Re:State

THE LAW OF RULE

Fixing how Britain regulates

Joe Hill

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ABOUT RE:STATE

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ABOUT RE:IMAGINING THE STATE

After a decade of disruption, the country faces a moment of national reflection. For too long, Britain has been papering over the cracks in an outdated social and economic model, but while this may bring temporary respite, it doesn't fix the foundations. In 1942 Beveridge stated: "a revolutionary moment in the world's history is a time for revolutions, not for patching." 80 years on, and in the wake of a devastating national crisis, that statement once again rings true. Now is the time to fix Britain's foundations.

Re:State's programme, 'Re:Imagining the State', puts forward a bold new vision for the role and shape of the State. One that can create the conditions for strong, confident communities, dynamic, innovative markets, and transformative, sustainable public services.

'Re:Imagining Whitehall' is one of the major work streams within this programme.

ABOUT RE:IMAGINING WHITEHALL

This paper is part of the 'Re:Imagining Whitehall' work stream. To effectively reimagine the State, major change must occur in the behaviours, processes, and structures of central government. This paper examines Whitehall's approach to creating new regulation. It sets out proposals to reform how regulation is developed, scrutinised, and reviewed over time, with the aim of improving regulatory quality, accountability, and long-term economic outcomes.

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External reviewers

We would like to express our gratitude to our external reviewers Stephen Gibson, Chair, Regulatory Policy Committee and Marcial Boo, Chair, Institute of Regulation for their helpful comments on an earlier draft of this paper.

Interviewees

We would like to thank all 20 interviewees for giving their time and candid insights to support this research paper. The list of interviewees is as follows:

- Andrew Bennett, Head of Special Projects, Centre for British Progress
- Matt Bevington, Practice Director, Global Counsel
- Marcial Boo, Chair, Institute of Regulation
- Stephen Booth, Director, International Strategy, TheCityUK and Adjunct Fellow, Councill on Geostrategy
- Robert Boswall, UK Delivery Director, Last Energy
- Chris Burn, Partner and Global Lead for Business Design, PA Consulting
- Martin de Bree, Researcher/Lecturer, Rotterdam School of Management Erasmus University
- Chris Carr, Former Director of Regulation, Department for Business and Trade
- Matthew Conway, Practice Director, Financial Services, Global Counsel
- Dan Corry, Chief Economist, The Future Governance Forum
- John Fingleton, Chair, Fingleton
- Stephen Gibson, Chair, Regulatory Policy Committee
- Jeroen van der Heijden, Quichi Professor at Zhejiang University in China, an Honorary Professor at the Australian National University
- Professor Martin Lodge, Professor of Political Science and Public Policy, London School of Economics
- James Palmer CBE, Partner, Herbert Smith Freehills Kramer
- Professor Jonathan Slater, Visiting Professor, Policy Institute, King's College London
- Anita Shah, Director of Regulation, Value for Money, UK National Audit Office
- Martin Stanley, Author, Understanding Regulation Website
- Georgina Stockley, AI Regulation and Readiness, Department for Science, Innovation and Technology

And one interviewee who wished to remain anonymous.

The arguments and any errors that remain are the authors' and the authors' alone.

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Forewords

Daisy Cooper MP

Regulation is a frequent villain in British economic and political debate. Successive governments have each declared ‘wars on red tape’, decrying the complexity, sprawl and sheer volume of Britain’s regulatory regime.

Too often in this country, regulation is a costly barrier to businesses’ day-to-day operations, yet fails to protect the public when it really matters.

In Britain, it’s just as possible to find examples of pointless form-filling, as it is to find examples where scrapping regulation has led to public harm or less competition.

The result of sporadic bursts of activity – rather than systematic reform – is a targeting of superficial symptoms, not the root causes of regulatory failure.

The challenge therefore is how to create a regulatory system that can identify and reduce unnecessary red tape and duplication without rolling back public protections, giving more power to bad actors at the expense of small British businesses, or reducing meaningful accountability.

The Liberal Democrats recognise that the problems go much deeper, and a concerted, mature, and systems-based effort will be needed to deliver the wholesale, long-lasting regulatory change the country needs – to support businesses, to protect the public, and to get Britain’s economy growing again.

This paper is extremely well-timed and thoughtful, and offers a compelling diagnosis of many of the deep-seated problems that limit British regulation’s effectiveness, as well as highlighting some of the strengths that in other areas often make our regime an exemplar abroad. The negative impacts from fragmented regulatory leadership, a default towards regulating in all cases, weak regulatory analysis, ineffective scrutiny, and limited monitoring and evaluation are highlighted clearly, and all require dedicated and committed action.

In addressing these, we should prioritise getting Britain growing again, and the paper’s proposals around regulatory budgeting could be one novel way to keep economic trade-offs at the forefront of regulators’ minds, ensuring outcomes are prioritised over process. Meanwhile, as new technologies like AI emerge at record pace, dynamic and responsive regulation that can adapt to changing circumstances and limit potential harms, will be more critical than ever. Addressing the backlog of departmental Post-Implementation Reviews is a crucial first-step to ensure learnings are taken up quickly, and proactive steps taken both to avoid harm and ensure proportionality.

Regulation can be a significant strength of our economy again. Fixing how Britain regulates cannot wait any longer.

Daisy Cooper MP

Deputy Leader, Liberal Democrats

Dame Meg Hillier MP

Regulation rarely makes front-page news unless something has gone badly wrong. But the quality of our regulatory system day-in and day-out shapes almost every part of our national life: whether we can build the homes and infrastructure we need; whether new industries can grow; whether consumers are properly protected; and whether public confidence in markets and institutions is sustained. When regulation works well, it provides the foundations for a strong economy and protects citizens and consumers. When it does not, it can undermine safety and create burdens that inhibit growth.

For too long, the debate has been framed in simplistic terms: regulation versus deregulation. That is a false choice. As Chair of both the Treasury Committee and the Liaison Committee, and previously the Public Accounts Committee, I have seen repeatedly that poorly designed regulations cost money, waste effort and fail to deliver the outcomes that government and Parliament intended. Equally, the absence of effective safeguards can impose great costs later on – both financial and human. The question is not whether to regulate or deregulate, but how to regulate better.

The UK's regulatory framework, while strong in many respects, has become increasingly cluttered and inconsistent. Scrutiny can be patchy. And the quality of regulatory analysis is far less sharp than it should be.

Better regulation means being clearer about the rationale for regulation, and more disciplined about assessing costs and benefits. Independent scrutiny bodies need to have the powers to assess, challenge and, if necessary, call for updates to regulations. Parliament should have a clearer roe in assessing the impact of regulations – not just when something has gone wrong. Rather than presenting regulation as a cost-free response to complex problems, governments should be honest about the trade-offs.

Better regulation is about making sure that protections are proportionate, evidence-based and, crucially, capable of adapting over time. It is about recognising that every new rule adds to the overall burden on businesses, public bodies and citizens – and that government has a responsibility to design it as well as possible to minimise the costs. And too often the cumulative (and sometimes competing) impact of regulations on businesses or citizens is not well thought through, or even understood, in Whitehall.

At a time when economic growth, fiscal discipline and public trust are all under pressure, we cannot afford regulatory drift. We need a system that supports innovation and investment while protecting the public interest. The reforms set out by *Re:State* chime with my experience of the haphazard way many regulations are introduced. The recommendations in this report offer a serious and practical contribution to that goal and provide a manageable programme for the Government to deliver.

Dame Meg Hillier MP

Chair, Treasury Committee

The Rt Hon Sir Mel Stride MP

For far too long, regulation after regulation has been quietly piled on top of our businesses. Little by little it has become much too much.

Governments have often talked a good game on red tape, but then failed to deliver. Targets have been set for reducing the costs of regulation, only for the burden to rise even higher. It is too easy for departments across Whitehall bring in new rules to address their own narrow issues, without proper regard to the big picture and the wider economic costs.

When rules are introduced without proper scrutiny, when impacts are not assessed honestly, or when measures are left on the statute book long after the case for them has passed, the cumulative burden of regulation can stymie enterprise and cause capital to look elsewhere.

This is not just about less regulation, it is about better regulation. When governments get the balance right, a stable regulatory environment can give businesses certainty to invest and grow. But when rules and directives are constantly changed or added to, that creates uncertainty and unnecessary risk.

Today, many businesses see the UK's regulatory environment as a risk – fragmented and difficult to navigate, with an ever-growing body of requirements. This report from *Re:State* is a vital contribution to improving regulation for business and consumers. Proposals such as budgeting the cost of the whole regulatory burden on the economy, and introducing stronger protections to prevent the constant creep of new regulation, could help to create an environment which unleashes growth.

We must not be complacent. We should be aiming for the UK to be the best place in the world to start and scale a business. To achieve that, our regulatory system must support economic dynamism rather than frustrate it. Strengthening the way regulatory policy is developed across Whitehall is crucial to building a more productive, competitive economy.

This report is a timely contribution to that conversation.

The Rt Hon Sir Mel Stride MP

Shadow Chancellor of the Exchequer

Richard Tice MP

Britain does not have a shortage of ambition or talent. What we too often lack is a regulatory environment that matches it. Over many years, layers of well-intentioned rules have accumulated into a system that is increasingly complex, slow-moving and costly for those trying to invest, build and grow.

For too long, governments of all stripes have measured success by activity rather than outcomes. Yet growth depends on confidence, with rules that are clear, proportionate and stable over time. When regulation becomes unpredictable or overly burdensome, investment stalls, innovation slows and smaller firms lose out first.

The challenge now is not rhetorical commitment to deregulation but serious, structural reform. That means being more disciplined about when we regulate, more honest about trade-offs, and more willing to remove rules that no longer serve their purpose.

This report from *Re:State* contributes to that debate at an important moment for Britain's economy. It rightly focuses attention on how we can build a system that enables growth rather than holding it back.

Richard Tice MP

Deputy Leader, Reform UK

Recommendations

Recommendation 1: Regulatory reform policy should return to the Cabinet Office, with relevant responsibilities and headcount moved from the Department for Business and Trade (the Regulation Directorate, the Regulatory Policy Committee (RPC) and its secretariat) and the Department for Science, Innovation and Technology (the Regulatory Innovation Office). Regulatory reform should be led by a dedicated minister.

Recommendation 2: The Government should announce additional targets for cutting regulatory burdens on businesses and consumers, based on Equivalent Annual Net Direct Costs on Business (EANDCB), to supplement their current target of administrative costs.

Recommendation 3: The Cabinet Office should lead the cross-government process of establishing regulatory budgets for each sector, mapping the baseline of EANDCB from qualifying regulation to those sectors and requiring departments to stick to agreed budgets.

The budgets, forecasts of performance against the budgets, and underlying regulatory measures driving those forecasts should be provided to the OBR as part of the Treasury's engagement in advance of the Budget.

Recommendation 4: The Cabinet Office should establish an equivalent set of principles for social regulation as the existing Principles of Economic Regulation, and Options Assessments created by government departments should require each proposal to be explicitly justified against those principles.

Recommendation 5: The Cabinet Office should make the OECD Reference Checklist mandatory within all Options Assessments and Impact Assessments to strengthen justification of regulatory decisions and enable more effective scrutiny by the Regulatory Policy Committee and Parliament.

Recommendation 6: Government should amend the Better Regulation Framework (BRF) to reinstate mandatory RPC scrutiny of all full Impact Assessments, in addition to scrutiny of Options Assessments.

Recommendation 7: Government should remove the building safety exemption from the Better Regulation Framework, ensuring that a greater share of significant regulation is subject to full assessment and independent scrutiny.

Recommendation 8: Government should amend the BRF 'scorecard' section which requires regulation to be costed in Options Assessments and Impact Assessments to include a measure of estimated lost tax revenue from regulatory proposals.

Recommendation 9: Regulatory Provisions should be required to have a 'fit-for-purpose' RPC rating for their Options Assessment before proceeding.

Recommendation 10: As Accounting Officers, Permanent Secretaries should submit an annual letter to the RPC setting out how issues raised in RPC opinions have been addressed and how the quality of regulatory analysis has improved. Persistent underperformance, against standards agreed by the RPC and the Cabinet Office, should trigger a formal improvement plan subject to RPC comment and central oversight.

Recommendation 11: The Government should legislate to put the RPC on a statutory footing. This should include the requirement for government to consult the RPC on Regulatory Provisions, and for their resulting independent appraisal of the Impact Assessment to be laid before Parliament. The government should also be required to lay a response, detailing whether it intends to make amendments based on the RPC's recommendations and explaining its reasoning, alongside the RPC's report on the Regulatory Impact Assessment.

Recommendation 12: Parliament should amend its Standing Orders so that Statutory Instruments introducing Regulatory Provisions may not be considered unless accompanied by a complete set of supporting information, and empower the Lords' Secondary Legislation Scrutiny Committee to require re-laying where information is inadequate.

Recommendation 13: Parliament and the Government should agree and codify a clear set of principles and criteria governing the use of delegated legislation for Regulatory Provisions – reflected in the Cabinet Office Guide to Making Legislation and parliamentary procedures – establishing firm limits on the policy content that may be delivered through Statutory Instruments and strengthening scrutiny where those limits are exceeded.

Recommendation 14: Parliament should amend its Standing Orders so that any Statutory Instrument introducing a Regulatory Provision requiring a full Impact Assessment under the Better Regulation Framework is automatically subject to the affirmative procedure.

Recommendation 15: Delegated Legislation Committees should be reconstituted as specialist sub-committees of the relevant departmental select committees, with elected membership, dedicated staff support, access to external expertise, and the ability to publish short reports requiring formal departmental responses before approval.

Recommendation 16: For Statutory Instruments introducing Regulatory Provisions under the Better Regulation Framework, the Secondary Legislation Scrutiny Committee should be able to issue formal recommendations for amendment or re-laying, and the sponsoring department should be required to publish a written response before the instrument proceeds.

Recommendation 17: Monitoring and Evaluation plans should be subject to the Regulatory Policy Committee's formal fit-for-purpose rating, with the outcome feeding directly into the overall assessment.

Recommendation 18: The Regulatory Policy Committee should maintain and publish on a regular basis, a department-by-department record of overdue Post-Implementation Reviews. Persistent non-compliance should be treated as a leadership issue and addressed through the annual Accounting Officer correspondence set out in Recommendation 10.

Recommendation 19: Government should publish formal responses to all Post-Implementation Review findings within 12 months, explaining action to be taken or justifying rejection of recommendations. The Secondary Legislation Scrutiny Committee should review responses and draw significant departures from PIR findings to the attention of the House.

1. Introduction

Regulation is a hugely significant and deeply contentious area of public policy. A set of agreed rules is a fundamental condition for civilised society. Yet regulations, by definition, impose limits on the liberties of individuals, firms and governments – limits which come with personal and economic costs. A successful regulatory system must balance this tension, restricting as little as necessary and as much as is needed. It must take a holistic view when introducing new rules and must be capable of adapting to changing times and conditions.

