



Proportionality guidance for departments

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Introduction

1. Proportionality in impact assessments (IAs) is about ensuring the appropriate level of resources is invested in gathering and analysing evidence on the impacts of a policy.
2. The Better Regulation Framework Manual (para 1.5.17) states: “*You should ensure that the resource you invest in undertaking an RIA is proportionate. Some of the factors that should be considered when deciding what level of analysis would be appropriate include: the scale of the expected impact, stage of the policy, sensitivity of the policy and the ability and cost of doing further analysis relative to the benefits this analysis may yield. Any limiting factors in identifying robust estimates of the impact of the measure should be fully explained in the RIA.*” Section 2.2 (pages 58-61) of the BRFM provides more detailed guidance on proportionate analysis.
3. Some Departments and regulators have found it difficult to gauge how the RPC interprets this guidance. The RPC recognises the need to prioritise analytical resources in order to focus on the most important and impactful measures at times of high demand and limited resource.
4. This document illustrates how the RPC applies that guidance in practice and provides an indication of the level of analysis the RPC expects to see from departments.

Level of analysis

5. The RPC expects that a lower level of resource will be applied to evidence gathering and analysis for smaller measures. However, it is important to emphasise that analysis and evidence are ALWAYS required within an IA. Even when the Equivalent Annual Net Direct Cost to Business (EANDCB) figure rounds to zero, sufficient evidence needs to be presented for the RPC to be confident that the impact does indeed round to zero. In all instances, the RPC requires at a minimum both a clear description of the impacts of the measure and a brief justification of the key assumptions, no matter how small the anticipated impacts.
6. A primary consideration is the impact of your measure. The Figure 1 sets out the principal considerations when determining impact.

7. The table below aims to clarify what the RPC will look for to determine the level of impact of a measure and therefore what constitutes proportionate level of analysis. It should be emphasised, however, that proportionality will always remain a matter of judgement because it is neither possible nor desirable to set out, in fixed terms, exactly what is a proportionate level of analysis.
8. Every IA must cover a set of basic elements to allow the RPC to assess its 'fitness for purpose'. The degree of detail required under each of these elements must be decided by the author of the IA. Even for very large measures, we encourage succinct plain English descriptions of proposals, without omitting potentially important detail or including irrelevant evidence.
9. Please note that the table does not indicate where the RPC will focus, or LIMIT its scrutiny. Each case is always judged on its own merits and, where appropriate, the RPC requirements can go beyond what is set out in the table. **It is also worth noting that clear descriptions of the impacts of the measure and brief justifications of key assumptions are minimum requirements for any IA.**

Figure 1 – Impact Assessment Type and Level of Impact

This guidance is intended to help Departments decide how much resource should be used in the development of an impact assessment by outlining the expectations that the RPC might have for an impact assessment by **impact assessment type** and by **level of impacts**.

What do we mean by impact assessment type?

Consultation stage impact assessment

Final stage impact assessment

EANDCB validations (Fast Track submissions)

Post implementation review

How can you determine the level of impact?

STEP 1

Is measure deregulatory, or are the gross annual costs to business expected to be less than £1m? (Fast track test)

What is the size of the regulated market/no. of entities affected?

Does measure change existing requirements in a fundamental way?

How many different factors need to be considered to understand the impact of the measure?

Is there a high risk of the measure not meeting its objectives?

Is measure likely to have disproportionate impact on one group of businesses (such as small businesses, or businesses in one sector)?

Is measure novel or contentious?

Is measure permissive?

STEP 2

Determine the size of:

Equivalent annual net direct cost to business (EANDCB) and;

Societal impact (e.g. high net present value (NPV))

(as estimated in the original IA for PIRs; expected or preliminary values for consultation, final and validation stages)

Figure 2 – Determining the level of impact

This table aims to provide guidance on determining the correct level of impact in relation to questions from Figure 1.

