



Department
for Business
Innovation & Skills

Better Regulation and Regulatory Impact Assessment

EFFECTIVE PUBLIC ADMINISTRATION

BRATISLAVA

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Presenter

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Better regulation is a political imperative in the UK

I want us to be the first government in modern history to leave office having reduced the overall burden of regulation, rather than increasing it.”

Prime Minister's letter to all Cabinet Ministers, 6 April 2011



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The Role of Impact Assessments



What is Impact Assessment?

- An Impact Assessment is both:
 - A continuous process to help think through the reasons for government intervention; and
 - A tool to be used to help develop policy
- An Impact Assessment summarises the rationale for Government intervention; the options considered and the expected costs and benefits
- Guidance is provided in the Better Regulation Framework Manual
- Further details available on <https://www.gov.uk/government/policies/reducing-the-impact-of-regulation-on-business>



When is an Impact Assessment required?

- In the UK, all measures that require Reducing Regulation sub-Committee (RRC) clearance must be supported by an Impact Assessment that has been scrutinised by the RPC
 - Measures that require collective agreement and
 - Regulate or deregulate business
- Measures that do not require RRC clearance might also require Impact Assessments for other reasons, such as parliamentary scrutiny or policy development



Available guidance

Green Book and Magenta Book
Framework for the appraisal and evaluation of all policies, programmes and projects in Central Government