Regulation done well can protect citizens, and create the conditions for markets to thrive and economies to succeed. Done poorly, regulation can fail entirely to achieve its objectives; achieve them whilst imposing huge costs which greatly outweigh the benefits; and be meticulously developed but fail entirely in implementation or enforcement.

While the UK's regulatory system is considered strong by international standards ("a leader in regulatory policy among OECD countries"[1]), and multiple interviewees for this paper agreed ("we're certainly in the leading pack, if not the leaders"), over the years politicians and business have railed against the system.

Reflecting on her time in office, Margaret Thatcher is reported to have said: "Every regulation represents a restriction of liberty. Every regulation has a cost. That is why, like marriage in the Book of Common Prayer, regulation should not be enterprised unadvisedly, lightly or wantonly."[2] When John Major spoke of regulation in 1993, he lamented that "the battle against red tape is never ending," and described a need to "get a hand round its throat."[3] A decade later, Tony Blair spoke of the need for a "new approach to regulation, one that overcomes the instinct to regulate and harmonise. And we need to do this quickly because the rest of the world will not wait for us to adapt."[4]

In 2025, the Government published its *Regulatory Action Plan,* arguing that "the current regulatory landscape is not functioning as effectively as it should," and that it "too often holds back growth and inhibits private sector investment."[5]

Yet despite frequent attempts at system reform, the UK's regulatory system remains burdened by deep and persistent flaws, sometimes driving the exact opposite outcomes for consumers than intended. These pathologies run deep, and have their roots in Whitehall's overarching regulatory policy – the set of assumptions about what good regulation looks like, and how to make it. The common characteristics of bad regulatory policymaking show themselves time and time again in the same patterns across sectors and industries, and require system reforms to address.

At every stage of the regulatory lifecycle similar systemic flaws recur. Incentives to truly consider alternative regulation or non-regulatory options are weak. Trade-offs and cumulative

[1] OECD, *Review of International Regulatory Co-Operation of the United Kingdom* (2020).
[2] Sir James Bevan, 'Speech: The Future for Environmental Regulation: Green Growth Not Red Tape', GOV.UK, 2021.
[3] 'Mr Major's Speech at the Newspaper Society Luncheon – 5 May 1993', 1993, https://johnmajorarchive.org.uk/1993/05/05/mr-majors-speech-at-the-newspaper-society-luncheon-5-may-1993/.
[4] 'Full Text: Tony Blair's CBI Speech', *The Guardian*, 18 November 2003.
[5] HM Treasury, *New Approach to Ensure Regulators and Regulation Support Growth* (2025).

costs are poorly understood and communicated. Scrutiny is hamstrung and easy to bypass. Accountability for regulatory failure is minimal. These weaknesses are leading to an increasingly overburdensome and incoherent regulatory system with historic issues in the flow of new regulation leading to an ever more problematic stock of existing regulation.

Ministers and officials face strong incentives to regulate as a visible demonstration of action, even when other actions – or none – might be preferable. Impact Assessments are too often produced late in the policy process, and scrutiny – whether from the independent Regulatory Policy Committee, or indeed from Parliament – is insufficient.

The result is that the existing stock of regulation is cluttered with outdated or redundant rules that serve little purpose, while poorly designed or overly prescriptive regulations continue to generate unintended consequences. Many of these are the product of good intentions but weak appraisal, and few are ever revisited – there were just seven Post-Implementation Reviews submitted to the RPC between April 2024 and March 2025.[6]

At the same time, government struggles to monitor the scale of the overall regulatory burden across sectors – making it difficult to understand whether individual regulations may be proportionate, but a sector is struggling under the cumulative burden of decisions taken by successive governments over many decades.

Successive governments have recognised these failings and launched periodic ‘spring cleans’ of the statute book, but with mixed success.[7]

The current Government risks repeating this pattern. Ambitious rhetoric on reducing regulatory costs sits alongside a steady flow of new regulatory proposals, many of which are advanced without a clear articulation of the trade-offs involved or how they interact with the existing stock of regulation. Administrative cost reduction targets risk becoming another partial, technocratic fix applied to a system whose underlying incentives remain unchanged. Without structural reform, even well-intentioned efforts are likely to add to complexity rather than resolve it.

A government serious about building a regulatory system that strikes the right balance – one that protects citizens while enabling growth, innovation and delivery – must move beyond episodic deregulation drives and piecemeal process changes. What is required is a regulatory policymaking framework that embeds discipline, transparency and accountability into the system as a whole.

This paper sets out a programme of reforms to the UK’s regulatory policymaking system, spanning the full regulatory lifecycle: from when and why governments choose to regulate, through how regulatory policy is developed and scrutinised, to how regulation is reviewed and, where necessary, unwound. It focuses on the machinery of government that shapes regulatory outcomes through statute, rather than the regulatory bodies themselves or specific regulatory regimes, which will be the subject of future research. There are a number of regulators which are not public bodies, such as the Royal College of Veterinary Surgeons and the General Medical Council. They are not overseen in the same way, despite imposing regulatory burdens, and are beyond the scope of this paper.

[6] Regulatory Policy Committee, *Regulatory Policy Committee Corporate Report 2024-25* (2025).
[7] Joe Hill, 'The Law of Rule: The Regulation Theory of Everything', Re:State, 17 September 2025.

The aim is not deregulation for its own sake, but the creation of a regulatory system that is proportionate, coherent and capable of sustaining itself over time – one that delivers protection where it is needed, restraint where it is not, and clarity and accountability throughout.

The model for regulatory policy in this paper is based on five core principles:

- **Not set in stone**: regulations are easy to create, and hard to remove. Government should therefore embrace regular, automatic review processes, and greater scrutiny on implementation.
- **Proportionate:** regulations should be proportionate to the size of the problem, and not create greater problems than they solve. Disproportionate regulations, particularly ones based on minimising risk or harm at any cost, should be avoided.
- **Least disruptive:** regulation should be implemented with the least disruption to sectors and long-term financial planning. It should be predictable, and not stifle business investment.
- **Holistic:** regulation should seek to minimise overall harm, rather than simply harm in a given sector. Some regulatory decisions can reduce harm by a narrow definition, while imposing significant negative effects on businesses and consumers overall, and these should be avoided.
- **A tool of last resort**: regulation is often the first resort of governments looking to fix a problem, when it should be the last. The bar for justifying new regulation should be high.

2. System reform

The Government's ambitions for regulatory reform will hinge upon whether the machinery of government is set up to deliver them, the role each part of the State is expected to play, and who is accountable for success and failure.

Responsibility for regulatory policymaking is complex. In Whitehall, there is no single centre of leadership to deliver the Prime Minister's commitments to reduce regulatory costs by 25 per cent and to ensure that "every regulation, every decision, must deliver for working people".[8] The Regulation Action Plan the Government published in March 2025, and the update published in October, do not provide a framework for simplifying the regulatory policy landscape.

To systematise any future efforts at regulatory reform, the Government must rebuild the regulatory policymaking system to give greater leadership and political authority to regulatory reform, and to change the incentives in the system away from a gradual 'regulatory ratchet'[9] punctuated by occasional broad deregulation exercises.

A strong system would acknowledge the biases that the current system has – giving the Government a central point of leadership on regulatory policy which can reform regulation strategically, rather than reactively.

2.1 Policy leadership

Policy leadership for regulation currently sits in the Department for Business and Trade (DBT), where the Regulation Directorate oversees core policy like the Better Regulation Framework (BRF). The Treasury is the lead department for the Regulation Action Plan, which applies across government regulation and sets out how departments and regulators should manage their regulatory duties.

However, the Department for Business and Trade doesn't oversee all regulatory policy. Most policymaking about existing and new regulation is done in the departments who sponsor those areas – such as the Department for the Environment, Food & Rural Affairs (DEFRA) for water regulation, the Department for Science, Innovation and Technology (DSIT) for digital communications regulation, and HM Treasury (HMT) for financial services. Even within its home department, the Regulation Directorate does not lead every area of regulatory policy.

Policy teams in each department make new regulation, and discharge many regulatory duties themselves in the cases where there is not an independent regulator. For those independent regulators which do exist, they are sponsored by the relevant policy department – such as HMT for the Financial Conduct Authority (FCA), or DBT for the Competition and Markets Authority (CMA). This usually involves appointing the heads of the regulator, issuing it with strategic steers to focus on certain areas, defining the terms for appeal, and overriding or

[8] Keir Starmer, *PM Remarks on the Fundamental Reform of the British State: 13 March 2025* (2025).
[9] Roberta Romano, *Empirical Foundations of the Iron Law of Financial Regulation* (Yale Law School, 2024).

'calling in' decisions made by the regulator in certain circumstances. It also involves sponsoring them as a public body, and overseeing their budgets and use of public money.

The Department for Business and Trade also sponsors the Regulatory Policy Committee (RPC), an independent public body which provides external scrutiny and oversight of new regulatory policy being made by Whitehall departments.

In addition, the Department for Science, Innovation and Technology (DSIT) sponsors the work of the Regulatory Innovation Office (RIO), a new body which the Government pledged in their manifesto would "bring together existing functions across government… this office will help regulators update regulation, speed up approval timelines, and co-ordinate issues that span existing boundaries".[10] In its first year, RIO has supported regulators with setting up new 'sandboxes' and funded projects aimed at bringing technologies like AI closer to regulated markets like health (via the Medicines and Healthcare products Regulatory Agency, the MHRA).[11]

The Treasury does not have a formal role in policy leadership on regulatory policy, other than its own policy responsibility for financial services regulation. It produces the Green Book and Magenta Book, which cover government's principles for economic appraisal and evaluation, including of regulatory measures.[12]

In practice, this means that central government leadership on regulatory policy is far too diffuse to drive meaningful reform, and instead fosters structural incentives which cut against many of the present Government's ambitions. In British Columbia, which reduced regulatory requirements by 37 per cent between 2001 and 2004, researchers at the Mercatus Centre found that "political leadership and disciplined measurement and reporting were critical".[13] Here in the UK, the Red Tape Challenge under the Coalition Government was enabled by strong leadership from Oliver Letwin and the Cabinet Office, [14] which the Government reported had resulted in over 3,000 regulations being scrapped.[15]

Interviewees for this paper were sceptical that the Department for Business and Trade could provide this cross-government leadership, suggesting that current structures will not enable intentions to be translated into action, and that DBT has insufficient "firepower" as owner of regulatory policy leadership. One interviewee commented, "all the successful rounds of regulatory reform were coordinated out of the Cabinet Office, [DBT] just doesn't have the firepower", while another noted:

> "DBT is the department for business, but most of the big areas of cost to businesses are the responsibilities of other departments. Planning, energy, banking, they're going to have to deliver by negotiation."

Internationally, other Governments have taken a wide variety of different approaches. In Australia, policy responsibility for areas like impact analysis (governed by the BRF and DBT

[10] Labour Party, *Change: Labour Party Manifesto 2024* (2024).
[11] Regulatory Innovation Office, *Regulatory Innovation Office Report: One Year On* (2025).
[12] Department for Business & Trade, *Better Regulation Framework* (2023).
[13] Laura Jones, *Cutting Red Tape in Canada: A Regulatory Reform Model for the United States?* (2015).
[14] Stephen Gibson et al., *Reducing the Burden of Government Regulation* (2023).
[15] Jill Rutter, *Challenging Red Tape (Again) Is Unlikely to Yield Huge Benefits* (2021).

in the UK), are overseen by the Department of the Prime Minister and the Cabinet.[16] In New Zealand, the new coalition government created a Ministry for Regulation to oversee cross-government regulation, mirroring many of the functions that the Regulation Directorate in DBT does in the UK, and some of the functions of the RPC.[17]

New Zealand's Ministry for Regulation

In March 2024, the recently-elected Sixth National Government of New Zealand established a new Ministry for Regulation, with David Seymour as its first Minister and Grainne Moss as its first Chief Executive. The Ministry currently has 70 permanent employees. David Seymour described its purpose as:

> "One, to cut existing red tape with sector reviews. Two, to improve the scrutiny of new laws. Three, to improve the capability of the regulatory workforce."

In practice, the Ministry for Regulation publishes Regulatory Impact Statements and carries out thematic Regulatory Reviews of sectors like Early Childhood Education. In their first year of operation, the Ministry also launched a portal for the public to report regulatory issues, and supported the introduction of a new Regulatory Standards Bill – now an Act, having received royal assent in November 2025 – which put best principles for regulation on a statutory footing, alongside setting guidance for the transparent assessment and evaluation of new regulatory proposals.

The Act also creates a new Regulatory Standards Board to independently evaluate existing regulation against the new criteria, and gives the Ministry for Regulation powers to require information from a broad range of regulators and government agencies.

Source: Ministry for Regulation, Strategic Intentions: 2024/25 - 2028/29 (2024).

In the UK context a dedicated Ministry for Regulation would not be an appropriate solution. The proliferation of ministerial departments (as of 2025 there are 24), and with them ministers attending Cabinet (27), has encouraged "power-hoarding" and fiefdom-building,[18] a culture with too many points of veto on other departments' policy. Increasing the number of departments risks creating another point for duplication and reducing the incentive to collaborate with other parts of government. Instead, regulatory policy needs to be better wired into the existing power networks of Whitehall.

Some interviewees felt that the Treasury would be a better home for regulatory reform efforts, partly because it is seen as powerful in Whitehall, with a cross-government reach akin to that of No.10. Its role in balancing budgets and making trade-offs between policy goals also demonstrates the approach required for regulation – the kind of challenge that led other researchers to recommend taking a 'regulatory budgeting' approach.[19]

[16] Department of the Prime Minister and Cabinet, *Australian Government Guide to Regulatory Impact Analysis* (2020).
[17] Ministry for Regulation, *Strategic Intentions: 2024/25 - 2028/29* (2024).
[18] Simon Kaye, *Reimagining Whitehall: An Essay* (Reform, 2022); Charlotte Pickles and James Sweetland, *Breaking down the Barriers: Why Whitehall Is so Hard to Reform* (Reform, 2023).
[19] Martin Stanley, *Regulatory Budgets, One In/Three Out, Etc.* (2024); Matt Bevington, *Rebuilding the Regulatory Ecosystem* (2023).

But this same instinct risks cutting the other way: the Treasury is often criticised for its over focus on the public finances,[20] at the expense of ignoring other important policy measures. Some interviewees for this paper, for example, felt the Treasury had previously supported regulatory measures to avoid committing additional spending to a policy goal. That said, others have noted that the Treasury's focus on preventing other government departments from over-committing on new policy has led to occasions when it has blocked economically-damaging regulation.[21]

The Cabinet Office is supposed to be the home for cross-government co-ordination and policy, though recently it has been criticised for duplicating the work of other departments.[22] That said, earlier this year, the Permanent Secretary announced that it would reduce its headcount and rationalise the functions it delivers to refocus on this more strategic role.[23] By refocusing on what only the Cabinet Office can do, the department could once again make regulatory policy a key focus.

