 Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	Tackling illegal immigration in privately rented accommodation	
Lead Department/Agency	Home Office	
Stage	Final	
IA number	HO0094	
Origin	Domestic	
Expected date of implementation (and SNR number)	October 2014 (SNR8)	
Date submitted to RPC	26/09/2013	
RPC Opinion date and reference	11/10/2013	RPC13-HO-1880(2)
Overall Assessment	GREEN	
<p>RPC comments</p> <p>The IA is not fit for purpose for the reasons set out below. However, based on the evidence presented, the IA contains a reasonable assessment of the direct impacts of the proposals on business for OITO purposes and it has therefore been given a green rating, in line with the Better Regulation Framework Manual. While the IA now justifies better the assumptions used for the costs of checking documents, significant concerns remain with the analysis and evidence presented in the IA. These concerns include the exclusion of costs to the Exchequer in the break even analysis, which renders the break even analysis not fit for purpose, and also in relation to the IA's claims relating to landlords who are currently acting illegally. These errors do not affect the estimated costs to business, and as such, in line with the Better Regulation Framework Manual, cannot be taken into account in the overall rating shown above.</p>		
<p>Background (extracts from IA)</p> <p>What is the problem under consideration? Why is government intervention necessary?</p> <p>Housing is a key enabler of illegal migration. The policy is intended to reduce the availability of accommodation for those intending to stay illegally in the UK. The policy is also intended to tackle the exploitation of migrants by rogue landlords. Government intervention is necessary to deter illegal immigration.</p> <p>What are the policy objectives and the intended effects?</p> <p>The policy is intended to reduce the availability of accommodation for those residing illegally in the UK. The policy is intended to discourage those who stay illegally and encourage those who are resident in the UK illegally to leave by making it more difficult to establish a settled lifestyle through stable housing. The proposal will also reinforce action against rogue landlords who target vulnerable tenants by putting people who are illegally resident in overcrowded accommodation.</p> <p>Comments on the robustness of the OITO assessment</p>		

The IA says that it is a regulatory proposal that would impose a net cost to business (an 'IN') with an Equivalent Annual Net Cost to Business of £4.7m. This assessment appears to be reasonable and is consistent with the current Better Regulation Framework Manual (paragraph 1.9.10).

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

The proposals regulate business and are intended to come into force after 1 April 2014 and therefore the SaMBA is applicable.

The SaMBA is sufficient. The Department has set out why it believes applying exemptions would not be appropriate, and a number of mitigating actions which will be taken to ease the burdens on landlords. For example, through simplified lists of documents for checking and not applying the regulation for any tenancies starting before the legislation is enacted.

Quality of the analysis and evidence presented in the IA

Following the comments in our opinion of 9/9/2013 the IA now includes a stronger evidence base on the likely costs associated with checking and storing documents, scheduling subsequent checks and clarifies previous comments regarding transitional IT costs. However, there remain significant concerns with the analysis and evidence presented in the IA. As such, the IA as a whole cannot be considered fit for purpose, despite providing a reasonable assessment of the direct impacts on business.

Impacts of reduced migration

Our previous opinion raised concerns regarding how the IA treats costs to the Exchequer in the break even analysis and how this has been used to inform the decision making process. The IA uses breakeven analysis as a way of modelling the number of illegal migrants, and the benefits which would accrue to society as a result, who would need to be deterred from staying in the UK in order to justify the additional costs and burdens imposed by the proposal. To ensure that the break even analysis can be used to effectively inform the decision making process it should accurately capture the costs and benefits of the proposal.

The IA estimates a saving of £4,250 per year per illegal migrant removed from the UK (page 16) as a result of reduced use of public services. The IA describes the benefits of the proposals by using the figures for increased volumes of departures alongside the estimated savings per departure. These benefits are used as a justification for the imposition of the costs associated with the proposal.

The IA correctly excludes costs to illegal migrants from the estimate of the impact of reducing the number of migrants, as they are in the UK illegally. However, the IA also excludes the cost to the Exchequer of lost tax revenue from the breakeven analysis. This incorrectly excludes these costs from the analysis. The cost to the Exchequer, which is compliant with the relevant legislation, is a result of a reduction in taxable activity that occurs as a result of the proposal. As the savings

associated with reduced use of public services are included in the breakeven analysis, the costs to the Exchequer should also be used to provide an accurate assessment of the likely impacts of the proposals in order to properly inform the decision-making process. These costs and benefits are key in the decision-making process and so should be treated in as robust a manner as those figures included in the headline NPV figure.

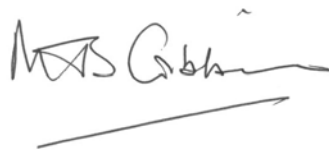
The Committee notes that the Department requested advice on this issue from the Better Regulation Executive (BRE) and was advised that the position in the IA was not consistent with the Better Regulation Framework Manual. Following our previous Opinion, representatives of the BRE and the RPC met with Home Office officials to discuss this issue and agreed a pragmatic approach to the presentation of these costs and benefits. The agreed approach would have ensured that the IA would more effectively inform the decision making process. While these considerations do not impact on the direct impacts on business, and as such do not impact on the rating of the Opinion, the statement that “*This is in line with the Better Regulation Framework Manual (2013)*” (page 7) in relation to the treatment of costs to the Exchequer, is incorrect and must be removed from the IA as it is not the case.

In addition, when calculating the break even analysis, the IA appears to include both the benefits of reduction in the numbers of illegal migrants and the benefit of no longer having to pay to remove them. This double counts the benefits. If the migrant would have stayed under the counterfactual there would have been no cost of removing them; if they would have been removed there would have been no cost of them remaining. This reinforces the Committee’s view that the statement that “*The policy would breakeven, with an NPV of zero, if an additional 290 people leave the UK each year*” is not robust.

Unintended consequences

Illegal landlords. The IA states the proposal will “*provide a deterrent to those who seek to exploit illegal residents by providing illegal and unsafe accommodation*” (page 5). As highlighted in our previous Opinion it is unclear why this would be the case, because such landlords are already operating illegally and it is unlikely that additional legal sanctions would have an impact on their behaviour. The IA refers to the risk that the proposal could result in illegal immigrants being forced to deal with such landlords directly, as the only providers of housing available to them. However, it does not provide any analysis beyond this statement and fails to provide any justification as to why the proposals could be considered to act as a deterrent to those already acting illegally. As this is a stated objective of the policy the IA must explain how it will be delivered.

Signed



Michael Gibbons, Chairman