Regulatory Policies
Better Regulation
Framework Manual

Spending policies
Business Case
Guidance

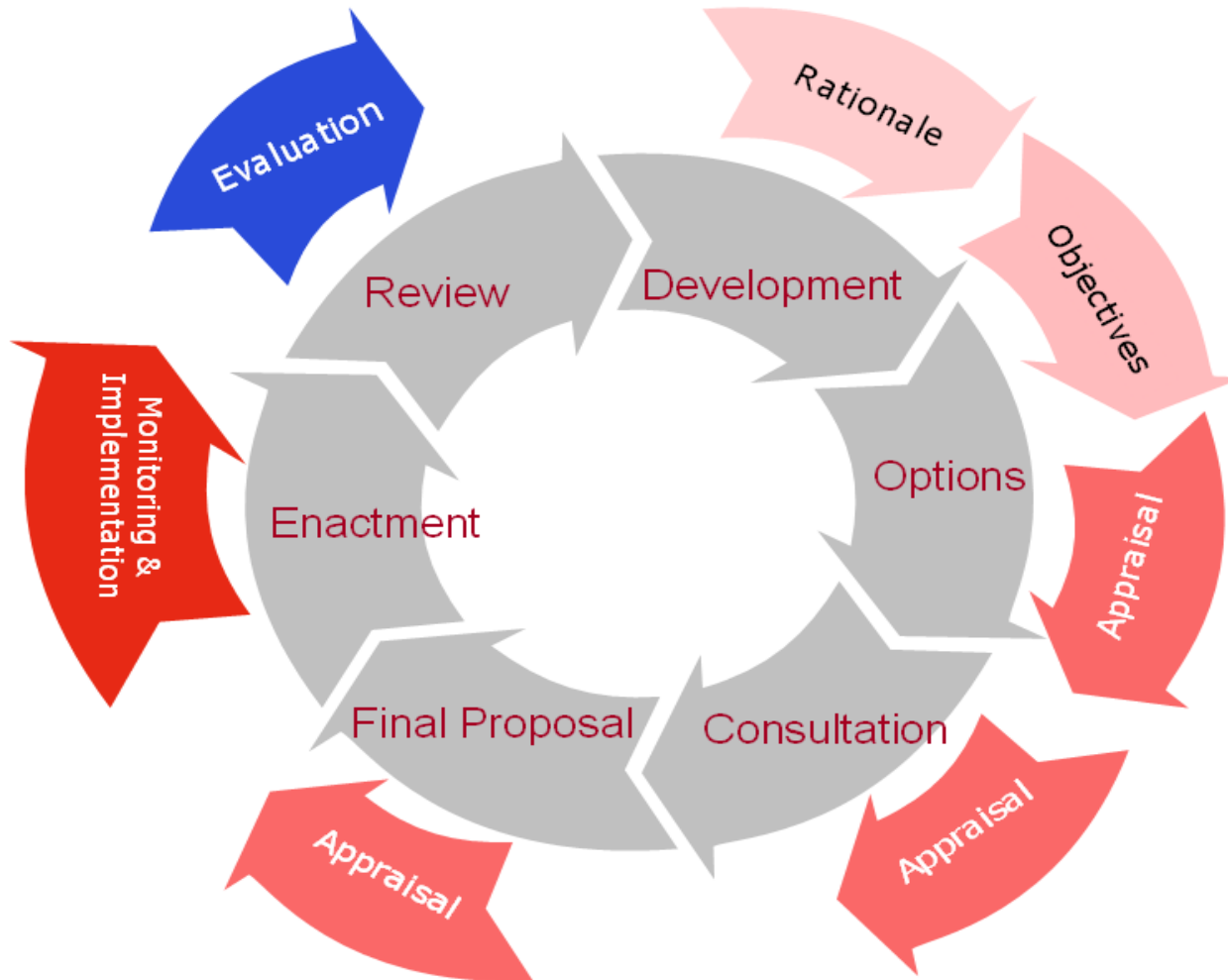
Tax policies
HMT specialism



Policy development and IA steps

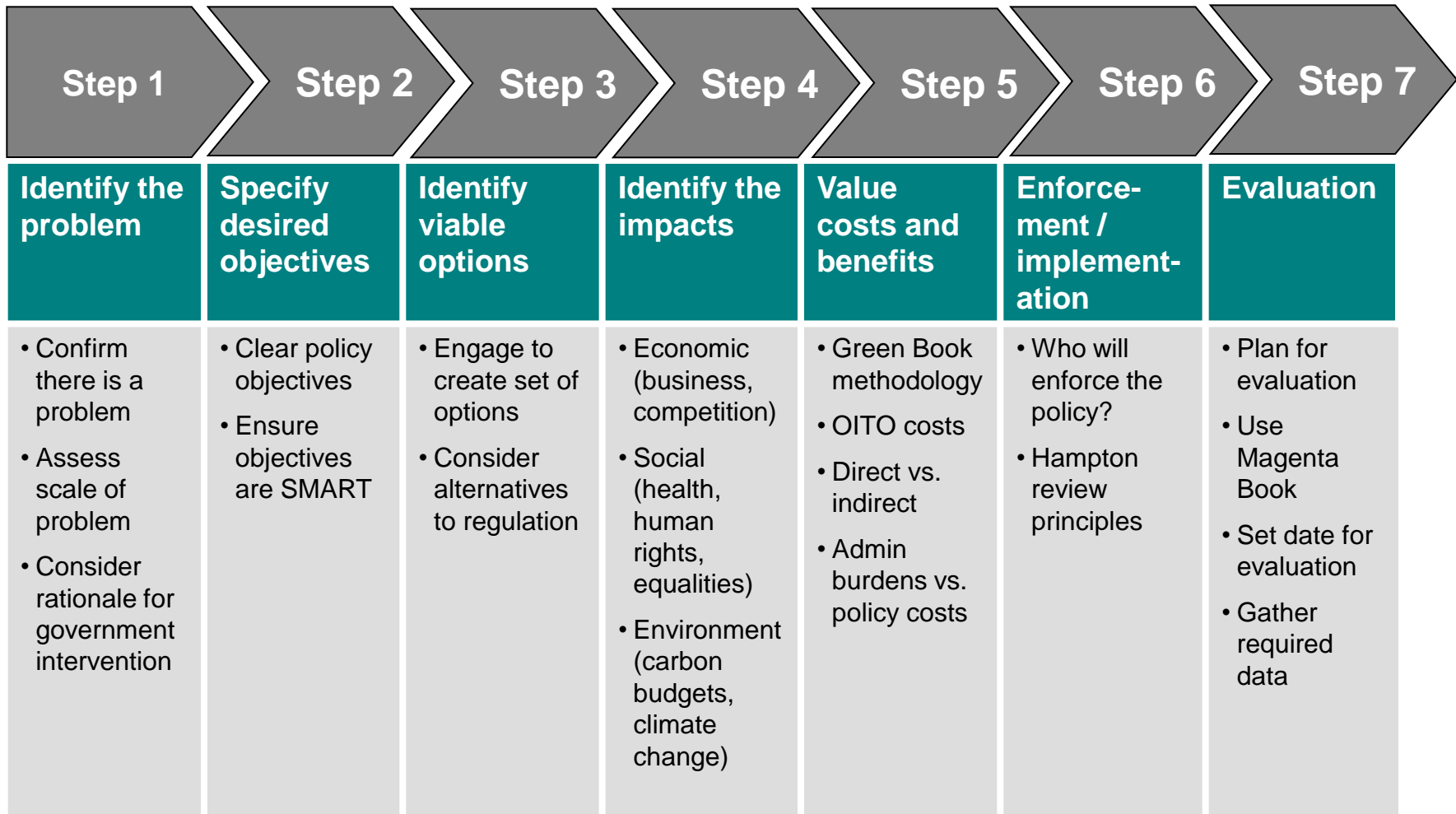


Policy Cycle





Domestic Policies: IA Steps





Step 1: Identify the Problem

- Identify ‘market failure’ or socially undesirable outcome that calls for regulatory intervention
 - Economic theory is useful at this stage
 - BUT market failure alone does not justify intervention
- Use evidence to understand scale of problem
- Consider if problem is real or a perception issue
- Ultimately, decision to intervene is political



Step 1: Identify the Problem

Problem	Description	Outcome	Examples	Solutions
Externalities	Production / consumption of a good imposes a cost / benefit on a 3 rd party that is not accounted for in the price / cost	As these impacts are not reflected in prices, agents do not consider them when making decisions. This leads to over / under production / consumption of these goods	Pollution, smoking, vaccination	Taxes, subsidies, property rights, regulation
Asymmetric Info	One party has an informational advantage over another. This leads to the problems of adverse selection and moral hazard	Agents incur deadweight signalling costs in order to overcome the information gap. Market fails to clear	Principal-agent problems, insurance, used cars.	Government (mandating) provision of information. Regulation
Market Power	If markets are not perfectly competitive, individual firms have the power to set prices, which they set too high	Firms will set price above marginal cost. By increasing output the gains to consumers would exceed the cost of production. Thus the good is underprovided by the market	Monopolies, Oligopolies. BA, Sky, Microsoft	Competition policy, regulated industries, nationalisation