In a future model of Whitehall in which departments are rationalised and empowered, a more prominent economic policy department (such as a Department for Industry) could take policy leadership, but in the absence of a more fundamental shake-up of the machinery of government, policy leadership should be returned to the Cabinet Office. The Regulation Directorate and sponsorship of the RPC should be transferred from DBT, and the Regulatory Innovation Office moved to the Cabinet Office from DSIT.

Recommendation 1: Regulatory reform policy should return to the Cabinet Office, with relevant responsibilities and headcount moved from DBT (the Regulation Directorate, RPC and its secretariat) and DSIT (the Regulatory Innovation Office). Regulatory reform should be led by a dedicated minister.

2.2 Managing the total impact of regulation

A stronger strategic centre leading regulation policy is the first step, but the Government also needs to reset attitudes towards regulation, and to do so at a structural level by embedding better incentives for departments or agencies with a regulatory role.

Regulatory reform is best understood as a 'collective action problem' – where all policymakers optimising for their own interest create the conditions for the whole system to perform badly. While individual regulations are often simple to justify on the basis of protecting consumers or the public, or improving competition and accounting for market failure, often the total sum of regulation is disproportionate for businesses and damaging to desirable outcomes for the public.

[20] Stian Westlake and Giles Wilkes, *The End of the Treasury* (2014).
[21] John Kingman, *The Treasury and the Supply Side* (The Strand Group, 2016); Giles Wilkes et al., *Treasury 'Orthodoxy'*, (2024).
[22] Charlotte Pickles and James Sweetland, *Breaking down the Barriers: Why Whitehall Is so Hard to Reform*; Amy Gandon, *Civil Unrest: A Portrait of the Civil Service through Brexit, the Pandemic and Political Turbulence* (2023).
[23] Tevye Markson, *Cabinet Office to Cut Headcount by 1,200 over next Two Years* (2025).

The Government's own Action Plan notes that:

> "Even if all these regulations had been optimally designed, their sheer cumulative impact – and the associated increase in regulatory activity – has produced an additional layer of burden which adds to this complexity. Whilst each regulatory intervention has been rationalised in its own terms, the unintended consequences of the cumulative effects have not been properly analysed."[24]

Despite this recognition, the total sum of regulation on businesses and consumers is not tracked, and there are no mature processes for managing it. The Government's Action Plan estimates that the cost of red tape could be as high as 3 to 4 per cent of GDP – or around £70 billion.[25] However this figure is based on a 20-year-old report carried out by the Better Regulation Task Force, which itself relies on data collected in the United States and the Netherlands. Other researchers have estimated that the total cost could be considerably higher at around £220 billion in 2020.[26] But most estimates used are static, compiled once and not updated regularly to track actual costs.

With no regular process for estimating and updating estimates on the cost of regulation to business and society, there is also no way to manage the collective burden of it.

Interviewees argued that the lack of a process for managing the total 'stock' of regulation is a key impediment to delivering better regulation: "We have a 'set and forget' culture… [the Government] legislates, then forgets what it's done, and adds more." There is a kind of "bureaucratic inertia" to regulatory reform – many regulations which were originally a good idea but have become less valuable (or even harmful) in a changed world are rarely revisited and removed.[27]

[24] HM Treasury, *New Approach to Ensure Regulators and Regulation Support Growth*.
[25] Ibid.
[26] Victoria Hewson, *Rules Britannia* (2020).
[27] Sam Dumitriu, *How Bad Regulations Accumulate* (2022).

Figure 1: Calculating the cost of regulation

Policymakers calculate the cost of regulation in different ways, and different measures of the cost of regulation have been used as targets in different circumstances. These include:

- Financial costs – the cost of additional taxes, licences and levies that come with regulation.
- One-off costs – costs associated with initial preparation for a new regulation, such as purchasing legal advice on adapting employment policies.
- Policy costs/compliance costs – these stem from businesses changing their behaviours in ways which are directly related to complying with the regulation. Examples include additional compliance checks, such as anti-money laundering.
- Administrative costs – all costs associated with familiarisation, record-keeping and reporting, including inspection and enforcement, such as ongoing expert advice or paying specialists to check compliance with regulation.
- Administrative burdens – a subset of overall administrative costs, these are the specific costs that businesses face solely because of the regulations currently in place. Some administrative costs businesses might continue to pay if regulation was removed, but administrative burdens are costs which businesses only incur because regulation requires it.

These costs are captured in different aggregate measures and targets, including:

- Total Net Present Social Value (NPSV) – the main measure used for evaluating whether a policy represents good value for money according to the principles of the Green Book.
- Net Present Value (NPV) to business – the net direct and reasonable indirect benefits and costs of a policy to businesses.
- Equivalent Annual Net Direct Costs on Business (EANDCB) – the direct impact on business, and the key measure used to evaluate the cost to business for most assessments of the overall regulatory burden. EANDCB was the measure used for the OIOO and OI2O offsetting policies.
- Equivalent Annual Net Direct Costs on Households (EANDCH) – the direct impacts on households and other 'person units'.

All four of these measures are used in the Options Assessment (OA) and Impact Assessment (IA) which government departments use to evaluate regulatory policy proposals.

Sources: HM Government, One-In, One-Out (OIOO) Methodology, July 2011; Cabinet Office, Better Regulation Framework, 2023; Martin Stanley, Regulatory Budgets, One In/Three Out, etc, 2024; Cabinet Office, Measuring Administrative Costs: UK Standard Cost Model, 2005

2.3 Controlling regulatory burdens

Due to the absence of any way of effectively assessing the stock of regulation and assessing new proposals against it, the regulatory burden has been managed through time-limited initiatives, which either offset new regulations against existing ones, or try to explicitly deregulate and reduce the total regulatory burden.

2.3.1 Deregulation exercises

Successive governments have launched set-piece deregulation exercises to cut the burden of regulation on business and wider society, sometimes characterised as 'bonfires of red tape'.

In 2005 the Labour Government launched the Administrative Burdens Reduction Programme (ABRP) to cut unnecessary administrative costs of regulation. The Programme delivered over 300 regulatory simplifications (against an initial estimate of 500),[28] and claimed £3.5 billion of savings in net annual direct costs – meeting the target saving of around 25 per cent of the estimated £13.7 billion baseline of administrative costs.[29]

Evaluation of the ABRP is, however, mixed, with the National Audit Office (NAO) stating that the burden reductions from measures in the Programme's evaluation were not calculated on a consistent basis, and as much as two-thirds of the savings claimed by departments were attributable to initiatives which had been identified before the programme had begun.[30]

A more recent exercise was the "Red Tape Challenge" of the Coalition Government, which ran from 2011 to 2014 and was led by Oliver Letwin, Minister for Government Policy. This targeted regulations for which there was no clear rationale for keeping. The Red Tape Challenge (RTC) is an early example of a government using 'crowdsourcing' of ideas to remove red tape through a public website. This received over 30,000 comments from visitors,[31] though then Business Secretary Vince Cable noted in 2012 that many of the requests were for more regulation, rather than less.[32]

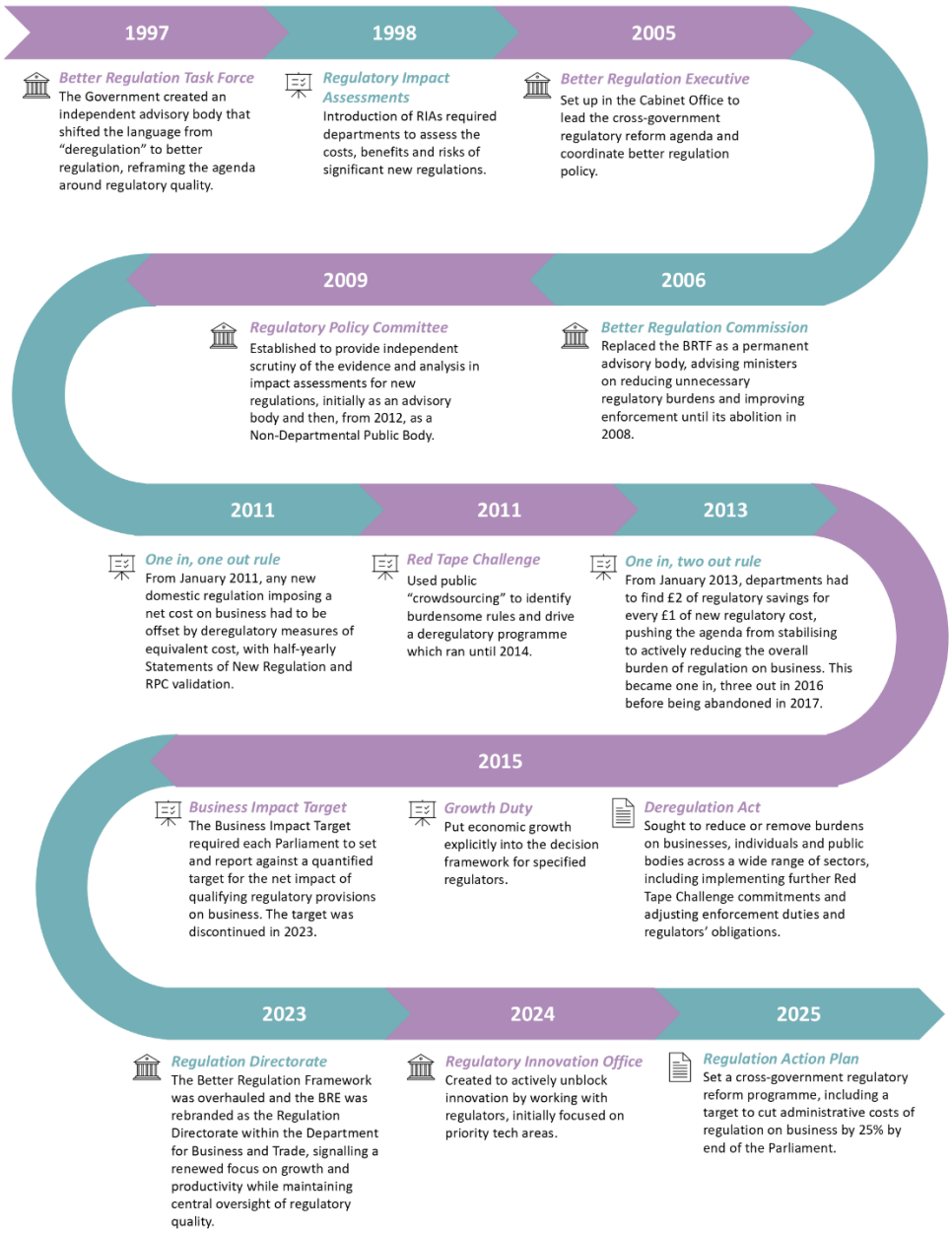
As a result of the RTC, over 3,000 regulations were removed or improved,[33] and an OECD review claimed that it delivered a £1.2 billion annual saving in regulatory costs for businesses.[34] When combined with other deregulatory efforts which happened in parallel or following the RTC during the 2010-15 Parliament, the Regulatory Policy Committee assessed that efforts to reduce the impact of regulation saved businesses net £2.2 billion a year.[35] But 90 per cent of the savings came from just ten measures, and 60 per cent alone came from a change in the indexation of occupational pensions from the Retail Price Index (RPI) to the

[28] HM Government, *Simplification Plans - 2005-2010: Final Report* (2010); Stanley, *Regulatory Budgets, One In/Three Out, Etc.*
[29] Stanley, *Regulatory Budgets, One In/Three Out, Etc.*
[30] National Audit Office, *The Administrative Burdens Reduction Programme* (2008).
[31] Gibson et al., *Reducing the Burden of Government Regulation*.
[32] Richard Tyler, *Red Tape Reforms Face Public Backlash* (The Telegraph, n.d.).
[33] Gibson et al., *Reducing the Burden of Government Regulation*.
[34] OECD, *Red Tape Challenge* (2016).
[35] Gibson et al., *Reducing the Burden of Government Regulation*.

Consumer Price Index (CPI).[36] Following the RTC, similar approaches were proposed and partially implemented as part of planning for post-Brexit deregulation.[37]

Following the 2015 election, the Conservative Government tried to implement Business Impact Targets, through measures in the Small Business, Enterprise and Employment Act 2015 which required a government target for the total cost to business of new, amended and repealed regulations, and reporting of progress against it. However, in part due to the political disruption of Brexit and changes in the leadership of the Conservative Government, the targets were missed in all three parliaments where they applied.[38]

Figure 2: History of regulatory reforms



[36] Stanley, *Regulatory Budgets, One In/Three Out, Etc.*
[37] Ibid.
[38] Gibson et al., *Reducing the Burden of Government Regulation*.

Dedicated programmes to identify and cut administrative burdens, backed by numerical targets and based on establishing baselines of total regulatory costs, have been shown to be effective at reducing the cost of regulation and removing 'zombie' measures which no longer serve a purpose. It is clearly part of the inspiration for the Government's current target to reduce the administrative costs of regulation by 25 per cent.[39]

These red-tape challenges, done well, can be part of the toolkit for this Government to address the stock of regulatory burdens, but where previous approaches have been insufficiently ambitious, this Government should be broader in the measures of regulatory costs being targeted over the course of the Parliament.

Given EANDCB is well-established in Impact Assessments for creating new regulation and reviewing existing measures, it should be practical to use this as the target measure for cost-reduction exercises.

Recommendation 2: The Government should announce additional targets for cutting regulatory burdens on businesses and consumers, based on Equivalent Annual Net Direct Costs on Business (EANDCB), to supplement their current target of administrative costs.