GUIDE ON LEVEL OF IMPACT			
FULL ROUTE IMPACT ASSESSMENT			EANDCB VALIDATION (Fast Track) ¹
High impact	Medium impact	Low impact	Very low impact
<p>A measure should be considered high impact if it meets ANY of the criteria below,</p> <ul style="list-style-type: none"> ➤ Large number of businesses/individuals/organisations will be affected (thousands, large proportion of the market) ➤ Measure introduces a radical change to existing requirements/regulations ➤ A large number of factors need to be considered to estimate the impact of the measure and there is a high degree of uncertainty ➤ There is a high risk of not meeting the objectives ➤ Distributional impacts which would change relative status of the affected parties in a considerable way e.g. Sunday trading ➤ Measure is very novel e.g. Spaceflights, Autonomous vehicles ➤ Measure is contentious e.g. Trade Union Bill <p>AND</p> <ul style="list-style-type: none"> ➤ EANDCB greater than +/- £30 million ➤ NPV greater than +/- £50 million 	<p>A measure should be considered medium impact, if it is not 'High impact' but meets ANY of the criteria below,</p> <ul style="list-style-type: none"> ➤ Considerable number of businesses/individuals/organisations will be affected (hundreds to low thousands, considerable proportion of the market) ➤ Measure introduces a substantial change to existing requirements/regulations ➤ Multiple factors need to be considered to estimate the impact of the measure ➤ Objectives of the measure are more numerous and challenging ➤ Distributional impacts which would be noticeable to the affected party/parties but not radically changing their relative status ➤ Measure is novel e.g. Modern transport bill Electric Cars, New Psychoactive Substances ➤ Measure could be considered contentious e.g. Investigatory Powers Bill <p>AND</p> <ul style="list-style-type: none"> ➤ EANDCB greater than +/- £10 million but less than +/- £30 million ➤ NPV greater than +/- £20 million but less than +/- £50 million 	<p>A measure should be considered low impact if it meets MOST of the criteria below,</p> <ul style="list-style-type: none"> ➤ Small number of businesses/individuals/organisations will be affected (low hundreds and/or low proportion of the market) ➤ Measure introduces a small change to existing requirements/regulations ➤ Impact of the measure can be estimated by considering a small number of factors ➤ Objectives of the measure are limited and/or modest and/or relatively easily achievable ➤ No, or very limited, distributional impacts ➤ Measure is not novel ➤ Measure is not contentious ➤ Measure is permissive <p>AND</p> <ul style="list-style-type: none"> ➤ EANDCB greater than +/- £1 million but less than +/- £10 million ➤ NPV less than +/- £20 million 	<p>A measure should be considered very low impact if it meets MOST of the criteria below,</p> <ul style="list-style-type: none"> ➤ Measure is not novel ➤ Measure is not contentious ➤ Measure introduces a minor, technical or administrative change <p>AND</p> <ul style="list-style-type: none"> ➤ EANDCB less than +/- £1 million

¹ Regulatory Triage Assessments do not need to be submitted to the RPC. The RPC expects Departments to have a system in place to assess which measures are suitable for Fast Track and which require RPC scrutiny. For Fast Track measures, the RPC will only need to validate the final EANDCB figure.

RPC expectations – Consultation stage IA

Low impact – consultation stage

10. A consultation stage IA on a low impact measure should aim to provide minimum information necessary for a consultee to understand: i) the justification for, and objectives of, the policy, ii) differences between policy options and iii) the indicative scale of impacts and uncertainties surrounding it. Clarity is especially important at this stage. An assessment at this level of impact should include:

- A clear rationale for intervention, which is plausibly justified.
 - The IA should set out what problem the regulation is aiming to address. IAs on low impact measures do not need to provide detailed quantitative evidence supporting the rationale. However, they should include a concise justification for government intervention and its objectives.
- Brief description of the counterfactual.
 - The IA should provide clear and logical explanation for what would happen in the absence of the proposed measure. It should also briefly consider potential growth of an emerging market.
- A reasonable range of well-described, realistic and feasible options, including non-regulatory and a “do nothing” options.
 - The range of options described will depend greatly on the policy but as this is the key element of any consultation the IA should make it very clear why each option is being considered.
- Description of the businesses likely to be affected and the mechanism by which they will be affected.
- Straightforward discussion or analysis of the expected impacts of the options, with estimates (or at least an idea of the scale) where possible.
 - Not all impacts need to be fully monetised at this stage. However, the IA must identify and describe the impacts qualitatively, and give a sense of scale where appropriate. Assessments of low impact measures should only focus on key impacts and do not need to monetise (or otherwise quantify) them in detail.
 - Estimates should be based on easily accessible evidence. It is acceptable for a low impact IA to rely heavily on assumptions as long as these are demonstrably reasonable and the reasoning behind them is set out clearly.