Public Good	Public goods are goods which are both non-rival and non-excludable	Good is underprovided by the free market. This is down to the free-rider problem. Those that refuse to pay cannot be excluded from consumption	Defence, street lighting, lighthouses	Government provision



Step 2: Specify Objectives

- Identify what the policy intends to achieve
- Objectives should be
 - **Specific**
 - **Measurable**
 - **Achievable**
 - **Relevant**
 - **Time-bound**



Step 3: Identify Policy Options

- Identify ALL the viable options
 - No intervention (do nothing or do minimum)
 - Prescriptive regulation
 - Alternatives to regulation
- Only present genuine options to stakeholders



Do nothing

- Important to establish ‘counterfactual’
- What would occur if no action is taken
 - Different for EU and domestic regulation
- Baseline to assess other options against
- Important for Post Implementation Review (PIR)



Alternatives to Regulation

- **“Government will regulate to achieve its policy objectives only:**
 - having demonstrated that satisfactory outcomes cannot be achieved by alternatives, self-regulatory, or non-regulatory approaches; and
 - if the regulation and the enforcement framework are to be implemented in a fashion which is demonstrably proportionate; accountable; consistent; transparent and targeted.”
- **Is it necessary for Government to act?**
 - The Government’s presumption is that conventional ‘command-and-control’ regulation is a last resort.