2.3.2 Regulatory offsetting

"One-in, one-out" (OIOO) is the clearest example of an offsetting approach. Introduced in 2011, no new regulation (excluding EU regulations) could be introduced by departments without an existing regulation of equivalent or greater value being cut,[40] based on the EANDCB measure.[41] The UK was the first OECD country to use offsetting, and since then similar approaches have been used in several other countries – including France and Germany.[42]

OIOO was increased to "one-in, two-out" (OI2O) in 2012, with the Government requiring £2 of regulatory cost be scrapped for each £1 introduced.[43] In March 2016, the OI2O test was replaced with "one-in, three-out" (OI3O), and the activity brought in scope was broadened[44]. This rule was suspended following the 2017 Grenfell Tower fire, to allow new regulations for building safety to be introduced more quickly, and building safety regulations were also removed from the scope of external oversight and scrutiny in future BRF guidance – and they remain out of scope today.[45]

The approach has had broader success outside of the UK. The Canadian province of British Columbia used a OI2O approach, after establishing a baseline of regulatory costs, and achieved a 36 per cent decrease in regulatory restrictions, which has been directly associated

[39] Starmer, *PM Remarks on the Fundamental Reform of the British State: 13 March 2025*.
[40] Gibson et al., *Reducing the Burden of Government Regulation*.
[41] Department for Business & Trade, *Better Regulation Framework*.
[42] European Commission, *Questions and Answers on the Better Regulation Communication* (2021); OECD, *One-In, X-Out: Regulatory Offsetting in Selected OECD Countries* (2019).
[43] Stanley, *Regulatory Budgets, One In/Three Out, Etc.*
[44] Ibid.
[45] Department for Business & Trade, *Better Regulation Framework*.

with an improvement in economic performance equivalent to an increase in economic growth of one percentage point.[46]

Various implementations of the 'One-in, X-out' (OIXO) offsetting models have included flexibilities to the sequencing and matching of 'ins' to 'outs' to make targets easier to achieve for policymakers[47] – for example the European Commission's model included flexibility to identify 'outs' in the following year to new 'ins' rather than simultaneously, made them tradeable across policy areas (so that the reductions and increases don't have to apply to the same sectors), and included broad exemptions in the case of emergencies.[48]

But exempting categories of new regulatory cost from offsetting can allow large costs to go unaddressed – the NAO estimated that 46 per cent of the new regulatory measures under the Coalition Government were not counted against the savings target, which if counted would have turned a net saving of £2.2 billion of savings claimed over the same period into a net cost of £2.8 billion. From Martin Stanley's analysis, these major exclusions included areas such as:

- tax administration;
- European Union regulation;
- the National Minimum Wage;
- the Apprenticeship Levy;
- auto-enrolment in Workplace Pensions; and
- fees and charges imposed by government or regulators, such as the fees paid by care homes to the Care Quality Commission.[49]

Offsetting approaches are based on the logic that the regulatory burden cannot increase indefinitely, that ministers should make trade-offs between different regulatory policies so that the economy isn't over-burdened, and use the political urgency of introducing additional regulations to create an incentive to identify and offer up savings.

Any policy that forces parts of government to trade-off and ultimately rationalise their regulatory goals is a good one. But applying those measures only to the flow of regulation, at the point that there is pressure to introduce more, does not represent a comprehensive approach.

2.3.3 Regulatory budgeting

Some researchers have attempted to analyse the problem of regulatory burdens in the same way that we analyse another collective action problem within government – the public finances. There are always more calls for public spending than are affordable, and it is easy for advocates for a particular programme to argue the case for it without finding commensurate savings because of the scale and complexity of what government currently spends its money on.

[46] Patrick A McLaughlin and Bentley Coffey, *Regulation and Economic Growth: Evidence from British Columbia's Experiment in Regulatory Budgeting* (n.d.).
[47] Gibson et al., *Reducing the Burden of Government Regulation*.
[48] European Commission, *Questions and Answers on the Better Regulation Communication*.
[49] Stanley, *Regulatory Budgets, One In/Three Out, Etc.*

There are clear parallels with regulation – ministers call for greater regulation in their area to tackle a particular risk or injustice, without worrying about the cumulative impact on the economy, or knock-on impacts on other desirable outcomes for the public. In public spending, the Treasury uses period Spending Reviews to decide how to allocate the total public spending envelope, usually in conjunction with a Budget which defines the size of total spending alongside the taxation and borrowing that pays for it.

But no equivalent budgeting process exists for regulatory costs. OIXO approaches represent a very basic form of regulatory budgeting, but usually without a defined baseline of existing regulatory costs, or without specific sectoral targets for what the appropriate economic impact of regulation in each sector should be. And as discussed above, exemptions are often used to avoid the tricky trade-offs implicit in a budgeting process, and without clear leadership which can override departmental decisions when such an approach doesn't work in practice. For example, the Treasury's clear leadership on the public finances is bolstered by the Cabinet Manual making it explicit that the Budget is not within scope of standard collective decision-making by Cabinet,[50] and 'Managing Public Money' clarifies that proposals for public spending can only be approved with the consent of Treasury Ministers.[51]

In 2008, the Better Regulation Executive (then hosted in the Department of Business, Enterprise and Regulatory Reform) consulted on implementing a regulatory budgeting approach, to "make explicit the costs and benefits of new regulations",[52] through "setting a constraint, or budget, for the total costs of regulation. This could act on the level or flow of costs, on an annual or multi-year basis." It was proposed that these budgets would stretch over three years. However, the idea was dropped by 2009 and never implemented, in part because departments responded by coming forward with a long list of costly proposals which would need to be provided for in the budgeting process if it was implemented – an interesting analogy to the 'bleeding stumps' approach which is often used to characterise how departments often try to negotiate up the Treasury to higher spending commitments by dramatising the impact of lower budgets on public services.[53]

There is no doubt that a regulatory budgeting approach would be an improvement on, and more sophisticated than, OIXO approaches. In principle it is a strategic approach to the shape of the total regulatory burden on the economy, rather than a reactive approach based around the need to introduce new regulations.

The real value of implementing a regulatory budgeting approach in the UK is not just to provide a more sophisticated model for trading off different kinds of regulation, but by explicitly linking regulatory budgets to economic performance, particularly in sectors which are stagnating or in strategic industries, it can be used directly to make the case for growth.

Several steps need to be taken to implement regulatory budgets. A common baseline of costs needs to be developed, and the right measure agreed. The Government's baseline estimate of administrative costs for their current target of a 25 per cent reduction would ideally be replaced by a more comprehensive single measure such as EANDCB, which could be consistently applied across the economy.

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[50] Cabinet Office, *Cabinet Manual* (2011).
[51] HM Treasury, *Managing Public Money* (2025).
[52] HM Government, *Regulatory Budgets: A Consultation Document* (2008).
[53] Stanley, *Regulatory Budgets, One In/Three Out, Etc.*

Different sectors of the economy would need to be broken down in a consistent way so that the estimates of the impact on business in Regulatory Impact Assessments (RIAs) can be effectively applied, then measured and evaluated on an ongoing basis. Government uses internationally recognised standard industrial classification (SIC) codes for economic activity to classify different sectors[54] in key resources such as the Office for National Statistics' GDP aggregates,[55] or supplemented with firm-level data on revenue and payroll from HMRC.

The Cabinet Office, as the new department in charge of regulatory policy, should establish regulatory budgets for each sector, and track performance against those budgets. These budgets should be set for multiple years, like public spending totals are in a Spending Review, and reviewed annually as part of the Budget process, led by the Treasury. With longer time horizons, government could take greater advantage of approaches like advance regulation (or deregulation) commitments, to give industry more time to innovate and adjust while also counting the regulatory impact and allowing for savings and trade-offs against it.[56]

To avoid this becoming another administratively costly but ultimately unimpactful Whitehall process, the regulatory budgets should be explicitly tied to the economic performance forecasts used by the Treasury in the Budget, by being fed into the Office for Budget Responsibility's (OBR) economic forecasts alongside fiscal measures.

There is clear precedent for this – the OBR considers the likely economic impact of headline regulatory measures. In the Spring Statement 2025, the OBR forecast that the planning reforms included in the Government's National Planning and Policy Framework (NPPF) would increase the level of real GDP by 0.2 per cent in 2029-30, and by over 0.4 per cent in 2034-35.[57] Conversely, in the Autumn Budget 2025 the OBR said it was unable to forecast the economic impact of the Employment Rights Bill, given the legislative process had been delayed and there was insufficient detail on the final regulation it would create. Clearer sectoral regulatory budgets, pre-agreed as part of the Budget process, would give the OBR more information on the likely impacts of regulatory or deregulatory measures on different sectors.

Establishing a regulatory budgeting process, and building it into the fiscal framework that the Treasury uses to communicate the government's economic plans, would make the UK a world leader in regulatory policy – implementing an approach no other country has achieved at a national level, and creating a feedback loop where regulatory policies can be fed into the wider economic forecast.

Operationalising regulatory budgets wouldn't be straightforward, hence it being world-leading. But as discussed, the components of a simple version exist, and with work could be brought together to create a budgeting process. Several initiatives, including the ABRP in 2005, and the current Government's own Action Plan, have attempted to estimate the total existing burden of regulation on the economy, which would establish a baseline for a regulatory budget. Existing Impact Assessments, which government departments complete when designing regulatory instruments, and the post-implementation reviews of regulations once they are in place, would quantify the costs of additional proposals. Both the baseline cost and the cost of new measures could be produced using existing measures such as EANDCB, but this would need to be broken down by sector, which is where the bulk of the new work would come from.

[54] Companies House, *Standard Industrial Classification of Economic Activities (SIC)* (2025).
[55] Office for National Statistics, *GDP Output Approach – Low-Level Aggregates* (2025).
[56] Sanjush Dalmia, *Advance Regulation and Deregulation Commitments* (2025).
[57] HM Treasury, *Spring Statement 2025* (2025).

While this model may still have flaws, its value to the overall regulatory process would outweigh these.

Recommendation 3: The Cabinet Office should lead the cross-government process of establishing regulatory budgets for each sector, mapping the baseline of EANDCB from qualifying regulation to those sectors and requiring departments to stick to agreed budgets.

The budgets, forecasts of performance against the budgets, and underlying regulatory measures driving those forecasts should be provided to the OBR as part of the Treasury's engagement in advance of the Budget.

3. When to regulate

Alongside clear leadership and processes to make sure government's overall regulatory policy is coherent, it helps to ensure that the regulatory environment is underpinned by a clear theory of when and how to regulate. Without that framework, one interviewee for this paper described regulatory policy as "risking becoming a free-for-all" – an area of policy without governing principles.

While many instances of when and how to regulate will vary depending on the specific sector and circumstances, overarching principles should guide policymakers and provide a check and balance against regulation which is being created for inappropriate reasons.

3.1 Theory and practice

In line with broad economic theory, the BRF establishes that regulation is "expected to generally only occur when there is a market failure".[58] Market failure is a well-defined economic principle, where markets and consumer choice are not delivering optimal outcomes – for example, from information asymmetries, or important public goods, or externalities which need to be factored in.

In practice, few if any markets are perfectly competitive, and so as other researchers have noted, the scope for government intervention to account for market failure is nearly unlimited.[59] The NAO's 'Principles of effective regulation' identifies several goals for regulation:

> "Regulation is used for a variety of different purposes, such as to protect and benefit people, businesses and the environment, and to support economic growth."

In their Action Plan, the Government outlined their objectives for regulation as:

> "Effective regulation safeguards consumers, protects vulnerable communities and provides the stability needed for businesses to thrive."[60]

The Coalition Government published 'Principles for Economic Regulation' to guide the decisions taken by policymakers and regulators with respect to economic regulation – the regulation which shapes how markets function, correcting for market failures, promoting competition, ensuring fair pricing, and managing monopolies. It starts from the principle that "competitive markets are the best way in the long run [to provide services] to consumers and provide incentives to invest and improve efficiency and service quality", and that regulation should facilitate competition. Or, if no meaningful competition can exist (such as in natural monopolies), it should protect the interests of consumers directly as a proxy for competition.

[58] Department for Business & Trade, *Better Regulation Framework*.
[59] Victoria Hewson, *Rules Britannia* (2020).
[60] HM Treasury, *New Approach to Ensure Regulators and Regulation Support Growth*.

Figure 3: Principles of economic regulation

- Accountability – independent regulation needs to be set in a way which is accountable to Parliament and government through a framework of duties and policies. Regulatory decisions should be taken by the body which has the legitimacy, expertise and capability to arbitrate between the required trade-offs.
- Focus – the role of economic regulators should be concentrated on protecting the interests of end users by ensuring the operation of well-functioning markets.
- Predictability – economic regulation should provide a stable and objective environment for market participants to make future decisions and give long-term investor confidence.
- Coherence – regulation should be a logical part of the Government's policy plan.
- Adaptability – economic regulation must have capacity to evolve and respond to change.
- Efficiency – policy interventions must be proportionate and cost-effective, timely and robust.

Source: Department for Business, Innovation and Skills, Principles of Economic Regulation, April 2011

Other areas of regulation which aren't fundamentally questions of the economy tend to concern the issues of safety, harm and risk: protecting the public from danger, safeguarding public goods and dealing with externalities (such as environmental protection). This set of objectives is sometimes described as 'social' regulation, but in practice covers a broad range of regulatory measures and duties. There is no consistent set of principles that govern good social regulation comparable to the broad consensus about what good principles for economic regulation look like.

Cost-benefit measures such as Net Present Value (NPV) are used in evaluating specific regulations, but this is not the same as a coherent framework of principles, and a positive NPV is not a necessary criterion for pursuing regulation – measures such as the second staircase rule introduced following the Grenfell Tower fire demonstrate extremely negative Net Present Values, including the social benefits from reducing the risk of loss of life (indeed the then Government found no evidence the rule would save lives).[61] The Impact Assessment for Martyn's Law, otherwise known as the Terrorism (Protection of Premises) Act 2025, which sets requirements on large venues to have additional security measures, found the costs were estimated at seventy times greater than the benefits.[62]

Many of the principles for economic regulation clearly could, and should, be adapted for areas of 'social' regulation as well. Particularly the principle of efficiency, which in the Government's Action Plan is usually described as "proportionality." On the issue of excessive risk-aversion in regulation, there are many examples of where attitudes to minimising risk and safety at any cost have net negative consequences for the public.

[61] DLUHC, 'Impact Assessment on the Introduction of Second Staircases in Residential Buildings above 18m, Following the Consultation on Sprinklers in Care Homes, Removal of National Classes, and Staircases in Residential Buildings', 22 March 2024.
[62] Home Office, 'Terrorism (Protection of Premises) Bill: Impact Assessment', 17 September 2024.

In John Fingleton's work on the Nuclear Regulation Taskforce, a key recommendation is that the Government should define a national standard for the tolerability of risk, to guide regulators in applying the "As Low as Reasonably Practicable" (ALARP) regulatory standard in a proportionate way.[63] The Taskforce found that the local view of risk minimisation measures for any given element of a project was not being balanced with broader factors such as cost, delay, or national priorities like cheaper electricity for consumers – a key driver of the UK being the most expensive country in the world to deliver nuclear projects.[64]

This misguided attitude towards risk stems from the absence of a central policy guiding regulators, whose local incentives are to maximise safety at any cost, despite nuclear energy being safer than almost any other source of electricity.[65] This leads to absurd scenarios, such as calls from the Office for Nuclear Regulation to install additional safety measures at plants that have a one in ten billion chance of needing to be used.[66]

In a similar vein, the House of Lords Industry and Regulators Committee's investigation into the Building Safety Regulator, introduced by the Conservative Government following the Grenfell Tower fire, revealed that an organisation set up to reduce risks was in fact preventing critical safety measures from being implemented because of delays and complex approvals.[67]

To ensure regulation is applied more consistently, based on a clear sense of what good social regulation looks like, the Government should establish a set of overarching principles to govern social regulation, and put the principle of proportionality for risk mitigation at their core. Figure 3 provides a draft set of principles for social regulation, modified from the principles of economic regulation:

Figure 4: Draft principles for social regulation

- Accountability – independent regulation needs to be set in a way which is accountable to Parliament and government through a framework of duties and policies. Regulatory decisions should be taken by the body which has the legitimacy, expertise and capability to arbitrate between the required trade-offs.
- Holistic – regulatory decisions should take into account the overall impact and risk of action to society and the economy – not just in the narrow domain of that regulation or regulator.
- Predictability – regulation should provide a stable and objective environment for market participants to make future decisions and give long-term investor confidence.
- Coherence – regulation should be a logical part of the Government's policy plan.
- Adaptability – regulation must have capacity to evolve and respond to change.
- Proportionality – policy interventions must be proportionate and cost-effective.

