



House of Commons
Committee of Public Accounts

Better Regulation

Eighteenth Report of Session 2016–17

*Report, together with formal minutes relating
to the report*

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The Committee of Public Accounts

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Publication

Committee reports are published on the [Committee’s website](#) and in print by Order of the House.

Evidence relating to this report is published on the [inquiry publications page](#) of the Committee’s website.

Committee staff

The current staff of the Committee are Dr Stephen McGinness (Clerk), Dr Mark Ewbank (Second Clerk), George James (Senior Committee Assistant), Sue Alexander and Ruby Radley (Committee Assistants), and Tim Bowden (Media Officer).

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Summary

The Government has set a target to reduce the cost to business of regulation by £10 billion between 2015 and 2020. So far it has achieved less than £1 billion and this is almost entirely down to it counting the mandatory 5p plastic bag charge as a 'saving' for retailers because of the additional revenue it brings them. The credibility of the Government's target is undermined by the exclusion of significant costs to business arising from new regulations; the National Living Wage is one of a number of individual regulations that are excluded and which, in total, are expected to add costs to business of £8.3 billion by the end of this Parliament, far outweighing the reported 'savings'.

Departments do not know the cost to businesses of their existing regulations, making it difficult for the Government to know where to prioritise its efforts to reduce business costs. The focus on reducing business costs also means that departments are not consistently giving adequate consideration to the wider societal costs and benefits of particular regulations, for example where they impact on the environment, consumers or employees. Departments also need to do more to monitor and evaluate the impacts of their regulatory decisions, both to see whether regulations are working as intended and to learn lessons to inform future regulatory decisions.

Introduction

Regulation has many purposes, including protecting consumers, employees and the environment, promoting competition and supporting economic growth. Regulation can benefit both businesses and consumers through, for example, building consumer confidence in the products and services they buy. However, businesses incur costs in complying with regulations, which can act as a barrier to competition and reduce productivity. The Government has set a target, known as the Business Impact Target, to reduce the total cost of regulation for business by £10 billion between 2015 and 2020. The Better Regulation Executive, a joint unit of the former Department for Business, Innovation & Skills and the Cabinet Office, is responsible for developing and implementing a framework for achieving these cost savings. Departments and regulators are responsible for delivering the cost savings to achieve the target through the regulatory decisions they make.

Conclusions and recommendations

1. **The Government's limited progress, so far, towards its target of reducing regulatory costs to business by £10 billion relies, ironically, on the imposition of a new regulation requiring larger retailers to charge customers 5p for plastic bags.** Since the start of this Parliament, the Government reports that it has reduced regulatory costs to business by an estimated £885 million, which is the net position after taking account of £1.56 billion savings and £0.68 billion of new costs. However, a single new regulation (the requirement for larger retailers to charge 5p for single-use plastic bags) accounts for £1.02 billion of the claimed 'savings'. While the Better Regulation Executive's rules classify the plastic bag charge as a saving to business because it brings additional revenue to retailers, it is of course a regulation imposed on business, rather than the sort of deregulation that one would expect to be behind reported savings. Without the plastic bag charge, performance against the Business Impact Target (the Target) would show a net additional cost to business rather than a reduction.

Recommendation: *The Better Regulation Executive should consider whether it is appropriate to include regulations imposed on business as contributing towards the target and, given the limited progress so far, set out by the end of 2016 interim targets for savings to be achieved and what steps it intends to take to achieve the target.*

2. **The credibility of the Target is undermined by its failure to reflect the full range of administrative and regulatory costs that businesses incur.** The Government does not always make it clear in its public announcements that there is a range of important exclusions from what is counted against the Target. As a result of these exclusions, the Target does not closely reflect the compliance costs that businesses face. For example, it does not include the expected £4.1 billion cost in the same period of the National Living Wage. This £4.1 billion is part of an estimated £8.3 billion of expected costs to business from regulations implemented since 2015 but is not being counted towards the Target. The Target also excludes all regulations originating from the EU and any that relate to fees and charges that regulators apply to cover the cost of enforcement. Tax administration, which businesses repeatedly cite as one of the most burdensome areas of compliance, is also outside the scope of the Target.

Recommendation: *We look to the Better Regulation Executive to tell us how they will develop a more comprehensive picture of the overall compliance costs that government places on the business community and who it will involve in this task.*

3. **Departments do not know how much it costs the business community to comply with their existing regulations.** The Better Regulation Executive has not undertaken a comprehensive review of departments' existing regulations since 2005. Many departments only partially understand how the regulations for which they are responsible affect businesses and of where regulatory costs could most effectively be reduced. Five of the 14 departments with regulatory responsibility within the scope of the Target currently have no plans to quantify the costs and benefits for business of their existing regulations. Without a comprehensive catalogue of the regulations that affect businesses, the Government cannot effectively decide which regulations

to prioritise for removal or amendment. It also cannot know how ambitious its Target is in relation to the overall costs incurred by businesses as a result of its regulation.