The consultation should seek to fill gaps in the evidence, and to test estimates and assumptions with stakeholders.

- Small and Micro Business Assessment (SaMBA).
 - The SAMBA should briefly describe the burdens on small business in scope of the proposal, and what options are possible for reducing them. The IA should provide two key pieces of information: i) the number/proportion of businesses in scope that are small and ii) whether exempting them from the regulation would invalidate the purpose of the policy.
 - At a low level of impact a short qualitative description supported by readily available numerical evidence and reasonable assumptions is sufficient.

Medium impact – consultation stage

11. In this scenario, the RPC would expect to see a more thorough impact assessment which, would include the following:

- A clear, well evidenced rationale for intervention.
 - A statement that the current system is not working is not enough. The RPC expects to see evidence that there is a problem that needs to be addressed, and an assessment of the scale of the problem. If the scale is unknown at this stage, then a clear justification for consultation on the problem should be provided.
- A detailed discussion of the counterfactual. Where possible, evidence of the impact of the counterfactual should be assessed.
 - A more thorough discussion of the “do nothing” option should be provided, including consideration of future developments in the regulated market or sector and relevant risks and uncertainties.
- Consideration of a reasonable range of options, including non-regulatory options.
 - Similarly to the low impact scenario it is crucial to set out very clearly why specific options have been chosen. Where a higher level of impact also results in greater complexity of policy options, a more detailed explanation of the differences between policy options is required.
 - The IA should discuss the potential unintended consequences and risks of each proposal.
- Description of the businesses likely to be affected and the mechanism by which they will be affected.
- Detailed analysis of the likely impact of the options, with estimates where possible.
 - More formal and detailed evidence is expected to inform estimates at this level of impact. Any assumptions should be well-justified. The consultation should have a clear plan to fill gaps in the evidence, and to test estimates and assumptions with stakeholders, which should be described where necessary in the IA.
 - The IA should list and describe impacts of the policy, including wider impacts. A missing cost or benefit will more likely result in a red rating. The assessment should make it easy to compare the outcomes of different policy options. It should also explain which impacts can't be estimated and how consultation will be used to gather evidence to support the final stage analysis.

- Risk and uncertainties related to impacts should be discussed
- Not all impacts need to be fully monetised at this stage but a detailed qualitative description of impacts is necessary. Where possible, the IA should also estimate costs and benefits. There should be evidence that the estimate of expected scale is reasonable at this stage.
- Sensitivity analysis should be used where estimates are reliant on given assumptions to demonstrate the potential range of the impact.
- Small and Micro Business Assessment (SaMBA), with an estimate of the likely scale of impact of the policy on small and micro businesses.
 - A sufficient SaMBA must be included providing: i) information on the numbers of small businesses affected (indicative values only, accurate estimates not necessary at this stage); ii) initial consideration of applying exemption and mitigation; iii) discussion of how much of the policy objective might be sacrificed by applying a full exemption; and how much of the overall cost to business is expected to fall on small businesses.
 - At the medium level of impact the IA should identify and discuss points mentioned above but it should focus on explaining how consultation will be used to estimate a more accurate impact on small business and potential for mitigation measures. The IA should also plan to test during consultation for viability of introducing a small business exemption.

High impact – consultation stage

12. In this scenario, the RPC would expect to see an impact assessment with a high level of resource devoted to it. **In addition to the requirements above, this would include the following:**