Source: Department for Business, Innovation and Skills, Principles of Economic Regulation, April 2011

[63] John Fingleton, *Nuclear Regulatory Review 2025: Enabling Nuclear Delivery through Regulatory Reform* (n.d.).
[64] Ben Southwood et al., *Foundations: Why Britain Has Stagnated* (2024).
[65] Our World in Data, *Death Rates per Unit of Electricity Production* (2025).
[66] Sam Dumitriu, *Why Regulators Need a 'Red Team'* (2025).
[67] House of Lords, Industry and Regulators Committee, *The Building Safety Regulator: Building a Better Regulator* (2025).

Recommendation 4: The Cabinet Office should establish an equivalent set of principles for social regulation as the existing Principles of Economic Regulation, and Options Assessments created by government departments should require each proposal to be explicitly justified against those principles.

3.2 A higher bar for regulation

In many scenarios, however, the challenge is not the way in which regulations are created and applied, but whether to regulate at all. Regulation is often created in the heat of the moment, in response to crises or tragedies, when politicians claim 'something must be done' regardless of the cost.[68] This drives bad regulatory policy, when more measured approaches would be better.

Policies created in haste often result in extreme costs. This paper has already noted those deriving from Martyn's Law and the 'second staircase' rule, both introduced following crises. Governments have a whole toolkit of policy levers they can use, including spending and tax measures, issuing guidance and targeting capacity in public services.

Often the victims of bad regulation and over-regulation are the public at large, or businesses at large, or the economy as a whole – rather than specific groups. In contrast, the advocates for it, particularly when motivated by tragedy, are highly organised. Policy should create checks and balances against this, in service of the country as a whole. But these checks and balances are weak in practice.

The OECD maintains a reference checklist for regulatory policymaking, which includes key tests designed to underpin good policymaking and includes testing whether regulation is the best form of government action.

Figure 5: OECD Reference Checklist for Regulatory Decision-Making

1. Is the problem correctly defined?
2. Is government action justified?
3. Is regulation the best form of government action?
4. Is there a legal basis for regulation?
5. What is the appropriate level (or levels) of government for this action?
6. Do the benefits of regulation justify the costs?
7. Is the distribution of effects across society transparent?
8. Is the regulation clear, consistent, comprehensible and accessible to users?
9. Have all interested parties had the opportunity to present their views?
10. How will compliance be achieved?

Source: OECD, Recommendation of the Council on Improving the Quality of Government Regulation, 2025

[68] Anthony Finkelstein, *Something Must Be Done* (2025).

This checklist, along with other tests like the Principles of Economic Regulation, should be incorporated as tests into Options Assessments (OAs) and Impact Assessments (IAs), to force policymakers to carefully articulate their rationale for regulating. This would mirror the kinds of tests used to control other areas of government policy where the incentives can cause costs to proliferate with little accountability for the outcomes – such as public spending rules, or the rules around the creation of public bodies.[69]

Recommendation 5: The Cabinet Office should make the OECD Reference Checklist mandatory within all Options Assessments and Impact Assessments to strengthen justification of regulatory decisions and enable more effective scrutiny by the Regulatory Policy Committee and Parliament.

[69] Patrick King and Alice Semark, *Quangocracy: The Future of Public Bodies* (Reform, 2025).

4. Regulatory policy development

A key stage for regulatory policymaking is when officials develop and appraise options for ministers. Changes to regulation should require a clear articulation of the problem under consideration, as well as genuine consideration of a broad range of options to achieve the intended outcome, while assessing the impact and the costs.

The BRF contains guidance on the process that civil servants should follow in advising Ministers and developing options, with steps intended to deliver thorough analysis, independent scrutiny by the RPC, and the necessary clarity for ministers to make informed final decisions.[70] But in practice, the system allows too many regulations to bypass meaningful scrutiny, fails to provide the transparency it was designed to deliver, and doesn't prevent departments generating analysis which is often inconsistent or poor quality.[71]

Figure 5 sets out the stages that regulatory provision progress through in the BRF, as well as what information is published at each stage.

Figure 6: The regulatory process

Stage	What happens	What is produced	What is published	Who can see it
Policy issue and options appraisal	Officials analyse problem and possible options for internal advice	Internal analysis, submissions, early options thinking	A call for evidence may be published	Ministers, officials
Preferred regulatory option identified	The policy team confirms the measure falls within scope of the BRF, prepares an OA, and submits it to the RPC	OA RPC Opinion on OA	Nothing published	OA: Ministers, officials, RPC
Collective agreement to announce	The department seeks collective ministerial clearance (via write-round or a committee) to announce plans	A collective agreement submission	Nothing published	Ministers, officials
Announce preferred regulatory option	Government publicly signals a preferred regulatory option	Consultation document / announcement	Consultation (if held) on GOV.UK OA and RPC opinion may be published alongside if available	Public
Regulatory Impact Assessment	If required, officials prepare a final IA setting out detailed analysis of the chosen proposal	IA RPC Opinion if required	IA published on GOV.UK when SI laid RPC Opinion on OA (or IA if submitted) published on website	Public
Collective agreement to legislate	Ministers clear SI for laying	Final SI pack, EM, IA	Nothing yet	Ministers, officials
Legislation and implementation	SI laid. Committees scrutinise. Debates if required. SI implemented	SI, EM, IA, committee reports, Hansard	SI pack on legislation.gov.uk Reports on Parliament site	Public
Post Implementation	Departments carry out review of whether regulation worked as intended	PIR RPC Opinion on PIR	PIR published on GOV.UK RPC opinion on PIR published on website	Public

Acronyms						
BRF	**EM**	**IA**	**OA**	**PIR**	**RPC**	**SI**
Better Regulation Framework	Explanatory Memorandum	Impact Assessment	Options Assessment	Post-implementation Review	Regulatory Policy Committee	Statutory Instrument

[70] Department for Business & Trade, *Better Regulation Framework*.
[71] Regulatory Policy Committee, 'RPC Examines How the Quality of Government Analysis Has Changed over Time', *GOV.UK*, 25 September 2025.

4.1 RPC scrutiny

The RPC is the Government's independent watchdog for regulatory analysis. Established in 2009, it is a non-departmental public body, comprised of eight independent experts, and supported by a secretariat of civil servants. The committee is populated with individuals containing a broad mix of economic and regulatory expertise, appointed via open competition.[72]

When considering regulation, the relevant department begins to formalise its early analysis through an OA which is subsequently developed into a full IA where required. OAs are completed using a template provided by the DBT, and require departments to set out the problem being addressed, the range of options available, the rationale for the preferred option, and initial estimates of impacts.[73]

Economic cost estimates are done through Equivalent Annual Net Direct Costs to Business (EANDCB) and Equivalent Annual Net Direct Costs to Households (EANDCH) – these are single figures representing the financial impact of proposed policies on businesses and households, aggregating multiple kinds of cost from the measures. Metrics like Net Present Social Value are used alongside them to aggregate costs and benefits and provide an overall cost-benefit analysis in the scorecard.

The purpose of carrying out OAs is to force policymakers to consider all options available to the government to achieve a policy goal, and the costs and benefits of each, including of doing nothing. Since 2023, scrutiny of OAs by the RPC has been required by the BRF.[74] Previously, the RPC's involvement was held back until departments had produced a full IA. In reviewing the regulatory analysis carried out by government, the RPC considers whether the problem has been correctly defined, whether alternative options have been genuinely appraised and whether the assessment is proportionate and coherent for the measures being considered. It issues to the relevant department a formal opinion using a rating system, accompanied by a written explanation of any concerns or required improvements.[75]

[72] Regulatory Policy Committee, *About Us* (n.d.).
[73] Department for Business and Trade, *Options Assessment Template (2023 Reforms)* (GOV.UK, 2011).
[74] Ibid.
[75] Regulatory Policy Committee, Regulatory Policy Committee, *RPC Opinion Template Explanation* (2025).

Figure 7: Regulatory Policy Committee (RPC) ratings

In the current BRF, the RPC provides an independent assessment of the quality of departments' IAs, OAs, and Post-Implementation Reviews (PIRs). Its ratings operate at two levels:

Formal ratings

The RPC issues a single, formal judgement on whether a department's assessment is sufficiently robust to inform ministerial decision-making:

- **Green – Fit-for-purpose:** The RPC has no significant concerns over the quality of the IA, or there are some minor issues that could be improved. There may be many points for improvement, which the department should consider.
- **Red – Not fit-for-purpose:** The RPC has major concerns over the quality of the evidence and analysis, and the overall quality of the IA (or other submission), that need to be addressed.

The formal rating is broken down across three areas:

- Rationale
- Identification of options
- Justification for preferred way forward

If any of these areas are red-rated, then the OA or IA will be deemed not fit-for-purpose.

Quality indicators

In addition to the headline formal rating, the RPC provides 'quality indicators' of:

- The Regulatory Scorecard
- The Monitoring and Evaluation (M&E) plan

These areas are rated using a four-point scale of "good," "satisfactory," "weak," or "very weak." They do not affect the formal green/red outcome but highlight where analysis is considered to be of particularly high quality or where improvements are needed.

Where an OA is likely to receive a red rating, and there is sufficient time to remediate the issues, the RPC may issue an Initial Review Notice (IRN) to the relevant department requesting further work prior to issuing a formal opinion. In the 2024-25 period six submissions – or 22 per cent of the total volume reviewed – received IRNs. All of these six updated their submissions and received 'fit-for-purpose' ratings.[76]

Source: Regulatory Policy Committee, RPC Opinion template explanation, 2025

Scrutiny of regulatory provisions was in some ways weakened by the changes introduced in the 2023 update to the BRF. Whereas full IAs were previously subject to mandatory RPC scrutiny, this requirement now applies only when departments request it or in a limited number of cases where it is mandatory.[77]

[76] Regulatory Policy Committee, *Regulatory Policy Committee Corporate Report 2024-25*.
[77] Department for Business & Trade, *Better Regulation Framework*.

Since the update to the BRF in 2023, final IAs receive RPC scrutiny only in cases where the EANDCB exceeds ± £100 million**, and** one of the following conditions are met:

- the RPC opinion of the scorecard elements of the OA received a weak or very weak rating;
- the RPC opinion of the monitoring & evaluation plans in the OA received a weak or very weak rating; or
- the measure falls within an exclusion category (apart from the Building Safety exclusion) and has therefore not previously been subject to RPC scrutiny at the OA stage.[78]

Cases like the Home Office's reform of Tier 4 student visas demonstrate why independent scrutiny of Impact Assessments is crucial. Without external challenge, optimistic assumptions, incomplete data, and overlooked costs can pass unchecked into ministerial decision-making. The result is a material underestimation of regulatory burdens and a weakening of the evidence base on which policy choices are made. In the case study below, the Government may well have wanted to proceed regardless of the higher costs, but they were making significant decisions based on inadequate information.

Case study: Reforms to the Tier 4 student visa route

A clear illustration of the risks created by weak or inconsistent analysis comes from the National Audit Office's (NAO) 2012 review of reforms to the Tier 4 student visa route. The Home Office estimated that the regulatory changes would impose a net direct cost of £25.5 million a year on education providers. Independent scrutiny by the NAO later revealed that this estimate was significantly understated.

The NAO found that key cost components had been omitted or drastically underestimated. The Department assumed that sponsors would face a one-off familiarisation cost of just £25. Providers reported that the actual costs they faced exceeded £500.

The Department also failed to include mandatory costs associated with applying for new educational oversight arrangements. These alone amounted to between £9,000 and £20,000 per institution in the first year, with additional implementation costs of up to £10,000. Routine administrative burdens arising from new compliance requirements – including English-language verification, monitoring against Highly Trusted Sponsor standards, and evidencing attendance – were similarly excluded from the Home Office's original assessment.

Perhaps most significantly, the Department assumed that institutions losing their sponsor licence would be able to replace 80 per cent of non-EEA students with domestic or EU enrolments. The sector made clear that this assumption was unrealistic. The NAO calculated that once these factors were accounted for, the additional regulatory burden could reach £40 million a year – far higher than the Department's estimate of £25.5 million.

Sources: National Audit Office, Immigration: The Points Based System – Student Route, 2012; The Home Office, Reform of the Points Based Student (PBS) Immigration System, Impact Assessment, 2011

[78] Department for Business & Trade, *Better Regulation Framework*.

Strengthening independent oversight is therefore not procedural bureaucracy, but a necessary safeguard against inaccurate or misleading analysis.

Government should reinstate mandatory RPC scrutiny of all IAs. This would restore the degree of independent assurance previously available and ensure that Parliament receives reliable, high-quality evidence. Scrutiny at this stage would build on that carried out at the OA stage, confirming concerns had been addressed and analysing new information. This would also ensure that decision makers had access to the expert opinions provided by the RPC.

Recommendation 6: Government should amend the Better Regulation Framework to reinstate mandatory RPC scrutiny of all full Impact Assessments, in addition to scrutiny of Options Assessments.

There is a large quantity of new regulation that is entirely exempt from the BRF, and therefore is never subject to independent scrutiny. Many fall out of scope because they have a sufficiently low economic impact. Other exemptions relate to measures required to comply with international obligations or court judgments. One notable and significant exemption is that applied to any regulations related to building safety.[79]

This exemption allows regulatory provisions in an area with significant economic and social consequences to proceed without the full analytical discipline normally required under the BRF. Building safety regulation often imposes substantial costs on landlords, developers and ultimately consumers, yet the current exclusion removes the requirement for a full Impact Assessment and independent scrutiny by the RPC.

This exemption has been challenged several times by the House of Lords, who stated in a 2024 report that they "see no justification for exempting Regulatory Provisions for the safety of tenants, residents and occupants in buildings – the IA is a way of demonstrating that the most effective option has been selected."[80]

Recommendation 7: Government should remove the building safety exemption from the Better Regulation Framework, ensuring that a greater share of significant regulation is subject to full assessment and independent scrutiny.

[79] Department for Business & Trade, *Better Regulation Framework*.
[80] Secondary Legislation Scrutiny Committee, *Changes to the Impact Assessment Process: Correspondence* (House of Lords, 2024).