Recommendation: *As a matter of urgency, departments and regulators, with the support of the Better Regulation Executive, should set out how they intend to improve their understanding of the effects of the existing regulation for which they are responsible.*

4. **Once departments have implemented a regulatory decision, they do not do enough to monitor and evaluate its impact.** The Better Regulation Executive, since 2010, has been advising departments to carry out post-implementation reviews after five years to assess whether the expected costs and benefits of a regulation have been realised. Departments are now required to do so by the Small Business, Enterprise and Employment Act 2015. However, of the 83 regulatory decisions within the scope of the target that departments made in 2011, for which reviews are due during 2016, only two reviews have been submitted to the Regulatory Policy Committee for scrutiny. Departments frequently fail to plan for evaluation when making regulatory decisions. Of the 10 impact assessments this Parliament that the National Audit Office examined, none included plans for how departments would carry out post-implementation reviews.

Recommendation: *The Better Regulation Executive should set out how it will ensure that departments include adequate plans for monitoring and evaluation in their impact assessments and implement these plans once the regulation is in place.*

5. **Departments do not do enough to measure the wider costs and benefits to society of their regulatory activity.** Departments and regulators are expected to prepare impact assessments for regulatory decisions, outlining the expected costs and benefits to society as a whole, including to business, consumers, employees and the environment. The Regulatory Policy Committee found that only a third of the impact assessments it examined in 2014 contained rigorous assessments of the wider costs and benefits to society. However, the Committee does not have the power to rate an impact assessment as unfit for purpose on the grounds of inadequate consideration of wider impacts.

Recommendation: *The Better Regulation Executive should publish in its annual report estimates of the wider costs and benefits of regulatory decisions and provide details of each department's and regulator's performance in assessing these.*

6. **The Better Regulation Executive's rules for assessing and validating the expected impact of a regulation are the same, regardless of the scale of the regulation's impact.** The Better Regulation Executive, through its rules and processes, has established a complex bureaucracy across Whitehall that diverts departments' resources away from potentially more productive efforts to reduce regulation. Over 90% of the £10 billion regulatory cost reductions claimed during the period 2010–2015 were achieved through just 10 regulatory changes. The profile so far this

Parliament is similar. Of the 95 regulations that the Regulatory Policy Committee has scrutinised during this Parliament, 64 of them have an individual expected net impact of less than £5 million.

Recommendation: The Better Regulation Executive should inform the Committee by the end of 2016 how it plans to change the rules to allow a more proportionate approach where significantly more effort can be applied to the assessment and validation of the small number of regulations with the greatest impact.

1 The cost to business of regulation

1. On the basis of a report by the Comptroller and Auditor General, we took evidence from the Department for Business, Innovation & Skills, the Better Regulation Executive and the Regulatory Policy Committee.¹ We also took evidence from the policy directors from the Federation of Small Businesses and Citizens Advice and the acting director of the Confederation of British Industry.

2. The Small Business, Enterprise and Employment Act 2015 (the Act) requires the Government to set a target for the economic impact on business of regulatory decisions made during the course of each parliament. The Government has set a target to reduce regulatory costs to business by £10 billion over the period 2015–2020. The target was announced in March 2016 and is known as the Business Impact Target (the Target).²

3. The Better Regulation Executive, a joint unit of the former Department for Business, Innovation & Skills and Cabinet Office, is responsible for developing and implementing a framework for achieving the Government's target. Departments and regulators are responsible for delivering the cost savings to achieve the Target through the regulatory decisions they make. At the policy planning stage, HM Treasury guidance requires departments to complete impact assessments that contain estimates of the annual costs and benefits of the preferred policy option. The Better Regulation Executive provides additional guidance on how to calculate costs and benefits to business. The Regulatory Policy Committee, an advisory non-departmental public body, scrutinises and validates the estimates departments make of the costs and benefits to business.³

Progress against the Business Impact Target

4. The Better Regulation Executive is required by the Act to publish an annual report of progress against the Business Impact Target. The first annual report was published in June 2016 and showed that, since May 2015, there had been a net reduction in costs to business of an estimated £885 million, just under 10% of the way towards the £10 billion target.⁴ The £885 million comprises regulations that reduce costs to business by £1.56 billion set against regulations that result in £0.68 billion worth of additional costs. Only 4 of the 95 regulatory decisions that have been taken since May 2015 have made a significant contribution towards the Target.⁵ **Figure 1** below shows the four regulatory decisions deemed to have contributed more than £100 million (costs or savings) towards the target.

1 C&AG's Report, [The Business Impact Target: Cutting the cost of regulation](#), Session 2016–17, HC 236, 13 July 2016.

2 [C&AG's Report](#), para 3

3 [C&AG's Report](#), paras 1.9–1.11

4 Better Regulation Executive, [Business Impact Target: First Annual Report 2015–2016](#), June 2016.

5 [Q33; C&AG's Report](#) para 3.13

Figure 1: Most significant regulatory decisions contributing to the target, to May 2016

Regulation	Department	Description	Primary elements of costs/benefits to business	Net contribution to target (£ million)
Plastic carrier bags charge	Department for Environment, Food & Rural Affairs	Requires larger retailers to charge 5p for single-use plastic bags	Cost savings from reduced demand for plastic bags	1,017 (saving)
Continuity of essential supplies to insolvent businesses	Department for Business, Innovation & Skills	Prevents essential utility and IT suppliers from withdrawing supplies or demanding "ransom" payments from insolvent businesses	Increased business rescue resulting in improved returns to unsecured creditors	191 (saving)
Standardised packaging of tobacco products	Department of Health	Introduces standardised packaging to discourage young people from taking up smoking and reduce consumption of tobacco products	Reduction in tobacco company profits	242 (cost)
Creation of a general ban on new psychoactive substances in the UK	Home Office	Provides a regulatory framework to control the market for new psychoactive substances and prohibit the supply of all substances that have a psychoactive effect	Reduction in profits for sellers of psychoactive substances	128 (cost)
Note: There are 91 other regulations estimated to have a net value of zero or below £100 million.				