- A clear, well evidenced rationale for intervention.
 - The IA should make a convincing argument in favour of the proposal, using economic theory and empirical evidence to back up its claims. It should show that in the absence of the intervention: i) business and/or society will face negative outcomes; and/or ii) Government objectives will not be met; and iii) that the intervention is the best possible course of action.
- The counterfactual should be discussed in detail. Where possible, evidence of the impact of the counterfactual should be assessed.
 - Considerably greater effort should be put into explaining why the counterfactual has been chosen. This should involve a detailed description of likely future developments in a regulated market or sector. Assumptions made about the future should be clearly stated, logical and based on evidence where possible. If evidence is not available, the IA should provide a clear explanation of how this could be rectified during consultation and scenario-based or sensitivity analysis may be appropriate.
- Detailed analysis of the likely impact of the options, with estimates where possible.
 - At high levels of impact we anticipate that assessments will be based on modelling, which should be fully explained and the methods used should be justified.
- Description of the businesses likely to be affected and the mechanism by which they will be affected.
- Detailed analysis of the likely impact of the options, with estimates where possible.
 - Formal and detailed evidence is expected to inform estimates at this level of impact. Any assumptions should be well-justified. The consultation should have a clear plan to fill gaps in the evidence, and to test estimates and assumptions with stakeholders, which should be described where necessary in the IA.

- The IA should list and describe impacts of the policy, including wider impacts. A missing cost or benefit will more likely result in a red-rating. The assessment should make it easy to compare the outcomes of different policy options. It should also explain which impacts can't be estimated and how consultation will be used to gather evidence to support the final stage analysis.
 - Risk and uncertainties related to impacts should be discussed
 - Not all impacts need to be fully monetised at this stage but a detailed qualitative description of impacts is necessary. Where possible the IA should also estimate costs and benefits. There should be evidence that the estimate of expected scale is reasonable at this stage.
 - Sensitivity analysis should be used where estimates are reliant on given assumptions to demonstrate the potential range of the impact.
- For regulatory proposals, a SAMBA must be provided, with an estimate of the likely scale of impact of the policy on small and micro businesses.
 - A sufficient SaMBA must be included providing: i) Information on the numbers of small businesses affected; ii) initial consideration of applying exemption and mitigation; iii) discussion of how much of the policy objective might be sacrificed by applying a full exemption; and how much of the overall cost to business is expected to fall on small businesses.
 - At high levels of impact, the IA should attempt to provide a more accurate estimation and discussion of the above-mentioned points, although as this is still consultation stage, uncertainties over estimates and unavailability of evidence will be understandable. This should be supported by good quality evidence as far as possible – any gaps in evidence should be identified and a plan how consultation could be used to close these gaps presented. If it is not possible to exempt small and micro businesses from the scope of the policy, the IA should present clear reasoning why this is so using good quality evidence and logical assumptions. The IA should also plan to test during consultation for viability of introducing a small business exemption.

RPC expectations – Final stage IA

Very low impact (Fast Track submissions)

13. In this scenario, the RPC would normally expect to see a **light-touch, low-resource** validation assessment which sets out the following:

- A clear description of the policy.
- A description of the businesses and other entities likely to be affected and how (i.e. what will businesses do in response to the measure, and what will businesses need to do differently as a result of the measure).
- A straightforward analysis of the likely impacts of the measure.
- Estimates and assumptions supported by easily obtainable evidence e.g. publicly available data, in-house expertise (appropriately justified) or informal consultation
- If easily obtainable data is not available, assumptions should be stated clearly and the reasoning underpinning them described. It is helpful also to explain why relevant data are not readily obtainable.
- A clear description of which impacts are within scope of the BIT (i.e. what are the direct impacts).
- Indirect impacts do not need to be monetised or discussed in detail.
- A best estimate of the monetised impact should be provided where possible, but this may be zero. Where you are able to demonstrate clearly that the impact rounds to zero (for example by a break-even analysis) you need not calculate individual impacts.
- Small and Micro Business Assessment (SaMBA) - not required for fast track measure, although a brief description would be welcome.

Low impact – final stage

14. The level of evidence in this scenario would be similar to the very low impact scenario. The RPC would still expect to see a light-touch, low-resource Impact Assessment which sets out the following:

- A clear description of the policy.
- A description of the businesses likely to be impacted and how (i.e. what will businesses do in response to measure, and what will businesses need to do differently as a result of measure).
- A relatively straightforward analysis of the likely impacts of the measure.
- Estimates and assumptions are supported by easily obtainable evidence but evidence is robust. Uses available data sources and easily collectible formal or informal consultation evidence (focuses on key stakeholders, e.g. industry bodies or trade unions; high number of consultees and high response rates to consultation are not required as long as the view of the key players is represented).
- Estimating the impact of the policy based solely on assumptions (in the absence of evidence) should be a measure of last resort and should be well justified
- Indirect impacts do not need to be monetised or discussed in detail but it would be good practice to highlight what they are.
- A best estimate of the monetised impact
- A sufficient Small and Micro Business Assessment (SaMBA) including:
 - Indicative final assessment of the number of small businesses affected.
 - Brief consideration of the impact of applying an exemption and mitigation, to support the decision being taken, including:
 - An assessment of the proportion of the benefit of the policy that would be sacrificed by applying a full exemption; and the proportion of the overall cost to business expected to fall on small businesses. If no such estimates are provided, explain why this is not possible/proportionate.
 - At low level of impact the IA should focus on qualitative discussion of impacts and mitigation measures, supported by readily available statistics and simple calculations. Only a brief description of mitigation measures should be provided.

Medium impact – final stage

15. In this scenario, the RPC would expect to see a more thorough Impact Assessment which would include the following:

- A clear description of the policy.
- A description of the businesses likely to be impacted and how (i.e. what will businesses do in response to measure, and what will businesses need to do differently as a result of measure).
- Detailed analysis of the likely impacts and the scope of the measure
- Estimates and assumptions are based on robust evidence; involves relatively detailed formal consultation which captures views of a wider range of stakeholders; draws on wider range of data sources including academic literature, government and industry reports
- May require collection of additional data if this is needed to fill key gaps in the evidence base and explains clearly why the department has not chosen to do so, if appropriate.
- Ensures and shows that data is relevant, reliable, unbiased and complete
- Estimates and uncertain assumptions should have been tested with stakeholders and/or based on robust data.
- Provides a detailed description of any areas where relevant evidence is lacking, explains why this is the case and describes what efforts have been taken to gather relevant evidence.
- Identifies the most likely and/or significant risks and uncertainties and their potential effects on the measure's impacts. Provides low, high and best estimates of impacts if uncertainty is high. Justifies your choice of the best estimate.
- Provides greater, but possibly not full, monetisation
- A sufficient Small and Micro Business Assessment (SaMBA), including:
 - Final assessment of the number of small businesses affected.
 - Fuller consideration of the impact of applying an exemption and mitigation, to support the decision being taken, including:
 - An assessment of the proportion of the benefit of the policy that would be sacrificed by applying a full exemption; and the proportion of the overall cost to business expected to fall on small businesses. If no estimates are provided, explain why this is not possible/proportionate.

- At medium level of impact the IA should present a more detailed quantitative analysis of impacts but a complex methodology or modelling would not be appropriate. Mitigation measures including supporting evidence should be presented but it is not necessary to discuss a wide range of alternatives.

High impact – final stage

16. In this scenario, the RPC would expect to see an Impact Assessment with a high level of resource devoted to it. This would include the following:

- A clear description of the policy.
- A description of the businesses likely to be impacted and how (i.e. what will businesses do in response to measure, and what will businesses need to do differently as a result of measure).
- Monetisation of all impacts for which this is possible.
- Evidence from comprehensive formal consultation, the IA should use the sample of consultees that is representative of affected businesses and other stakeholders and response rates are high.
- Bespoke data gathered in support of assumptions – evidence gathering may involve commissioned work.
- Estimates and uncertain assumptions should have been tested with stakeholders and/or based on robust data.
- If there is significant uncertainty or risk, this should be explored using sensitivity analysis and/or scenario analysis.
- At very high levels of impact we anticipate that assessments will be based on modelling, which should be fully explained and the methods used should be justified.
- A clear and well-evidenced assessment of which impacts are within scope of the BIT (i.e. what are the direct and indirect impacts, and why have they been categorised as such).
- Analysis of the distribution of impact of the policy
- A sufficient Small and Micro Business Assessment covering:
 - Final assessment of the number of small businesses affected.
 - Detailed consideration of the impact of applying an exemption and mitigation, to support the decision being taken, including:
 - An assessment of the proportion of the benefit of the policy that would be sacrificed by applying a full exemption; and the proportion of the overall cost to business expected to fall on small businesses. If no estimates are provided, IA should explain why it is not possible/proportionate.
 - At high level of impact multiple mitigation measures should be discussed, if it is not viable to exempt small businesses, and a plan how these

measures can be implemented should be presented. Estimates of impact should be supported by good quality evidence and, where appropriate, by modelling.