Another area of insufficient scrutiny highlighted by interviewees lies in the framing of cost-benefit analysis. As discussed in Chapter 2, economic costs to business often seem abstract to a government approach which has no defined way of budgeting these costs or assessing the total. One way to ensure policymakers can more directly feel the trade-offs of regulation would be to articulate the economic costs of regulation in terms of lost tax revenue to the Exchequer, rather than just the additional costs on businesses and households.

The BRF should be amended to require policymakers to estimate the lost revenue to the Treasury from additional regulatory measures, so that in cross-government discussions of the policy (e.g. at the 'write round' stage) the Treasury can take an informed view on the value of regulation compared to the lost tax revenue.

Recommendation 8: Government should amend the BRF 'scorecard' section which requires regulation to be costed in Options Assessments and Impact Assessments to include a measure of estimated lost tax revenue from regulatory proposals.

4.2 Assessment quality

The quality of analysis produced by departments during the policy development stage varies significantly, and analysis carried out by the RPC suggests that these weaknesses are not occasional but systemic.[81] The research shows that the quality of analysis accompanying Regulatory Provisions is trending in the wrong direction, and that inadequate assessments are persistently weakening regulatory decision-making by undermining the ability of ministers to make informed decisions.

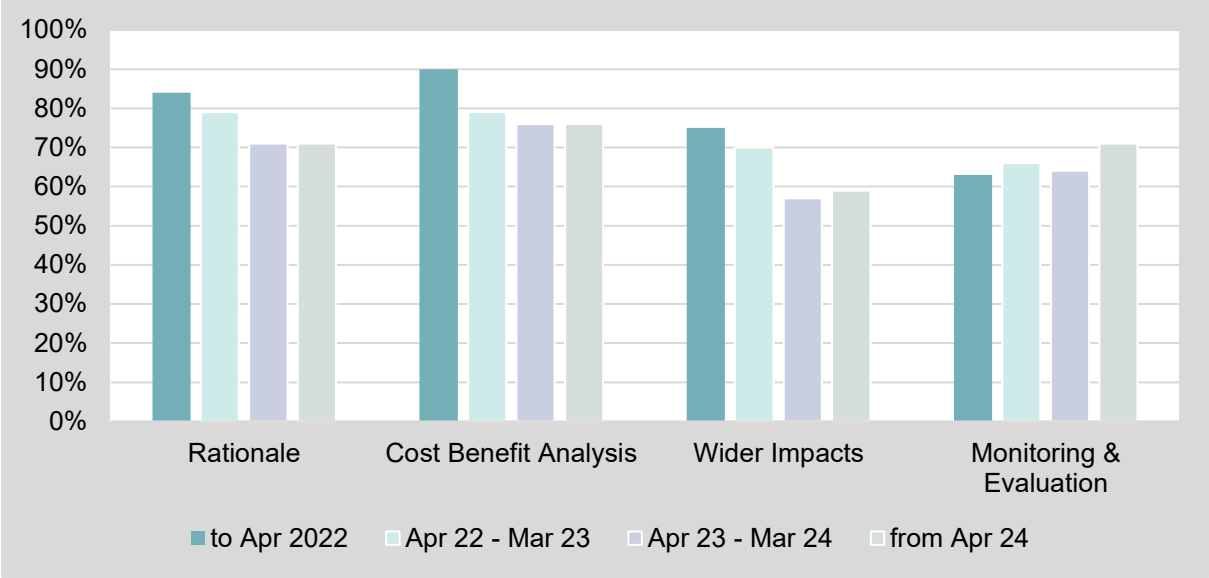
One cause of the problem is the misalignment of incentives within departments. Although the purpose of an OA is to compare the merits of different approaches and identify the most proportionate and effective option, in practice the decision to regulate is often taken before any formal analysis is undertaken. Several interviewees described OAs being completed retrospectively as a procedural requirement – a tick-box exercise used to justify a preferred course of action rather than a genuine appraisal of alternatives. This inevitably produces assessments that are substantively weak, produced quickly, and often missing key information.[82]

Analysis carried out by the RPC supports these observations. Since 2022, more than a quarter of ratings given by the RPC were "weak" or "very weak" with some departments performing considerably worse than others.[83] The worst offender was MHCLG, for whom this was true of more than half the ratings received.[84]

[81] Regulatory Policy Committee, 'RPC Examines How the Quality of Government Analysis Has Changed over Time'.
[82] Secondary Legislation Scrutiny Committee, *Losing Impact: Why the Government's Impact Assessment System Is Failing Parliament and the Public* (House of Lords, 2022).
[83] Regulatory Policy Committee, 'RPC Examines How the Quality of Government Analysis Has Changed over Time'.
[84] Regulatory Policy Committee, 'RPC Compares the Quality of Impact Assessments Submitted by Government Departments', *GOV.UK*, 18 September 2025.

More detailed scoring reveals declines in recent years across several areas. The proportion of assessments rated 'good' or 'satisfactory' for rationale fell from 84 per cent in 2022 to 71 per cent in 2024; cost-benefit analysis ratings declined from around 90 per cent to 76 per cent in the same period; and satisfactory assessment of wider impacts fell from roughly three-quarters of submissions to below 60 per cent.[85] These trends suggest not only a deterioration in analytical standards but a persistent failure to interrogate assumptions and to consider alternatives in any depth.

Figure 8: Percentage of IAs receiving 'good' or 'satisfactory' ratings

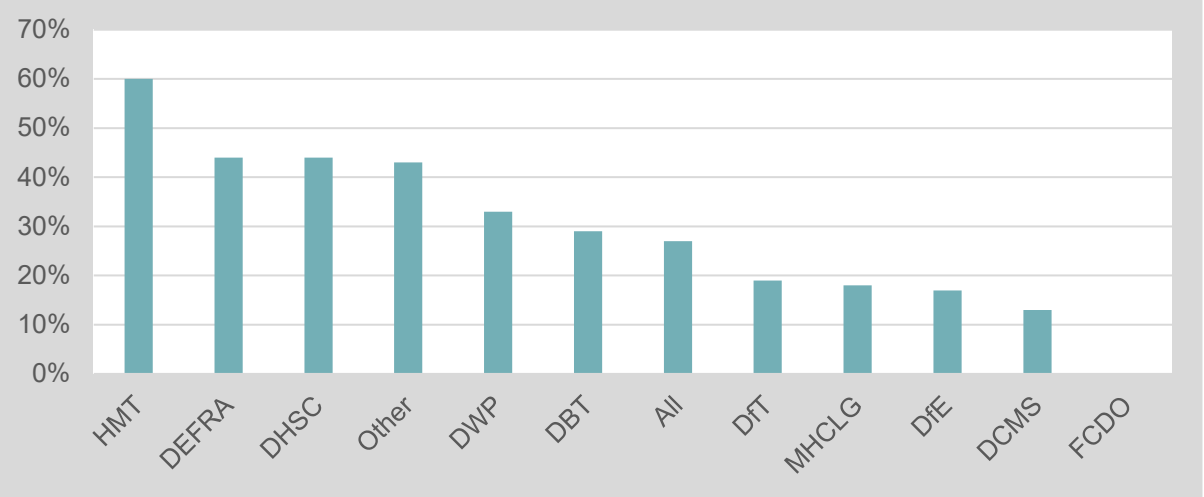


Source: Regulatory Policy Committee, 'RPC Compares the Quality of Impact Assessments Submitted by Government Departments', GOV.UK, 18 September 2025

A further indicator of inconsistent quality is the high rate of initial rejection of departmental submissions. In some departments, up to 60 per cent of assessments are deemed unacceptable by the RPC on first review and require substantial revision before they can be considered; in others the rate is considerably lower.[86]

[85] Regulatory Policy Committee, 'RPC Compares the Quality of Impact Assessments Submitted by Government Departments'.
[86] Ibid.

Figure 9: Percentage of IAs receiving an Initial Review Notice by department* since 2020



* Departments with 5 or more published IAs since 2020 (excluding former BEIS); 'Other' includes all remaining departments and arm's length bodies

Source: Regulatory Policy Committee, 'RPC Compares the Quality of Impact Assessments Submitted by Government Departments', 2025

Improving the quality of assessment requires changes not only to scrutiny arrangements but to the underlying standards and incentives that shape departmental behaviour.

The BRF sets out that where evidence for proposed regulation receives a not fit-for-purpose red rating from the RPC at OA stage, "Departments can either choose to carry out further work on the OA and resubmit… or proceed to seek collective agreement whilst making clear the concerns of the RPC."[87] The RPC keeps track of and publishes the "small number of instances departments have chosen to proceed with a regulatory proposal which is not supported by an IA which has received a 'fit-for-purpose' rating from the RPC."[88]

This should be stopped, ensuring that Regulatory Provisions cannot progress beyond OA stage without a green-rated RPC report stating that the submitted OA is fit-for-purpose. This would strengthen incentivises to produce high-quality analysis and properly consider options the first time around.

Recommendation 9: Regulatory Provisions should be required to have a 'fit-for-purpose' RPC rating for their Options Assessment before proceeding.

Regulation is a major channel through which government imposes costs on the wider economy, with significant implications for businesses and consumers alike – for example, through higher energy or housing costs. It is therefore a value-for-money issue in all but name. Yet because these costs do not fall on departmental budgets, they are not treated as a core accountability concern for Accounting Officers. While public money funds the analysis

[87] Department for Business & Trade, *Better Regulation Framework*.
[88] Regulatory Policy Committee, 'Red Rated RPC Opinions (since May 2015)', GOV.UK.

underpinning regulatory decisions, the quality of that analysis is too often treated as a technical exercise rather than a management responsibility.

Permanent Secretaries, as Accounting Officers, should therefore be directly accountable for the quality of regulatory analysis produced by their departments. This requires treating feedback from the Regulatory Policy Committee (RPC) as corrective rather than advisory. At present, departments can proceed with regulatory proposals despite repeated RPC concerns, with little consequence beyond reputational signalling.

Departments should be required to demonstrate clearly and systematically how RPC concerns have been addressed across their regulatory submissions, including action taken to remedy recurring weaknesses rather than responding case by case. Where a department shows persistent poor performance – reflected in a sustained pattern of "not fit for purpose" ratings or review notices – this should trigger escalation beyond the RPC. The threshold for escalation should be agreed jointly by the RPC and the Cabinet Office, ensuring it targets consistent underperformance rather than isolated failures. In such cases, departments should be required to produce a formal improvement plan, subject to RPC comment and central oversight.

Embedding this expectation would reinforce regulatory analysis as a core leadership responsibility, not a procedural afterthought.

Recommendation 10: As Accounting Officers, Permanent Secretaries should submit an annual letter to the Regulatory Policy Committee setting out how issues raised in RPC opinions have been addressed and how the quality of regulatory analysis has improved. Persistent underperformance, against standards agreed by the RPC and the Cabinet Office, should trigger a formal improvement plan subject to RPC comment and central oversight.

4.3 The status of the Regulatory Policy Committee

Independent scrutiny of new regulation by the RPC is a vital part of the policymaking process. As an independent body, the RPC is designed to ensure that the quality of advice provided to ministers on the impact of different Regulatory Provisions is thorough, and complies with the requirements in the BRF.[89]

However, other public bodies which exist to scrutinise government activity and validate standards of evidence and analysis have clearer mandates and powers set out in legislation, putting their work on a statutory footing.

The OBR was established through the Budget Responsibility and National Audit Act 2011, which defines its core duties, its independence, and the appointment of its leadership. In particular, the Act places statutory obligations on ministers and Parliament in relation to the OBR's work – including the notice period that the government must give to the OBR to complete its forecasts, that those forecasts will assess whether the government is meeting its own fiscal rules, and assessing the long-term sustainability of the public finances. The Government must use OBR forecasts for fiscal policy (it cannot substitute its own), and the

[89] Regulatory Policy Committee, *About Us*.

OBR has a legal right to access information from departments. Perhaps most importantly, the OBR reports directly to Parliament, not to Ministers. The OBR's analysis of economic issues directly informs both the Treasury's budget planning, and Parliamentary scrutiny of fiscal policy – for example, the decision to downgrade its forecast for UK productivity growth, reflecting worsening long-term economic conditions, had material consequences for the Treasury's policy at the Autumn Budget in 2025.[90]

In another area of regulatory policy, there is already precedent for enhanced regulatory scrutiny on a statutory basis: the Social Security Advisory Committee (SSAC), which reviews most social security regulations created by the Secretary of State for Work and Pensions. Principally governed by the Social Security Administration Act 1992, and its predecessor Social Security Act 1980, SSAC's membership comprises independent experts, and the Secretary of State is required to refer proposed regulations to SSAC, which the Committee is then required to examine and report on. SSAC can provide informal scrutiny to support the development of regulations. Where SSAC has taken regulations on formal reference, ministers must lay SSAC's report before Parliament, and publish their own response, explaining whether they accept or reject its recommendations. While ministers are not legally bound to follow SSAC's advice, they are legally obliged to engage with it.

Placing the RPC on a similar statutory footing would enhance its ability to scrutinise regulatory provisions, and to share its analysis with ministers and Parliament with greater authority, holding ministers to account for the quality of their regulatory analysis in the IA.

Recommendation 11: The Government should legislate to put the RPC on a statutory footing. This should include the requirement for government to consult the RPC on Regulatory Provisions, and for their resulting independent appraisal of the Impact Assessment to be laid before Parliament. The government should also be required to lay a response, detailing whether it intends to make amendments based on the RPC's recommendations and explaining its reasoning, alongside the RPC's report on the Regulatory Impact Assessment.

[90] Office for Budget Responsibility, *Economic and Fiscal Outlook* (2025).

5. Parliamentary scrutiny & implementation

New regulations are laid before and scrutinised by Parliament, though often to an inconsistent extent. It should pass through a scrutiny process capable of interrogating both its rationale and its likely impacts, including unintended consequences. However, the parliamentary process is configured in such a way that most regulations – even highly consequential new rules – are passed without ever receiving the scrutiny they should.[91]

This starts with Parliament being provided with inadequate evidence and analysis to make truly informed decisions. It is exacerbated by an approval process which disproportionately uses secondary legislation to bypass debate and examination in a Commons chamber that lacks the time, expertise or will to provide robust scrutiny. Often higher quality scrutiny is provided by a House of Lords which has the time and expertise to probe new regulations, but lacks the power to make significant amendments or force additional consideration and debate.

The ability to pass new regulation without proper scrutiny suits the government of the day, seeking to deliver on manifesto commitments, respond to contentious crises, and send strong political signals.[92] And yet in the long run it leads to an ever-growing statute book, saddled with ill-considered regulations that hamper growth, fail to protect citizens, and require regular top-down deregulation drives. For the long-term sustainability of the regulatory system, parliamentary scrutiny must be improved.