Source: C&AG's Report. Figure 10

5. A single regulation (the requirement for larger retailers to charge 5p to customers for single-use plastic bags) accounts for just over £1 billion of reported expected progress towards the Target because of the extra income that it brings for retailers. The introduction of the mandatory charge is a regulation requiring businesses to do something they were not previously doing and yet, for the purposes of the Target, it is treated as a deregulatory measure. When questioned about whether this was in the spirit of what the Government was trying to achieve when it introduced the target, the Better Regulation Executive and the Chairman of the Regulatory Policy Committee both confirmed that the rules had been adhered to when the costs and benefits to business were estimated.⁶ However, the Chairman of the Regulatory Policy Committee acknowledged that "it is not deregulation as we know it".⁷ He also commented that, in the last Parliament, the plastic bag charge would not have counted towards achieving the Target because any new regulations which

6 [Q61](#)

7 [Q56](#)

had direct incremental benefits to business which exceeded the direct incremental cost to business were not then considered to be ‘in scope’.⁸ Without the plastic bag charge, the net achievement so far would be a net increase in costs to business rather than a reduction.⁹

Exclusions from the target

6. The reported progress on reducing costs to business does not take account of a number of obligations on business that are not included in the scope of the Target. The Act itself excludes several types of measure from the Target, including those relating to taxes, duties, levies and fees and charges imposed by regulators.¹⁰ In addition, the Act allows Ministers to make further exclusions and Ministers have, so far, decided to exclude 15 more categories from the scope of the target, including the National Living Wage and any regulations that originate from the EU. The National Living Wage alone is estimated to add £4.1 billion of costs to business from 2015 to 2020. In total, regulations implemented since May 2015 but not counted towards the Target are estimated to have added costs to business in 2015–2020 of £8.3 billion.¹¹

7. In relation to the exclusion of regulations originating from the EU, the Department for Business, Innovation & Skills explained that the Target was designed to create appropriate incentives for departments to deal more effectively with the regulations for which they are responsible and so it would not be appropriate to include EU regulations within the target, as departments have little opportunity to change these.¹² He explained that “when we have left the European Union, areas of regulation currently dealt with on an EU level will logically be dealt with on a national level. Then the starting position...is that they would be caught by the Business Impact Target, but the precise details of course will have to be decided by Ministers.”¹³ When asked whether there were any plans in the Department for what would happen in the event of a vote for the UK to leave the European Union, he added that “we were following the guidance given by Ministers, which was not to make contingency plans for this outcome”.¹⁴

8. The Confederation of British Industry (CBI) told us that exclusions from the scope of the target mean that “when you hear a figure about the amount of money that has been saved through deregulation, sometimes that does not resonate with businesses as much as it could do”.¹⁵ The CBI’s position was that “to include as much as possible within that Target would be beneficial for businesses’ understanding of the Target and making them feel it in their pockets. If things are not included within the Target, very clear and transparent communication of why they have not been included, progress towards the target at the time of reporting, and also being clear that these things have not been included would give businesses a much better understanding of what they’re dealing with”.¹⁶

8 [Q54](#)

9 [Q50](#)

10 [Q35](#)

11 [C&AG’s Report](#). Paras 2.3–2.6

12 [Q39](#)

13 [Q40](#)

14 [Q39, 47](#)

15 [Q3](#)

16 [Q1](#)

9. The Federation of Small Businesses (FSB) also told us that there was a lot of “cynicism about the fact the number could be manipulated”, and that tax administration, which is “day to day, the most immediate impact [its members] feel from their relationship with Government”, was also outside the scope of the Target’s scope.¹⁷ The FSB estimates that small businesses spend on average £3,600 a year complying with tax administration.¹⁸

10. HM Revenue & Customs has a programme to reduce the annual cost of tax administration for business by £400 million by 2020. The National Audit Office found that there was no overall picture of how these costs affect businesses and recommended that the Better Regulation Executive should work more closely with HM Revenue & Customs to ensure that the Government’s approach to deregulation reflects businesses’ overall experience.¹⁹ The Better Regulation Executive told us that it had a close working relationship with HMRC, and that they worked together as partners, including for example “planning joint sessions with business groups...so we can both hear and understand what they are saying”.²⁰

Departments’ understanding of costs to business

11. The Department for Business Innovation & Skills acknowledged that it was critical for the deregulatory agenda to be “embedded in the culture of departments”²¹ and was encouraged that departments were taking greater ownership of the agenda. The Department told us that the target “does concentrate departments’ minds on thinking more, and more effectively, about the impact of specific regulations on business. By setting them targets, we are, over time, improving that”.²² The National Audit Office reported that setting targets for each individual department had successfully “raised the profile of regulatory issues within departments”,²³ according to the departmental officials they spoke to. The CBI also agreed that establishing the target had “injected a little bit of discipline among government departments”.²⁴