Alternatives to Regulation – Examples

- Information and education
- Self regulation – voluntary codes of practices with or without government backing
- Co-regulation – work with the government to develop a code of practice but the enforcement is done by the industry itself or a professional body
- Economic instruments – taxes and subsidies



Step 4: Identify the Impacts

- Identify impacts by issue type:
 - **Economic / financial** (e.g. small businesses, wider economy, competition)
 - **Social** (e.g. human rights, equalities)
 - **Environmental** (e.g. greenhouse gas)



Distributional Impacts

- Most policies create winners and losers
- Need to cover any significant distributional impacts
- The ‘Green Book’ which is used by UK government analysts for appraisals lists:
 - Income, gender, ethnic group, age, geographical location, disability
- ‘Wider impacts’ section in IAs usually includes headings such as “equality” and “environmental”
- Show you have considered these impacts
- Level of detail as appropriate and proportionate



Small and Micro-Business Assessment

Regulatory measures that do not qualify for **Fast Track** should only extend to small and micro-businesses where any disproportionate burden is fully mitigated

Smaller business (up to 49 employees) - including micro-businesses (up to 10 employees) - suffer disproportionately from the burden of regulation.

The **SMBA** is mandatory for all new domestic regulatory proposals expected to come into force after 31 March 2014, except those which qualify for **Fast Track**

Analysis of small business impacts should form part of the **impact assessment**, and will be scrutinised by the **Regulatory Policy Committee**

The default assumption for **SMBA** is that where a large part of the intended benefits can be achieved without including smaller businesses, an exemption will be applied. Think critically about whether it is necessary to extend your measure to micros and/or small businesses at the very outset of policy development.

The effect of any proposed mitigation should be clearly set out in the **impact assessment**, and your proposals justified in the letter seeking **RRC Clearance**.



Step 5: Value Costs and Benefits

- Follow Green Book methodology & IA Toolkit in the Better Regulation Manual
- Identify groups affected
- Monetise costs and benefits as far as possible
- Clearly highlight direct costs to business
- Rigorously assess non-monetary costs / benefits
- Explore risks and sensitivities



Regulatory Costs

- Administrative burdens
 - Costs associated with familiarisation, record keeping and reporting (inc. inspection)
- Policy costs
 - Essential costs of meeting policy objectives
- Direct costs include both administrative burdens and policy costs
 - Further details on direct vs. indirect below



Quantification and monetisation

- Estimate where appropriate and proportionate
- **Quantifying the effect** - e.g. 1000 planning applications per year, 100 hours of management time, 500,000 new houses built per year
- **Monetising the effect** - putting a value on the scale of impacts
 - For non-market impacts stated preference and revealed preference techniques
 - Standard measures for health impacts (QALY), time saved and lives saved (both DfT)



Step 6: Enforcement

- Identify who is responsible for enforcement
- Consider Principles of Good Regulation and Hampton Principles
- Outline aims and timetable for implementation
- Identify stakeholders and plan communication
- Consider risk management for delivery
- Consider how this will fit with existing initiatives



Step 7: Evaluation

- Plan your evaluation in line with Magenta Book
- Establish what data collection is required
- Gather data during implementation phase
- Evaluate policy using a PIR
- Consult with stakeholders re policy effectiveness