This section focuses on parliamentary scrutiny of Regulatory Provisions introduced through Statutory Instruments (SIs), as defined by the BRF.[93] Wider questions about the composition and powers of the House of Lords are beyond the scope of this paper.

5.1 Secondary legislation and Statutory Instruments

A central reason why new regulation receives so little parliamentary scrutiny is the sheer pervasiveness of secondary legislation in the UK system. While Acts of Parliament receive extensive debate and amendment across multiple stages, only a small proportion of regulatory activity is introduced this way. The far greater share is delivered through secondary legislation, typically via SIs made under powers granted in primary Acts.[94] Whilst Parliament passes an average of 33 Acts a year in primary legislation,[95] the Secondary Legislation Scrutiny Committee – the committee responsible for examining secondary legislation – considered 655 SIs in the first year of the 2024-26 session.[96] Not all SIs introduce Regulatory Provisions, but

[91] Secondary Legislation Scrutiny Committee, *Government by Diktat: A Call to Return Power to Parliament* (2021).
[92] Ian Dunt, *How Westminster Works...And Why It Doesn't* (2023).
[93] Department for Business & Trade, *Better Regulation Framework*.
[94] Secondary Legislation Scrutiny Committee, *Government by Diktat: A Call to Return Power to Parliament*.
[95] Christopher Watson, *Acts and Statutory Instruments: The Volume of UK Legislation 1850 to 2019* (House of Commons Library, 2017).
[96] Secondary Legislation Scrutiny Committee, *Interim Report on the Work of the Committee in Session 2024–26* (2025).

the same procedural weaknesses apply to the subset of instruments that create or amend regulatory requirements.

The scrutiny applied to these instruments bears little resemblance to that applied to primary legislation. The process an SI will pass through is dictated by the enabling Act, based on the level of scrutiny the instrument is deemed to require. Most SIs proceed through the "negative" process, where they automatically become law unless a debate is held and the House objects within a set period. In the most recent parliamentary session, well over two-thirds of all SIs used this route, meaning they became law without any debate at all.[97] Even instruments subject to the affirmative process receive limited attention: they cannot be amended, are normally considered in short delegated legislation committees, and rarely receive detailed examination of their impacts or evidence base.

Whilst hard to quantify the exact proportion of regulation passed via secondary legislation versus primary, the disparity is clear with SIs outnumbering Acts each year by an order of magnitude. This structural imbalance – a regulatory workload dominated by secondary legislation and processed through procedures not designed for detailed scrutiny – shapes everything that follows. The weaknesses in parliamentary oversight are not merely procedural; they reflect a system configured to prioritise speed and executive control over scrutiny.

5.2 Information deficits

Parliamentary scrutiny can only ever be as strong as the information available to it. At present, that information is often incomplete, unclear or entirely absent. This information is generally provided in the form of Explanatory Memoranda (EMs) and Impact Assessments (IAs). However, the SLSC has repeatedly raised concerns in its annual reports about the quality of information it receives, highlighting consistent issues in its 2022,[98] 2023[99], and 2024[100] annual reports. In the summer of 2024, the SLSC went a step further, writing a letter to the leaders of both Houses of Parliament, raising these concerns once more.[101]

The Government's response confirmed several steps intended to address the problem – including the appointment of SI Ministers across departments, the creation of a Secondary Legislation Steering Group, and a revised Explanatory Memorandum (EM) template.[102] Whilst these actions were positively received by the committee, their interim session report published in September 2025 added that it was "not yet clear that these changes are feeding through to

[97]Secondary Legislation Scrutiny Committee, *Interim Report on the Work of the Committee in Session 2024–26*.
[98] Secondary Legislation Scrutiny Committee, *What next? The Growing Imbalance between Parliament and the Executive: End of Session Report 2021–22* (House of Lords, 2022).
[99] Secondary Legislation Scrutiny Committee, *Work of the Committee in Session 2022–23* (House of Lords, 2023).
[100] Secondary Legislation Scrutiny Committee, *Work of the Committee in Session 2023–24* (House of Lords, 2024).
[101] Secondary Legislation Scrutiny Committee, *Correspondence with the Leader of the House of Lords and the Leader of the House of Commons Regarding the Role of the House of Lords in Scrutinising Secondary Legislation* (House of Lords, 2024).
[102] Secondary Legislation Scrutiny Committee, *Government Response to Interim Report on the Work of the Committee in Session 2024–26* (House of Lords, 2025).

significant improvements across Government in the quality of explanatory material."[103] In other words, further reform is required to solve these problems.

Issues such as these prevent legislators from being able to gain a clear understanding of an SI's policy objective and intended implementation. The SLSC's most recent interim report gave several examples of deficient EMs, such as that provided for the *Infected Blood Compensation Scheme Regulations 2024* which was found to be "overly complex and technical, while lacking basic information about the policy."[104]

Impact Assessments are similarly inconsistent. Many SIs fall below BRF thresholds; others are laid without an IA even where one would ordinarily be expected. The SLSC has repeatedly drawn instruments to the special attention of the House because IAs were missing, partial or contradicted by the policy rationale set out elsewhere. This pattern is documented across the Committee's reports.[105] One such example is the failure of the Home Office to submit an IA with the *Statement of Changes in Immigration Rules (HC 997)*,[106] which the SLSC stated "led to concerns that the measures in the Statement had been formed before their impact had been fully analysed and understood, and also meant that proper scrutiny of the instrument was impossible."[107]

Effective parliamentary scrutiny depends on the availability of clear, complete and timely information. Where supporting material is missing or inadequate, scrutiny becomes performative rather than substantive. Addressing this requires more than improved guidance or revised templates; it requires enforceable procedural rules that make the provision of adequate information a precondition for scrutiny.

In practice, Parliament should set clear requirements, through its Standing Orders, about the minimum supporting material that must accompany SIs before they are considered. To ensure these requirements are meaningful, the House of Lords SLSC should be empowered to assess the adequacy of Explanatory Memoranda and related supporting documents, and to require instruments to be revised and re-laid where information is incomplete, unclear or inconsistent. This would shift incentives upstream, encouraging departments to complete and publish robust analysis before legislation is laid, rather than treating supporting material as an afterthought.

Recommendation 12: Parliament should amend its Standing Orders so that Statutory Instruments introducing Regulatory Provisions may not be considered unless accompanied by a complete set of supporting information, and empower the Lords' Secondary Legislation Scrutiny Committee to require re-laying where information is inadequate.

[103] Secondary Legislation Scrutiny Committee, *Interim Report on the Work of the Committee in Session 2024–26*.
[104] Ibid.
[105] Secondary Legislation Scrutiny Committee, *Work of the Committee in Session 2023–24*.
[106] Secondary Legislation Scrutiny Committee, *33rd Report of Session 2024–25* (House of Lords, 2025).
[107] Secondary Legislation Scrutiny Committee, *Interim Report on the Work of the Committee in Session 2024–26*.

5.3 Commons scrutiny

Although the House of Commons is formally responsible for approving delegated legislation, in practice it provides very limited scrutiny of the regulations placed before it. The vast majority of new regulatory rules are made through SIs, and the Commons has neither the procedural space nor the expertise among MPs to examine them in a meaningful way. This weakness has been repeatedly highlighted by the SLSC, the Delegated Powers and Regulatory Reform Committee (DPRRC), and the Hansard Society. As the SLSC has warned:

> "The more that is left to secondary legislation, the greater the democratic deficit because of the absence of robust procedures enabling effective parliamentary scrutiny of secondary legislation."[108]

Debates on negative SIs are rare because parliamentary time is controlled by the Government, and 'prayers' against instruments are almost never granted time for consideration.[109] Research conducted by the Hansard Society found that in one session – one representative of the general trend – just 10 prayer motions were tabled, accounting for 1.13 per cent of the total number of negative instruments laid in that session. Of these prayers, only two were actually considered.[110]

As a result, most regulations placed before the Commons receive no scrutiny at all. Even where the affirmative procedure applies, scrutiny is typically limited to short debates in Delegated Legislation Committees (DLCs), with little opportunity for amendment or sustained examination. The result is a system in which ministers are able to use delegated powers to implement substantial and sometimes controversial policy changes through procedures designed for technical or administrative updates.

Addressing this problem requires clearer limits on the use of delegated legislation for the introduction of Regulatory Provisions. Secondary legislation was intended to give effect to the detail of policy set out in primary legislation, not to serve as a parallel route for introducing new regulatory regimes or making significant changes to regulatory requirements with substantial economic or social impacts. In practice, however, the boundary between primary and secondary legislation has shifted steadily in favour of the executive, with few effective constraints.

Two complementary reform approaches point to a way forward. The SLSC has endorsed proposals from the DPRRC to strengthen the *Cabinet Office Guide to Making Legislation* by requiring ministers, when seeking delegated powers in Bills, to explicitly consider core constitutional principles, including parliamentary sovereignty, the rule of law and executive accountability to Parliament.[111] The Hansard Society has gone further, calling for a formal concordat between Parliament and Government to reset the boundary between primary and

[108] Secondary Legislation Scrutiny Committee, *Government by Diktat: A Call to Return Power to Parliament*.
[109] Dr Ruth Fox and Joel Blackwell, *The Devil Is in the Detail: Parliament and Delegated Legislation* (Hansard Society, 2014).
[110] Fox and Blackwell, *The Devil Is in the Detail: Parliament and Delegated Legislation*.
[111] Secondary Legislation Scrutiny Committee, *Government by Diktat: A Call to Return Power to Parliament*.

delegated legislation, supported by clear principles and criteria governing when delegated powers may be used, and enhanced scrutiny where those principles are breached.[112]

Taken together, these approaches point to the need for clearer, enforceable rules that constrain the scope of delegated legislation referring to Regulatory Provisions at source, rather than relying on downstream scrutiny mechanisms that are structurally weak in the Commons.

Recommendation 13: Parliament and the Government should agree and codify a clear set of principles and criteria governing the use of delegated legislation for Regulatory Provisions – reflected in the Cabinet Office Guide to Making Legislation and parliamentary procedures – establishing firm limits on the policy content that may be delivered through Statutory Instruments, and strengthening scrutiny where those limits are exceeded.

Even in cases where the parent Act – the primary legislation that delegates power to create secondary legislation through SIs – dictates that the affirmative procedure must be used, and approval therefore granted by both houses of Parliament, scrutiny remains lacking. Debates are held in DLCs, where members are appointed by party whips, generally lack subject matter expertise, and debates typically last no more than half an hour.[113] A 2023 Hansard Society review of delegated legislation found that "DLCs are widely considered by Members to be an inconvenient waste of time."[114]

DLCs should provide a forum for scrutiny of SIs by elected representatives, yet in reality they function as a procedural step rather than a meaningful check. This is particularly problematic because many SIs considered under the affirmative procedure have substantial social or economic consequences. Instruments adjusting Winter Fuel Payment eligibility, tuition fee arrangements, early-release rules intended to ease prison capacity pressures, and major immigration restrictions have all been subject to these routes in the past year, despite debates that offered limited, if any, scrutiny.[115]

Parliament should introduce clear criteria for determining which procedure an SI must follow. Any SI introducing a Regulatory Provision that exceeds the de minimis threshold under the BRF and therefore requires a full Impact Assessment, should automatically be subject to the affirmative procedure. Aligning the parliamentary procedure with the analytical threshold would ensure that economically significant regulatory decisions cannot default to the negative route and become law without explicit approval.

The Hansard Society's 2023 paper, 'Proposals for a New System for Delegated Legislation' sets out a comprehensive reimagining of parliamentary scrutiny for delegated legislation. While this model would address many of the weaknesses identified in this paper, it would require significant constitutional change and lies beyond the immediate scope of this work. In

[112] Delegated Legislation Review, *Proposals for a New System for Delegated Legislation* (Hansard Society, 2023).
[113] Ibid.
[114] Ibid.
[115] Secondary Legislation Scrutiny Committee, *Interim Report on the Work of the Committee in Session 2024–26*.

the shorter term, a more targeted reform would be to reconstitute DLCs as specialist sub-committees of the existing departmental select committees.

Membership should be elected by the House rather than appointed by whips, ensuring relevant expertise or interest. Recommendation 12 would ensure that committee members have access to high-quality explanatory material enabling them to make informed and considered decisions. Although SIs cannot be amended, these committees should be empowered to publish short reports identifying concerns, requiring a formal departmental response before approval. The credible prospect of structured, public scrutiny would shift incentives upstream, improving the quality of analysis and drafting before legislation is laid.

Recommendation 14: Parliament should amend its Standing Orders so that any Statutory Instrument introducing a Regulatory Provision requiring a full Impact Assessment under the Better Regulation Framework is automatically subject to the affirmative procedure.

Recommendation 15: Delegated Legislation Committees should be reconstituted as specialist sub-committees of the relevant departmental select committees, with elected membership, dedicated staff support, access to external expertise, and the ability to publish short reports requiring formal departmental responses before approval.

Taken together, these recommendations would ensure that fewer regulatory measures would be passed via secondary legislation, that a greater proportion of remaining SIs would be subject to genuine scrutiny in the House of Commons, and that this scrutiny would be more rigorous, and better informed.

5.4 Lords scrutiny

The House of Lords plays a central role in scrutinising secondary legislation, primarily through two committees: the DPRRC and the SLSC. The former assesses the delegated powers granted in Bills before they become Acts, whilst the latter examines every SI laid before Parliament in accordance with these delegated powers. In this paper, the focus is on how these scrutiny arrangements operate in relation to SIs that introduce Regulatory Provisions under the BRF.

Through the significant experience of its members, the House of Lords can bring to bear institutional and constitutional expertise upon proposed regulation. However, its scrutiny is constrained by two systemic weaknesses: chronic information deficits – detailed above – and a lack of meaningful power to influence regulatory outcomes.

Even where the SLSC identifies cases where SIs have been laid with significant problems – such as insufficient information, unclear policy intent, or high risk of unintended consequences – their powers to have these concerns addressed are limited.

Secondary legislation cannot be amended – this means that the Lords faces a binary choice to either accept or reject proposed legislation. And yet, the option to reject has been selected only six times since 1968, and not since 2015, when a motion to defer tax credits regulations

prompted the Government to commission the Strathclyde Review, intended to "provide the House of Commons with a decisive role on secondary legislation."[116] The Review proposed curtailing the Lords' powers over secondary legislation and strengthening the Commons' final authority.

Although its recommendations were not implemented, the Review had a lasting effect. It signalled that assertive Lords scrutiny of SIs could provoke further attempts by Government to restrict its role. Committees such as the SLSC therefore operate under a strong incentive to avoid being seen to overstep their position.[117] This leaves the House of Lords with few effective tools short of outright rejection to secure changes to flawed regulatory instruments, even where serious concerns have been identified.