12. However, the Better Regulation Executive has not undertaken a comprehensive review of departments’ existing regulations since 2005 and many departments have only a partial understanding of the total costs and benefits to business of the regulations for which they and regulators are responsible and, hence, of where there is most scope for cost reductions.^{25 26} Some departments are working to improve analysis of their “stocks” of regulation. For example, the Department for Environment, Food & Rural Affairs has compiled a comprehensive database of the legislation it has in force. The Better Regulation Executive applauded that department for “being very focused on the agenda”.²⁷ However, five of the 14 departments with regulatory responsibilities told the National Audit Office that they have no plans to quantify existing regulations.²⁸

17 [Q1](#)

18 [Q16](#)

19 [C&AG’s Report](#) para 7

20 [Q117](#)

21 [Q81](#)

22 [Q35](#)

23 [C&AG’s Report](#) para 9

24 [Q1, 35, 81](#); [C&AG’s Report](#) para 3.3

25 [C&AG’s Report](#) para 1.1

26 [Q71](#)

27 [Q72](#)

28 [C&AG’s Report](#) para 3.4

13. The Department for Business, Innovation & Skills highlighted the “Cutting Red Tape” sector reviews, which aim to respond to business needs by examining regulation and its implementation in particular sectors.²⁹ They provide a forum for businesses to identify areas where legislation, enforcement processes or reporting requirements are particularly burdensome. The Department described the reviews as “a very effective way of finding those [regulations] that have most impact on business and where something can be dealt with”.³⁰ Nevertheless, the lack of understanding across Whitehall of existing regulations makes it difficult for government to determine priorities in reducing the burden on business.

29 [Q71](#); [C&AG’s Report](#), para 3.11

30 [Q71](#)

2 Improving the system to understand the wider impact of regulation

Monitoring and evaluating the impact of regulation

14. HM Treasury’s Green Book guidance states that, while a regulation is being implemented, policymakers should monitor the actual impact of the regulation on stakeholders. Such monitoring is important in ensuring that expected costs and benefits are delivered and in improving implementation where this may be necessary. For example, a department may decide to change how it implements a policy if it is more costly than expected or if benefits are not being realised. However, the National Audit Office found that the Better Regulation Executive placed little emphasis on monitoring in its guidance and that, in practice, departments rarely include adequate monitoring and evaluation plans in the impact assessments that accompany their regulatory decisions.³¹

15. The National Audit Office also found that departments were not adequately evaluating their regulatory decisions despite the fact that it had made recommendations on this subject dating back to 2003. The Better Regulation Executive has been urging departments to carry out post-implementation reviews since 2010 and this has now become a statutory requirement under the Small Business, Enterprise and Employment Act 2015 (the Act). Departments and regulators must now review the impact of a regulation after a specified period, usually five years. However, of the 10 impact assessments this Parliament that the National Audit Office examined, none included plans for how departments would carry out post-implementation reviews. Additionally, of the 83 regulatory decisions within the scope of the Business Impact Target (the Target) that departments made in 2011, for which reviews are due during 2016, only two reviews have been submitted to the Regulatory Policy Committee for scrutiny by the end of June 2016.³²

16. The Chairman of the Regulatory Policy Committee said he was a “very strong believer in the potential value of good post-implementation reviews to learn about policy-making and perhaps to learn about natural biases, unintended consequences and unconsidered factors”.³³ He was concerned that his Committee had so far received very few of the post-implementation reviews they were expecting, and that none of these covered anything of major significance. He commented that “55 statutory reviews should be with [the Regulatory Policy Committee] this year...and there are a further 50 that do not have statutory underpinning but are committed so we should be seeing over 100. We have seen 13, and none of them are of significance yet, so the really big, important ones, where real learning could be discovered, we have not seen yet and we don’t know when we are going to”.³⁴ The single largest measure from the last Parliament was the change from using the Retail Price Index to the Consumer Price Index in uprating pensions which was estimated to add costs of £3.5 billion to business. But the Department for Work and Pensions, responsible for the measure, does not plan to send a post-implementation review for this change to the Regulatory Policy Committee for scrutiny.³⁵

31 [C&AG’s Report](#) paras 4.11–4.13

32 [C&AG’s Report](#) paras 4.14–4.15

33 [Q83](#)

34 [Q83](#)

35 [Q83, 88](#)

17. The Better Regulation Executive told us that it had been “ramping up the pressure on departments [to carry out reviews] since 2011”³⁶ and had made it a statutory requirement in the Act. It had reviewed 10 impact assessments from this Parliament and found that they complied with the requirements of the Act. It found this encouraging, but intended to carry out spot-checks of more impact assessments to provide further assurance on the level of compliance.³⁷

Wider costs and benefits

18. While the Target is designed to encourage departments and regulators to consider the impact of their regulation on business, HM Treasury and Better Regulation Executive guidance also requires them to assess the wider costs and benefits of regulatory decisions, beyond just those for business.³⁸ Departments and regulators are expected to prepare impact assessments for regulatory decisions, outlining the expected costs and benefits to society as a whole, including to business, consumers, employees and the environment. In 2014, only a third of the impact assessments scrutinised by the Regulatory Policy Committee included consideration of wider social costs and benefits. However, that Committee is not permitted by the rules to deem an impact assessment unfit for purpose on the grounds of inadequate consideration of wider impacts. It believes that this could send a misleading signal as to the overall quality of impact assessments.³⁹

