 3.25 The changes that were implemented often related to the wording used in the IA, including requests for greater clarity and more explanation. In two cases, requests for a Small and Micro Business Assessment to be added had also been acted upon.

'We made a number of changes, but most of them were cosmetic. In reality, we haven't added anything of any great worth.'

[RPC12-HO-1812(3)]

- 3.26 The changes that were made **tended not to require significant amounts of additional information** which was not already held by the department; as discussed above, changes of this type were either considered unfeasible, or were left until after the consultation, when more evidence would be available.

- 3.27 However, where the change was **considered important**, more effort was expended in making the amends. For example, changes that referred to impacts on business were more likely to be addressed than not. One such case was an incident where the RPC had highlighted an area the IA had failed to consider for impact; the policy team brought in economists for a meeting to consider the impact before including it in the IA. Another respondent had consulted with industry experts as well as internal stakeholders in order to obtain the additional information requested.

'We had to go to experts for the different sizes of producers – it wasn't as straightforward as it sounded.'

[RPC12-DEFRA-1622]

- 3.28 For the most part, it appears changes are considered in relation to the amount of work required to address them at that stage and whether that is proportionate to their importance as perceived by the Department to the policy consultation. If a change is considered valid and as something that would add value to the consultation, the effort will be expended to address it. If it is a minor change that does not require too much effort, if there are no other barriers in place (such as time considerations) the attempt will be made to address it. For the most part respondents knew that they should be addressing the comments (apart from one or two exceptions), but often the feeling was that it was more important for the final stage IA and the consultation could be used to gather the information required to make the change.

Additional support from the RPC

- 3.29 Respondents often did not think that the RPC could have provided any additional support which would have made the process easier, with one respondent commenting

'In general, we don't look to the RPC for advice and support. We would work closely with the Better Regulation Executive to better understand the requirements and we would look to them for support.'

[RPC13-DH-1929]

- 3.30 However, four out of ten respondents mentioned that additional communications from RPC during the review process would be helpful. One of these elaborated that it would be beneficial for departments to



have more 'advance warning' of decisions coming out of the review process, rather than waiting for the full Opinion to be issued, particularly where there was time pressure associated with the consultation. It was suggested that departments would have more opportunity to make changes if they received more advance notice of the likely nature of the comments. However it was also recognised that there would be issues with the RPC providing any information that was not 'final' and had not been through the relevant internal processes.

'They could actually talk to us during the process. At some point they must pass on their analytical views to their colleagues on the committee...my understanding is that an individual analyst will look at it and an individual policy person will look at it, and then they will share their views with the other people in the secretariat, and then a finalised view will be sent to the committee. Admittedly it would be a lot more work for them, but just having sight of what their view was would be very helpful. I imagine that what goes in the final Opinion is a very limited perception of what the analysts' views were.'

[RPC13-BIS-1717]

- 3.31 One respondent mentioned that the opportunity for an interim meeting with RPC would be helpful (as discussed earlier in this chapter, a different respondent had been offered such a meeting and reported that this was helpful), while again recognising that this may not be necessarily be feasible.

'Sometimes it would be beneficial to have the ability to meet with people and explain things where required but obviously they've got lots of things flying around so whether that's possible in reality I don't know.'

[Anonymous respondent]

- 3.32 The other two respondents mentioned better communications more generally, with one explaining:

'I think there should be a better clarity and communication as to what is required. Perhaps there could be a better communication between the secretariat, the RPC and us. For example, if there is a tweak that is required, if the secretariat suggest to us that maybe the RPC needs more information then quite often we have to completely re-submit the whole assessment. That's why the process seems opaque to us.'

[Anonymous respondent]



4 Conclusions

- 4.1 Overall the feeling was that the RPC advice was welcomed and led to higher quality IA than would otherwise be the case. An Amber Opinion was a useful tool to prevent the need for resubmission (in the case of a Red rating) whilst highlighting areas to be strengthened, however there is some evidence that the impact of Amber Opinion comments is not as strong as one would hope.
- 4.2 Whilst overall respondents tended to be satisfied with their dealings with the RPC, it is clear from the research that there are a significant proportion of comments in RPC opinions that are not acted upon by Departments before the consultation IA is submitted to the RRC and published. This is of concern, as the 'fit-for-purpose' rating only stands if the amendments highlighted by the comments are made.
- 4.3 In order to maximise the impact of Amber Opinions each of the barriers identified will need to be addressed. The primary method for doing so will be through clearer communication at the different stages of the process.
- 4.4 **Communication** is a theme that runs throughout, with those who had received good communication (through telephone conversations and/or meetings) very positive about this and the process, and those who felt communication was lacking far more likely to be negative.

Communication prior to the process

- 4.5 There is already quite a bit of information available to Departments regarding the process of undertaking and submitting an IA. However comments about the timescales and whether changes are required at consultation stage suggest not all is being understood. In order to ensure Departments have (as far as possible) built in timescales that allow for RPC consideration of the IAs **more information on the RPC scrutiny process and average turnaround timings could be published monthly on the RPC website**. This would show the process as a whole very clearly and the typical turnaround times for Opinions to be issued allowing for sufficient planning by Departments to build this into their policy timescales (although this is not always possible – see below).
- 4.6 It would also be useful to **make it clear at this stage the difference between the Red, Amber and Green Opinions** that can be issued at consultation stage. This would ensure Departments know that they also need to be building in time for potential changes to their IA prior to consultation.

Communication during the process

- 4.7 It would be worth **making it very clear to Departments that (for complex IAs) the secretariat offers a meeting prior to submission**; this would allow areas of contention to be discussed at an early stage. More open communications channels for Departments who have queries or need advice could also help those who are less familiar with the process.
- 4.8 This would have the effect of either allowing the department to give an explanation that may change the nature of the comment made, or give them enough forewarning to be able to start addressing the issue before the Opinion is issued, thereby giving them more time to do so and reducing the number of comments not addressed due to timing issues.
- 4.9 In addition it could reduce the number of comments perceived by the departments to be unclear, unfeasible or invalid, due to increased understanding from both parties.



- 4.10 However, noting the issues around timeliness, it is important that the time required for additional communication is balanced by the requirements of the policy timescale.

Communication of the actual Opinion comments

- 4.11 In a number of cases (four of the ten included in the research) it seems that amending the comments prior to consultation is not seen as a priority, as they could be addressed more fully using information gained during the consultation phase. It may be useful to introduce some **communication on why the changes are important for the consultation IA** as part of the process, to increase the likelihood comments will be acted upon. This would be valuable both at the outset and when the Opinion is issued.
- 4.12 To aid this it would be worth considering **using stronger wording** in the Opinion. Currently the introductory paragraph typically reads along the lines of “this IA is fit-for-purpose. However, the IA should do X Y and Z.” This is leading people to believe the change is optional – a wording along the lines of “The IA is fit-for-purpose if X Y and Z are done”. This will also help to make it very clear which comments are regarding the consultation stage IA and which relate to the final stage IA.

Time pressure

- 4.13 Whilst policy officials should be building policy timescales that allow for the time required for the RPC to assess IAs and for Departments to make necessary amendments, in a fast-paced policy context this is not always possible.
- 4.14 Where a policy is on a particularly (and unavoidable) tight turnaround but does not qualify for fast track, it may be of value for Departments to be able to apply for priority of assessment to try to reduce their turnaround time and allow them time to make the amendments required by the Opinion before going out to consultation.