The primary formal action available to the SLSC is its ability to draw SIs to the special attention of the House. This mechanism is intended to signal that an instrument raises issues of policy significance, inadequate justification, or potential unintended consequences. However, drawing attention does not trigger any automatic debate, delay or reconsideration, nor does it require a ministerial response. As a result, it is unclear that this route provides an effective means of ensuring that SIs receive the level of scrutiny required for a well-functioning regulatory system.

Figure 10: Drawing special attention

Instruments, drafts or proposals considered by the SLSC can be "drawn to the special attention of the House" on the following grounds:

(a) that it is politically or legally important or gives rise to issues of public policy likely to be of interest to the House;

(b) that it may be inappropriate in view of changed circumstances since the enactment of the parent Act;

(c) that it may imperfectly achieve its policy objectives;

(d) that the explanatory material laid in support provides insufficient information to gain a clear understanding about the instrument's policy objective and intended implementation;

(e) that there appear to be inadequacies in the consultation process which relates to the instrument.

In the first year of the current session, the SLSC considered 655 instruments, and drew 10.4 per cent to the special attention of the House. The majority of these – 84 per cent – were highlighted on the ground of policy interest.

Sources: Secondary Legislation Scrutiny Committee, SLSC Terms of Reference, 2024; Secondary Legislation Scrutiny Committee, *Interim Report on the Work of the Committee in Session 2024–26* (2025).

[116] Lord Strathclyde, *Strathclyde Review: Secondary Legislation and the Primacy of the House of Commons* (GOV.UK, 2015).
[117] Secondary Legislation Scrutiny Committee, *Government by Diktat: A Call to Return Power to Parliament*.

In practice, instruments frequently proceed unchanged even where the Committee has raised substantive concerns. In recent years the SLSC has drawn the special attention of the House to a series of particularly contentious instruments – including the Public Order Act 1986 (Serious Disruption to the Life of the Community) Regulations 2023,[118] major immigration rules changes laid without impact assessments, and the Official Controls (Amendment) Regulations 2024 – yet in each case ministers proceeded with the instruments essentially unchanged.

Reforms should therefore focus on strengthening the SLSC's ability to influence the treatment of regulatory SIs in a structured and proportionate way, without creating a general power for the House of Lords to amend secondary legislation.

Recommendation 16: For Statutory Instruments introducing Regulatory Provisions under the Better Regulation Framework, the Secondary Legislation Scrutiny Committee should be able to issue formal recommendations for amendment or re-laying, and the sponsoring department should be required to publish a written response before the instrument proceeds.

[118] James Goddard, 'Draft Public Order Act 1986 (Serious Disruption to the Life of the Community) Regulations 2023: "Fatal" and "Regret" Motions', House of Lords Library, 2023.

6. Post implementation

Once a regulation has been enacted, its effectiveness is assessed through Post-Implementation Reviews (PIRs). These are intended to determine whether regulations achieve their stated objectives, whether unintended consequences have emerged, and whether continued intervention remains justified.[119] However, the current PIR system suffers from three critical failings: regulations are often reviewed late – and only after pressure from the RPC[120] – or not at all;[121] the planning for evaluation is frequently inadequate at the outset; and even when PIRs are carried out and identify problems, there is no mechanism to compel regulatory adjustment or removal.

6.1 Monitoring and evaluation

Effective PIRs depend on clear objectives, baseline data, and systematic data collection plans being established before implementation occurs. Yet the RPC's analysis of Impact Assessments shows that monitoring and evaluation (M&E) planning remains a particularly weak component of government analysis. In the year from April 2024, only 71 per cent of Impact Assessments were rated 'good' or 'satisfactory' for monitoring and evaluation plans, and this marked a notable improvement from the previous three years which scored between 63 per cent and 66 per cent.[122]

The consequence is that when PIR deadlines arrive, departments lack the baseline data, established metrics, and collected evidence needed to conduct rigorous evaluation. Monitoring plans that were never developed, or developed poorly, cannot be retrospectively remedied. The problem is therefore locked in at the IA stage and cannot be corrected during implementation.

Currently, the RPC is unable to issue a 'not fit-for-purpose' overall rating to an Impact Assessment on the grounds of inadequate M&E planning alone, though the RPC does provide commentary on the quality of the M&E, where they can set out concerns with the proposed plan.[123] This constraint limits the power of the RPC to demand adequate planning at the development stage. This should be changed so that M&E planning is subject to the green (fit-for-purpose) and red (not fit-for-purpose) rating system, and a red rating results in a red overall rating for the assessment.

Recommendation 17: Monitoring and Evaluation plans should be subject to the Regulatory Policy Committee's formal fit-for-purpose rating, with the outcome feeding directly into the overall assessment.

[119] Secondary Legislation Scrutiny Committee, *Losing Impact: Why the Government's Impact Assessment System Is Failing Parliament and the Public*.
[120] Stephen Gibson, *Post-Implementation Reviews: Update on Progress across Government* (Regulatory Policy Committee, 2025).
[121] Jeremy Mayhew, *Is Regulation Working as Intended?* (Regulatory Policy Committee, 2021).
[122] Regulatory Policy Committee, 'RPC Examines How the Quality of Government Analysis Has Changed over Time'.
[123] Mayhew, *Is Regulation Working as Intended?*

6.2 Compliance

The BRF sets out how regulatory provisions should be formally reviewed after implementation to assess their actual effects. Yet the statutory requirement for departments to conduct PIRs within five years of implementation, established under the Small Business, Enterprise and Employment Act 2015, is routinely ignored. Between 2016-18, 28 per cent of required PIRs missed the legal deadline. By 2021 this figure had risen sharply to 60 per cent, driven in part by the capacity pressures of the pandemic.[124] By February 2025, compliance had not returned to pre-pandemic levels.[125]

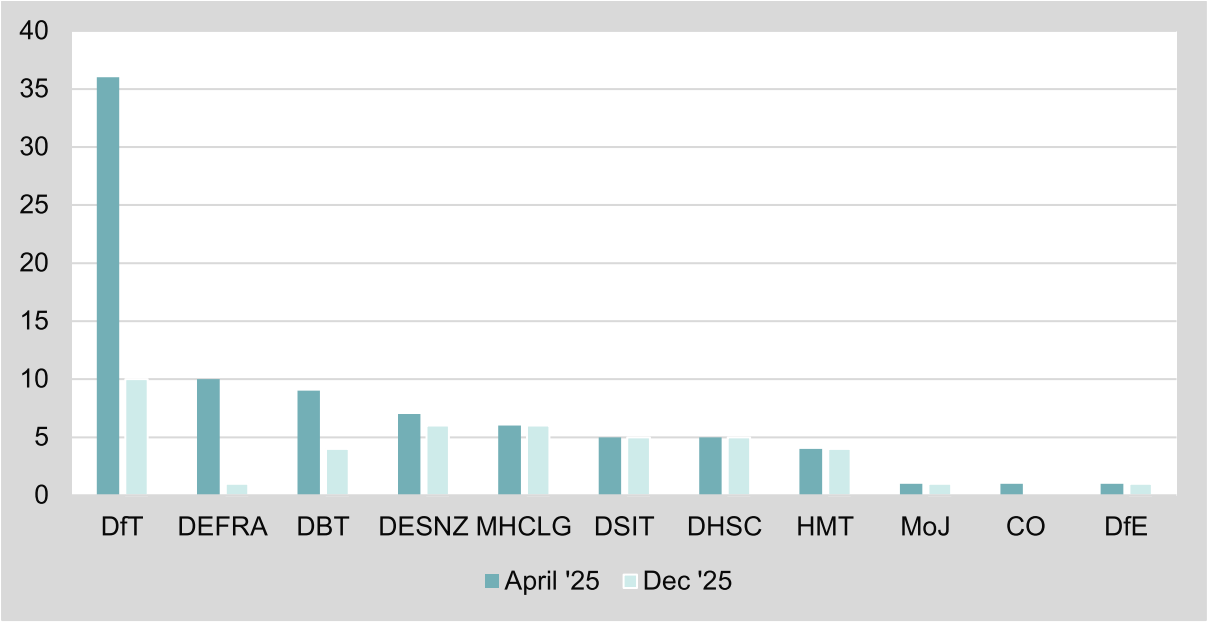
The scale of the problem has been documented repeatedly by the RPC. In August 2024, the RPC reported that whilst it had published opinions on over 140 IAs since December 2020, it had seen only 30 PIRs over the same period, highlighting that "without reviewing the performance of recent regulation, government could be leaving ineffective or out-of-date regulation in place, causing unnecessary burdens on business and society."[126] In April 2025, the RPC published a league table showing 85 outstanding PIRs across government – roughly equivalent to a year's regulatory activity.[127]

This intervention marked an important shift. By making PIR backlogs visible, comparable and attributable to individual departments, the RPC introduced a reputational incentive that had previously been absent from the system. The effect was tangible. Following the publication of the league table, the RPC secured commitments from eight departments to clear their backlogs by agreed deadlines. By December 2025, the total number of overdue PIRs had fallen to 47 – a reduction of 45 per cent. DEFRA reduced its backlog from 10 to 1, DfT completed 26 of 36 overdue PIRs, and DBT cleared more than half of its outstanding reviews.[128] While progress was uneven, the overall reduction demonstrates that transparency and sustained scrutiny can materially improve compliance.

The approach has worked, albeit on an informal and discretionary basis. At present, departments can still miss PIR deadlines without formal consequence, and statutory obligations continue to be breached once attention shifts elsewhere. To lock in the gains achieved to date, this transparency-based approach should be formalised and embedded as a permanent feature of the regulatory system.

[124] Mayhew, *Is Regulation Working as Intended?*
[125] Stephen Gibson, *Defra Improves Performance on Post Implementation Reviews, but Other Departments Lag Behind* (Regulatory Policy Committee, 2025).
[126] Stephen Gibson, *Lack of Government Action Could Be Leaving Ineffective or Out-of-Date Regulation on the Statute Books* (Regulatory Policy Committee, 2024).
[127] Stephen Gibson, *RPC Publishes League Table of Departments Lagging on Regulatory Evaluation and Gains Commitments to Address the Backlog* (Regulatory Policy Committee, 2025).
[128] Gibson, *Post-Implementation Reviews: Update on Progress across Government*.

Figure 11 – Outstanding Post-Implementation Reviews



Sources: Regulatory Policy Committee, RPC publishes league table of departments lagging on regulatory evaluation and gains commitments to address the backlog, 24 April 2025; Regulatory Policy Committee, Post-implementation reviews: Update on progress across government, 1 December 2025

The RPC's practice of tracking and publishing departmental PIR backlogs should therefore be formalised, with regular reporting cycles and clear expectations around timeliness. Crucially, failure to meet PIR obligations should no longer be treated as a technical lapse, but as a leadership and management issue. Persistent non-compliance should be explicitly addressed in the annual Accounting Officer correspondence set out in Recommendation 10, requiring Permanent Secretaries to explain missed deadlines and set out corrective action.

Recommendation 18: The Regulatory Policy Committee should maintain and publish on a regular basis, department-by-department records of overdue Post-Implementation Reviews. Persistent non-compliance should be treated as a leadership issue and addressed through the annual Accounting Officer correspondence set out in Recommendation 10.

6.3 Giving PIRs teeth

Even when PIRs identify that regulations are not achieving objectives or imposing unexpected costs, there is no mechanism to enforce action. PIR findings may be published but not actioned. Government can proceed unchanged despite evidence of regulatory failure. This accountability gap transforms PIRs from mechanisms for continuous improvement into mere documentation exercises.

Relevant government departments should be required to publish formal responses to all PIR findings within 12 months, explaining what action will be taken or providing detailed justification for rejecting recommendations. This ‘comply or explain’ approach would ensure PIR findings are taken seriously and regulatory problems are not simply documented and ignored.

The RPC has specifically endorsed this model, noting in its response to the Smarter Regulation White Paper that "when we issue an opinion that an assessment is not fit-for-purpose, or where there is no post-implementation review of existing regulation, there needs to be a clear mechanism for the Government and Parliament to take this into account in deciding whether to proceed with the policy."[129]

The SLSC should review departmental responses to PIRs and draw significant departures from PIR findings to the attention of Parliament, creating parliamentary accountability for decisions to retain ineffective regulation.

Recommendation 19: Government should publish formal responses to all Post-Implementation Review findings within 12 months, explaining action to be taken or justifying rejection of recommendations. The Secondary Legislation Scrutiny Committee should review responses and draw significant departures from PIR findings to the attention of the House.

[129] Stephen Gibson, *The RPC’s Response to the Smarter Regulation White Paper* (2024).

7. Conclusion

The UK's regulatory system is neither irreparably broken nor at the frontier of best practice. It is the product of decades of incremental change and reactive reform, shaped more by political urgency than by a coherent theory of how regulation should be made, maintained and retired. The result is a system that performs poorly where it matters most: in making trade-offs, learning from failure, and adapting to changing economic and social conditions.

Across the regulatory lifecycle, the same weaknesses recur. Regulation is too often the default response to policy problems, with limited consideration of alternatives. Cumulative costs are poorly understood and rarely managed. Scrutiny during policy development is inconsistent and easily bypassed, parliamentary oversight struggles to keep pace with the volume of secondary legislation, and Post-Implementation Review is sporadic and weak. These are not isolated failures, but the predictable consequences of a system whose incentives reward action over restraint and creation over maintenance.

While Whitehall is often characterised as slow, bureaucratic and process driven (often with good intentions, but in practice leading to bad outcomes), research demonstrates that this isn't the case at all when it comes to regulatory policy development. In fact, the opposite is true: regulation is often an easy option for governments to implement, compared to other levers at their disposal, including primary legislation, investment and spending, or reprioritising capacity within public sector workforces. Indeed, regulation may be over-used compared to other instruments precisely because of how comparatively easy it is to implement.

Successive governments have sought to address these problems through periodic reform drives and deregulatory exercises. While sometimes effective in the short term, none have reversed the long-term tendency for regulatory burdens to accumulate. Without changes to leadership, accountability and process, such initiatives are destined to fade, leaving the underlying dynamics unchanged.

The reforms set out in this paper aim to address those dynamics directly. They would re-establish clear ownership of regulatory policy at the centre of government; introduce mechanisms to manage the total stock of regulation; raise the bar for when regulation is chosen as a policy tool; restore rigour and independence to regulatory analysis and scrutiny; strengthen parliamentary oversight; and give Post-Implementation Review real force.

These reforms would shift the UK from a reactive, accumulation-prone regulatory state to one that is disciplined, transparent and self-correcting. Regulatory policy would be treated as core economic infrastructure, subject to serious trade-offs and long-term planning. Regulation would remain a powerful and legitimate tool of government, but one deployed with greater clarity of purpose and accountability for outcomes.

Getting regulation right is not about simplistic deregulation. It is about building institutions and processes that sustain good judgement over time. If pursued with seriousness and resolve, the reforms outlined here offer a credible path towards a regulatory system that better serves both economic dynamism and the public interest.

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