19. The Citizens Advice Bureau was concerned that “when you look at the impact analyses that have been done...there is such a strong business focus that consumers’ voices are not heard”.⁴⁰ The Chair of the Regulatory Policy Committee told us that an impact assessment “is not, and should not be, just about business,” and that “it is entirely appropriate to look at the impacts on all sectors of society”.⁴¹ Both the Regulatory Policy Committee and the Department for Business, Innovation & Skills acknowledged that it was sometimes difficult to monetise these wider social costs and benefits pointing, as an example, to the banning of psychoactive substances (legal highs), where “we know that there are some consequences that it is difficult to put a monetary value on but which are valuable to society”.⁴² The Chair of the Regulatory Policy Committee said he expected departments to at least include a discussion in the impact assessment of the wider costs and benefits even if they were unable to monetise them.⁴³

Administrative costs of regulation

20. The Better Regulation Executive cost £3.1 million to run in 2015–16 and the Regulatory Policy Committee £1.0 million. The total cost of the activities of departmental Better Regulation Units is about £2.3 million a year. However this is not a full estimate of the cost of deregulatory activities as it does not include costs incurred by departmental policy teams or regulators.⁴⁴

36 [Q82](#)

37 [Q82, 83](#)

38 [C&AG’s Report](#), para 3.15

39 [C&AG’s Report](#), para 3.16

40 [Q10](#)

41 [Q109](#)

42 [Q112](#)

43 [Q110](#)

44 [C&AG’s Report](#), para 3.19

21. The Better Regulation Executive's rules and processes for assessing and validating the expected impact of a regulation are the same, regardless of the scale of the regulation's impact which can vary very significantly. Over 90% of the £10 billion regulatory cost reductions claimed during the period 2010–2015 were achieved through just 10 regulatory changes. And since May 2015, 64 of the 95 regulations that the Regulatory Policy Committee has scrutinised have an expected net impact of less than £5 million.⁴⁵

22. We asked witnesses about the risk of creating excessive bureaucracy around administration of the Target. The Department for Business, Innovation & Skills told us it was up to departments to decide on the resources they needed to deal with the complexity of the regulations for which they are responsible. But it also acknowledged the importance of not creating excessive bureaucracy within departments.⁴⁶ The Better Regulation Executive commented that it was considering ideas for making administration of the system more efficient. It pointed to the disproportionate effort spent by departments measuring the effect of regulatory changes with very little impact and the time that could be saved by not having to write impact assessments for all measures.⁴⁷

45 [C&AG's Report](#), para 4.9, Fig 13

46 [Q121](#)

47 [Q122](#)

Formal Minutes

Wednesday 14 September 2016

Members present:

Meg Hillier, in the Chair

Mr Richard Bacon	Stephen Phillips
Philip Boswell	Bridget Phillipson
Caroline Flint	John Pugh
Kevin Foster	Karin Smyth

Draft Report (*Better regulation*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 22 read and agreed to.

Introduction agreed to.

Conclusions and recommendations agreed to.

Summary agreed to.

Resolved, That the Report be the Eighteenth of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Monday 10 October 2016 at 3.30pm]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Wednesday 13 July 2016

Question number

Martin McTague, National Policy Director, Federation of Small Businesses, **Tom Thackray**, Acting Director, Competitive Markets, Confederation of British Industry, and **Matthew Upton**, Head of Policy (Consumer and Public Services), Citizens Advice

[Q1–32](#)

Sir Martin Donnelly, Permanent Secretary, Department for Business, Innovation and Skills, **Graham Turnock**, Chief Executive, Better Regulation Executive, and **Michael Gibbons CBE**, Chairman, Regulatory Policy Committee

[Q33–124](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

REG numbers are generated by the evidence processing system and so may not be complete.

- 1 FSB ([REG0002](#))
- 2 Mineral Products Association ([REG0001](#))
- 3 RSPB ([REG0003](#))
- 4 Which? ([REG0004](#))

List of Reports from the Committee during the current session

All publications from the Committee are available on the publications page of the Committee's website.

Session 2016–17

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Public Accounts Committee

Oral evidence: Better Regulation, HC 487

Wednesday 13 Jul 2016

Ordered by the House of Commons to be published on 13 Jul 2016.

[Watch the meeting](#)

Members present: Meg Hillier (Chair); Mr Richard Bacon; Deidre Brock; Chris Evans; Kevin Foster; Mr Stewart Jackson; Nigel Mills; David Mowat; Karin Smyth; Mrs Anne-Marie Trevelyan.

Sir Amyas Morse, Comptroller and Auditor General, Adrian Jenner, Director of Parliamentary Relations, and Joe Perkins, Director, National Audit Office, and Richard Brown, Treasury Officer of Accounts, were in attendance.

Questions 1-124

Witnesses

I: Martin McTague, National Policy Director, Federation of Small Businesses, Tom Thackray, Acting Director, Competitive Markets, CBI, and Matthew Upton, Head of Policy (Consumer and Public Services), Citizens Advice.