RPC expectations – Post Implementation Reviews

Any PIR must provide appropriate evidence to support the decision to renew, revise, remove, or replace the regulation under consideration.

Very low and low impacts - PIR

17. In this scenario, the RPC would normally expect to see a **light-touch, low-resource** PIR which sets out the following:

- A clear statement whether the measure has met its objectives
- A light touch approach to PIR consultation and research. Informal consultation with the main affected agents e.g. trade associations, business representative organisations and large firms. Analysis of published data sources.
- Evidence supporting estimates of actual impacts - the PIR should address issues that may have affected the accuracy of assumptions used in the original IA – if quantitative data not readily available, qualitative discussion will be sufficient.
- Conclusions with reference to evidence from key stakeholders and discussion of whether respondents' views were representative of industry.
- Consideration and discussion of unintended consequences and the wider effects of the policy.
- Discussion of the scale of any identified problems.

Medium impact - PIR

18. The RPC would expect to see a PIR with a medium level of resource devoted to it. In addition to the requirements above, this would include the following:

- A clear statement whether the measure has met its objectives
- A thorough approach to PIR consultation and research. Formal and informal consultation of the affected agents. Analysis of published data sources. A fuller survey with reasonably high response rates to capture outcomes for business and where possible, an empirical impact evaluation with well-designed counterfactual.
- Evidence from more than one data source.
- Conclusions with reference to evidence from stakeholders, who are relevant to the policy.
- Consideration and discussion of unintended consequences and the wider effects of the policy.
- Greater focus on scope for amending regulations and discussion of the feasibility and purpose of the proposed amendments. Discussion on whether assumptions used in original IA and PIR are still the best available.
- Discussion of limitation and uncertainties related to analysis identified in the original IA.
- Discussion of level of compliance with regulations under review.
- Consideration of lessons for future IAs.
- Re-calculation of estimates of benefits to business.

High impact - PIR

19. The RPC would expect to see a PIR with a high level of resource devoted to it. This would include the following:

- A clear statement whether the measure has met its objectives
- A thorough approach to PIR consultation and research. Formal and wide-ranging consultation of the affected agents. Analysis of published data sources and commissioning of bespoke research if necessary. A comprehensive survey with high response rates to capture outcomes for business and an empirical impact evaluation with well-designed counterfactual.
- A thorough explanation for the recommendation to renew/repeal/replace.
- A rigorous scrutiny of all key assumptions underpinning the original assessment and a detailed analysis of the counterfactual, aimed at identifying methodological errors which might have influenced original impact estimates.
- Detailed consideration of the scope for amending regulations, especially if original measure costly to business, and discussion of the feasibility and purpose of the proposed amendments.
- Conclusions with reference to evidence from a wide range of stakeholders, including industry groups, civil society organisations and independent experts.
- Evidence from a wide variety of data sources e.g. survey/desk research/academic literature/studies etc.
- Consideration and discussion of unintended consequences and the wider effects of the policy
- Discussion of limitation and uncertainties related to analysis identified in the original IA.
- Discussion of other nations' experiences with implementations of EU requirements, and evidence sought in relation to this.
- Discussion of level of compliance with regulations under review.
- Consideration of lessons for future IAs.
- Re-calculation of estimates of benefits to business.

Other issues

20. A few further RPC tips for completing your IA are listed below:

- The key issue with many assessments of impact is **a lack of evidence** and analysis. No matter how low impact you believe your measure to be, you need to be able to convince an independent reader that is the case. In order to do that, you need evidence to support your assessment, or a rationale as to why your assumptions are reasonable.
- Comply or explain – where you are relying on a minimum amount of evidence/analysis and not seeking to improve your evidence base you need to explain why. It is not enough to say ‘it is not proportionate to go further’ – the question is why is it not proportionate? What is your assumption of minimal impact based on?
- Almost every case will have individual issues or areas that require a greater amount of detail in the IA. As such, we do not seek to suggest a word or page limit, but rather leave it to the common sense of the policy team developing the IA to know what detail is needed to be able to accurately assess the policy, and what detail is superfluous.