Quality assurance and the RPC

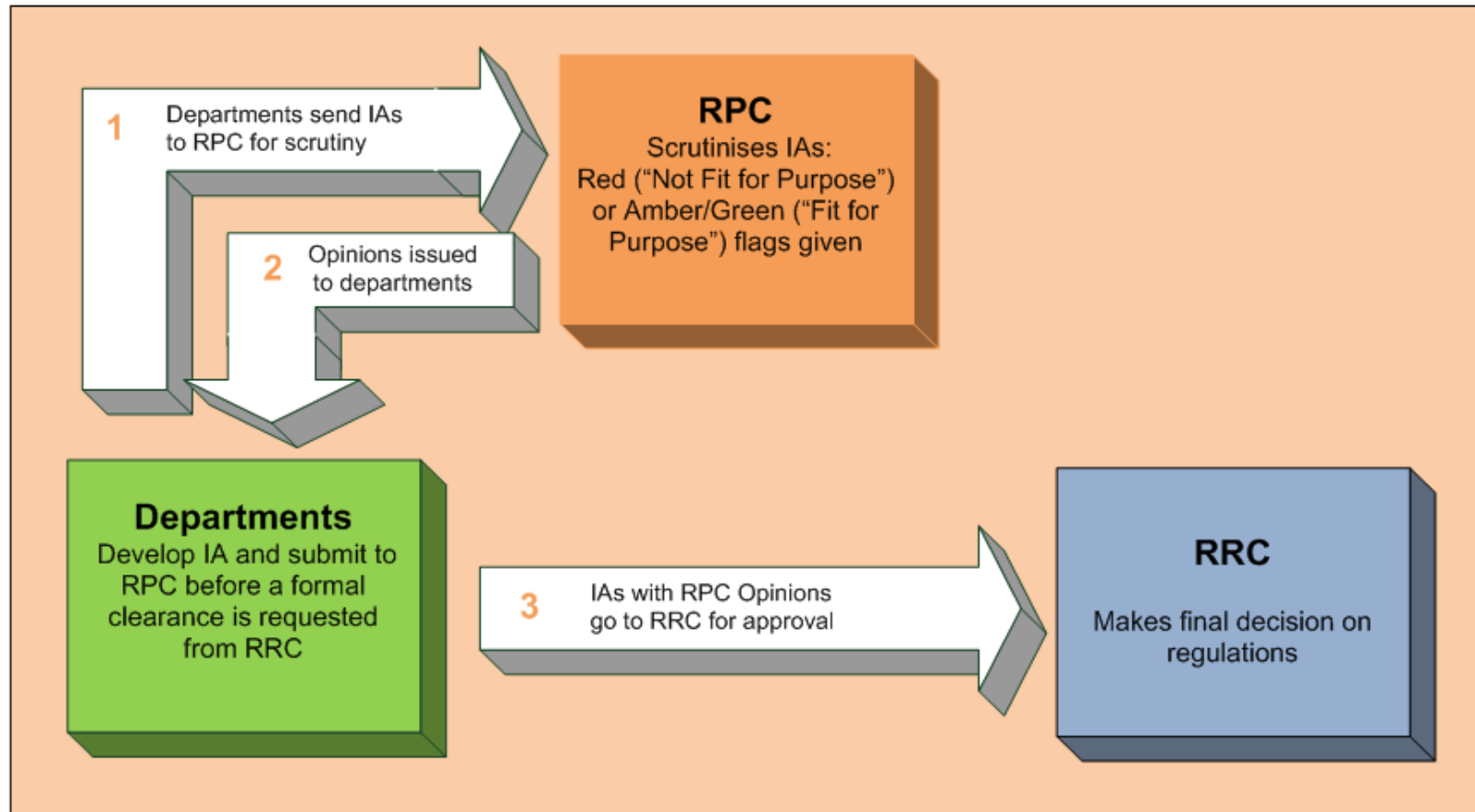


The RPC

- An independent advisory body providing external scrutiny on the quality of evidence for government regulatory proposals
- Aimed at strengthening the quality of analysis and use of evidence in the policy-making process
- The Committee has eight independent members from varying backgrounds
- Supported by a secretariat of Civil Servants, including a mix of policy officials and economists



The role of the RPC in the clearance of major (over £1m) regulatory proposals





'RAG' Ratings

- All Opinions have included a Red, Amber or Green flag;
 - **RED**: The IA is 'Not Fit for Purpose'. Major concerns over the quality of the evidence and analysis and overall quality of the IA that ***must/need to*** be addressed.
 - **AMBER**: The IA is 'Fit for Purpose'. However, we will set out areas of concern with the IA which ***should*** be resolved so as to improve its contribution to the final decision made. (*Only used at consultation stage*)
 - **GREEN**: The IA is 'Fit for Purpose'. No significant concerns or some minor issues where the IA that ***could*** be improved to deliver greater clarity or to aid understanding.

Ministers have said that any IA receiving a RED Opinion must be amended and resubmitted to the RPC for a new 'Fit for Purpose' Opinion prior to submission to RRC



Our Seven Recommendations

- Identified as integral steps in producing a high quality IA
 1. Don't presume regulation is the answer
 2. Take time and effort to consider all options
 3. Make sure you have substantive evidence
 4. Produce reliable estimates of the costs and benefits
 5. Assess non-monetary impacts thoroughly
 6. Explain and present results clearly
 7. Understand the real cost to business of regulation



Thank you very much