II: Sir Martin Donnelly, Permanent Secretary, Department for Business, Innovation and Skills, Graham Turnock, Chief Executive, Better Regulation Executive, and Michael Gibbons CBE, Chairman, Regulatory Policy Committee.

Written evidence from witnesses:

[Federation of Small Businesses](#)



Reports by the Comptroller and Auditor General

The Business Impact Target: cutting the cost of regulation (HC 237)

Examination of witnesses

Witnesses: Martin McTague, Tom Thackray and Matthew Upton.

Q1 **Chair:** Good afternoon and welcome. We are here today to look at better regulation. Cutting the cost of business regulation is a big target of the Government, and the NAO has done a Report, which was published at the end of June.

They are not here yet, but we are expecting 15 councillors from Blackpool, so if you think you have a nice amount of seating space, watch it, because you will be bunched up a bit soon. They will be in the Public Gallery later to look at what we are doing, and at how witnesses react to it, I suppose.

We have two panels today. The first deals with people on the receiving end of Government regulation and, indeed, of the reduction in regulation. We have Matthew Upton, the head of policy for consumer and public services at Citizens Advice, who is giving us the consumer perspective—thank you for coming, Matthew—Martin McTague from the Federation of Small Businesses, where he is the national policy director; and Tom Thackray, the acting director for competitive markets at the CBI.

We have a hashtag today, which is #betterregs, for anyone who wants to follow this on Twitter.

First, I want to ask each of you to briefly comment on how meaningful the national Government target on reducing regulation is to businesses and consumers, especially given that so much activity, such as the national living wage, sit outside it.

Tom Thackray: I will start by saying there has been a lot of progress around the better regulation agenda over the last few years in the round. If you look at the establishment of the target, it has injected a little bit of discipline among Government Departments, which now have to be accountable to a figure that they work on with the BRE at the start of the Parliament. We now have the Regulatory Policy Committee, which has been up and running in earnest for the last five years or so and has brought about a rigour so that businesses have a little bit more confidence that the regulation that comes through is subject to an impact assessment that has been fully scrutinised.



In terms of the target itself, what came out very strongly from the NAO Report was that there are a lot of carve-outs from that particular target, which means that when you hear a figure about the amount of money that has been saved through deregulation, sometimes that does not resonate with businesses as much as it could do. Our position is that to include as much as possible within that target would be beneficial for businesses' understanding of the target and making them feel it in their pockets. If things are not included within the target, very clear and transparent communication of why they have not been included, progress towards the target at the time of reporting, and also being clear that these things have not been included would give businesses a much better understanding of what they're dealing with.

Q2 Chair: Have you seen an appreciable impact? Has it made any difference to your members?

Tom Thackray: If you ask businesses if they have felt an immediate difference in the change of regulation I think they would say, "Not immediately". Where it has made a difference, and the evidence is there in the NAO Report, is that the quality of regulation coming through Departments and the kind of scrutiny that the target embeds within Government has been beneficial.

Q3 Chair: So it is better, rather than less, from your front-line perspective?

Tom Thackray: Yes.

Martin McTague: We polled our members just before the general election and I don't think it will come as any surprise to people round this table that regulation again came as the No. 1 concern for our members. Although we recognise that having an impact target is valuable, and we welcome the work of BRE, and in some ways it is realistic in that it is a continuing target based on what was achieved in the previous year, when we surveyed our members we found that only 3% noticed an impact. A tiny percentage of the small business population even noticed there had been any impact on regulation, which seems to back up some of the criticism the NAO raised.

There is a lot of cynicism about the fact the number could be manipulated and I felt that there was a really strong feeling that some of the most important things our members were concerned about, in particular tax, were excluded from the calculation. That is, day to day, the most immediate impact they feel from their relationship with Government.

Matthew Upton: One of the key points for me is that some people might expect this to be seen, from our perspective, as a consumer vs business argument. It is not at all. Good, strong consumer protections benefit both businesses and consumers, in terms of building consumer confidence and the knock-on effects that might have on the economy. In terms of the target itself, the danger is that, as a flipside of looking at it, because it is quite broad—we often get caught in the dangerous debate about regulatory burden and red tape, which is often thrown around—anything could arguably be dragged into it. For example, the terms bandied around



about the national living wage are on red tape, but that's not red tape; it enables some of the lowest income families to have a better standard of living. Obviously, one of the complexities, which highlights one of the challenges that the NAO Report flags up, is the impact of something like the national living wage—in very simple terms, if you put money in people's pockets, they then spend it, which can have a beneficial impact on business. One of the challenges we saw in the Report was the lack of any assessment of the wider societal impact of some of these changes. These are very complex issues. It is one thing to make tax processes simpler for small businesses. Some of the more complex things around the reverberations of stripping away consumer protections are really difficult to calculate.

The final point I will make about the things in and out of the target is on why it is a good idea for some of the things to be outside the bounds of the target. I saw reference to things like price controls. Say the FCA wanted to change caps for payday lenders—it would be a dangerous precedent if that regulator or Government Department was worried about something that could be so important when it comes to consumer protection and was having to think about the trade-off in terms of meeting the target. I note the NAO Report says that regulators expressed some concerns about how that might be perceived in terms of their independence. There are good reasons why some things are excluded from the target.

- Q4 **Chair:** You have addressed the very knotty issue. I am delighted to welcome 15 councillors from Blackpool, who are coming to observe us today. Tom Thackray, you touched on how the Department and the Better Regulation Executive understand the impact of activities on businesses. Matthew Upton, you talked about the wider impact assessment. Do you feel that the voice of business is really understood? Mr Thackray, you said that it got better with the committee being formed. Do you think it has got it right yet? What do you want to see being done better?

Tom Thackray: A few things have been beneficial. The dialogue is there, and not just through the target setting. If you look across the better regulation agenda, we have had things like the red tape challenge, the focus on enforcement and a sector look at the type of regulations that are most problematic. That might be not in the scope of the regulation, but in how they are enforced.

- Q5 **Chair:** Did your members get a chance to have an input on what they thought were the most problematic ones? Do you feel they had a voice?

Tom Thackray: Yes, and that has worked particularly well when it has been done on a sector basis. When we started the red tape challenge, it was a bit of a free-for-all. Everyone inputted their ideas across any kind of regulation, and it was a bit unstructured. The later iterations of the red tape challenge were much more sector-focused and much more fruitful in the eyes of business. That has been good. When it comes to the target, as I said at the start, the Regulatory Policy Committee has been a great asset



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to businesses because it is a check and balance on Government regulation. Businesses themselves would not be able to spend the time going through impact assessments and checking that they are correct. Small and medium-sized businesses in particular do not have the resources to do that.

Q6 **Chair:** Can you give us an example of a regulation that still exists—as Mr Upton says, regulation is often there for a very good reason—but has been altered, adjusted or tweaked by Government as a result of lobbying by the CBI or its members?

Tom Thackray: It is not an example of a specific regulation, but I know that through the work of the Regulatory Policy Committee, the savings to regulation that were estimated in Parliament were substantially reduced because the Regulatory Policy Committee were able to look through the estimated savings that Departments had given them through the impact assessments and had revised those down, so that they are a much better reflection of what it actually contributes to the target.

Q7 **Chair:** You keep talking about the target, which is a national target, but what about the actual impact on businesses and how they work?

Tom Thackray: The Regulatory Policy Committee is very open and easy to engage with, so trade associations can input their opinions.

Q8 **Chair:** They feel they are getting that access.

Tom Thackray: Yes. Through trade associations, the FSB and the CBI, there is an opportunity to input. Few small and medium-sized businesses would go directly to those kind of institutions.

Martin McTague: We do not have any serious criticisms about the way the system is working. It is more about the scope. You pointed to the fact that if you look at individual pieces of regulation, they hardly register with a lot of our members. There could be a fine-tuning that would make it a bit of a way than one particular sector, but it would not have an overall impact. The big headline items, such as tax or tax administration, are the ones that would have the most impact on our membership, or on the small business community as a whole, and they get overlooked. Until something like that is included in the scope, I don't think you are going to get a lot of plaudits from the small business community.

Matthew Upton: Obviously, I can only talk from the perspective of consumers.

Q9 **Chair:** Yes, absolutely, but the issue is there.

Matthew Upton: It takes a pretty dedicated person or consumer to respond to something like the red-tape challenge on their own behalf. There are people out there and they are fantastic but that is obviously partly why organisations such as ours exist to do so.

Q10 **Chair:** Do you feel you have access?



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Matthew Upton: One of the worries, when you look at the impact analyses that have been done, is that there is such a strong business focus, consumers' voices are not heard. On the flipside, when it comes to some of the other consumer regulations—the Consumer Rights Act 2015, for example—we were very closely involved. If you look at individual bits of regulation, we are very successful. The Departments and regulators we work with are very open to hearing the input from consumers.

Q11 **Chair:** I am getting a strong impression that there is not a big door in Whitehall that you are banging on. There is an open door and you are able to get access and talk to the various Committees and regulation groups involved.

Martin McTague: We sense they have got one arm tied behind their back. It is not like they are not effective; they are just restricted.

Q12 **Chair:** On tax, we know from what you have said, Mr McTague, and figure 4 in the Report, that 46% of businesses said that tax administration was a burdensome area of compliance, and it is out of scope; 44% said that employment law was a burden and 37% said health and safety. Those are the big ones. Do you, Mr Thackray and Mr McTague, have any comments on those and how, while also protecting consumers, they could be made easier for businesses?

Martin McTague: In terms of tax administration, there is quite a lot that could be made simpler. OTS is working on that all the time. That is where the focus needs to be, on simplification of the tax regime, and not adding to administrative burdens. The potential for quarterly reporting to be introduced and the impact that would have on administrative costs is a classic case of where it could get a lot worse.

Q13 **Chair:** Do you think you have got room to have a discussion space with HMRC about how that will work? You must have other routes and channels to talk to them. We have heard the Minister; it is clearly a ministerial objective to have quarterly reporting. They maintain that that might make things easier over time. Are you confident that you have any influence there at all?

Martin McTague: We do have an influence; our large membership gives us that influence. The real problem is that it can always be ruled out of scope. If we are getting into, for example, issues about tax administration, we are playing by a completely different set of rules.

Q14 **Chair:** So basically, because it is not in the scope of this target, it is dealt with as a different issue. Prioritisation is the target.

Martin McTague: It is dealt with completely differently, yes.

Q15 **Chair:** Mr Thackray, you are nodding. For the record, do you agree?

Tom Thackray: Absolutely. It is not that there are not targets to reduce the burden of tax administration, as well. It is just that it is dealt with separately. For a business trying to figure out what the overall picture is, it



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has to go to one set of rules and guidelines to understand one policy and go to another place for another.

- Q16 **David Mowat:** You mentioned tax, Mr McTague, in three of your answers as being the biggest issue. It is not in the scope and you mentioned quarterly reporting, which has not happened yet. In a sense, tax is always going to be an issue, because people don't like paying tax. The question is whether it is proportionate, isn't it? Is it your sense that there is stuff around tax that is not reasonable?

Martin McTague: We estimated that the average small business spends £3,600 a year trying to comply with tax administration. That means that it disproportionately hurts and makes small businesses more inefficient.

David Mowat: Okay; that could be a few days with an accountant, I suppose, or something like that.

Martin McTague: Well, it is more the time—

David Mowat: Or writing up the books.

Martin McTague: Well, complying with regulations of all sorts.

- Q17 **David Mowat:** Keeping accounting records, which is what some of that will be—that isn't an unreasonable thing for a business to have to do. I am just trying to get a feel for whether or not there is a real problem here. Are we worse, say, than France or Spain, or America? Is there something specific here, or is it just that tax is a boring thing to have to do, and it is money out of the business—a wish to make it easier, somehow?

Martin McTague: Many of our members do not make international comparisons—

David Mowat: But you could, I suppose.

Martin McTague: Yes, we could. I think the problem is not so much paying tax; they accept that that is a civic responsibility. What they resent is a lot of the burdensome administration that goes around that process, where it could be a lot more efficient, a lot more streamlined. It is not about regulation, it is about smart regulation and the complexity of that regulation.

- Q18 **David Mowat:** Right, but when you say burdensome, you mean that the Revenue are unreasonable, or that the processes employed are unreasonable?

Martin McTague: I will give you one example. If the Revenue want me to pay tax they expect me to pay it electronically, and almost immediately. If I get a refund I get a cheque that appears, maybe if I am lucky, a month later, and then I have to go down and pay that into a bank account. That is an example, where you are imposing an unreasonable burden on the taxpayer.

- Q19 **David Mowat:** I am not sure it is regulation; it might be unreasonable



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behaviour by the Revenue, but I am not sure it is particularly the regulatory burden—that they take money quicker than they give it back to you.

Martin McTague: I think you are right. I think what defines what people think is regulation is a real blurred area.

Q20 **David Mowat:** Fair enough. I wonder, in the evidence—also you, Mr Thackray, when you started off about this target—is it real? Everybody would like to have less regulation, and I think your evidence was the new stuff is better because it has to go through some process that at least makes people think about it; and you were quite positive about that when you first spoke, whereas you gave the impression that older stuff hadn't had much impact, yet. Would that be a fair summary?

Tom Thackray: I think that is part of it. I think there is a kind of credibility around the system, now; and I guess what you cannot prove is the counterfactual, so if we did not have the target what would be the situation in terms of the type of regulation that we would be going through.

Q21 **David Mowat:** I suppose, just looking on the bright side for the moment, at least if the new stuff was a bit better that is progress of a sort, isn't it?

Tom Thackray: Absolutely, yes, and I wouldn't undermine the relevance of having a target.

Q22 **David Mowat:** The other thing I would have thought would have happened for your business was that there would be quite a lot of sector-specific issues. When you look at all businesses you are going to get into generic things like tax; but, I don't know, if you are in chemicals there may be some specific things that really annoy chemicals companies but do not affect retailers at all, and that does not come across very clearly in this sort of analysis on figure 4.

Tom Thackray: Yes, and I think in terms of the number of regulations that have been taken out you can see that the vast majority are only very small regulations, which probably plays into that as well—the small, sector-focused regulations, in terms of the volume that has come out of the system. It is not all about the quantum of regulation, either; so if we talk to members about what is the most beneficial thing that the Government have done in terms of regulation in the last few years, what normally comes back is the primary authority scheme, which is about consistency of enforcement. It is not necessarily about the scrutiny of new regulation only; it is about how the existing regulation is enforced properly.

Q23 **David Mowat:** I suppose what I wonder—I think I saw in the Report that what they have achieved so far is £400 per business, or some number like that was there. You have to be a pretty small business for that to be material, and if you are Shell it is not something that you would be discussing at board meetings, I guess.



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It is good that we have more process around new regulation. I am just wondering whether or not all this target stuff is just spurious—figures like £10 billion, and trying to work towards it or not—and we should be trying to streamline regulation, and do all that, but the target is looking for a problem or a solution that does not really merit it in that way.

Tom Thackray: I would say that one of the main benefits to the target is more internal, within-Government focus. It makes Departments think about what they need to do to achieve that target. From an external perspective I guess it gives you an incentive to game the system to make the target. So it is useful to have, but businesses do not live and die by the achievement of the target.

Q24 **David Mowat:** You would support having a quantitative number of some kind.

Tom Thackray: Yes.

David Mowat: And that is true of you too, Mr McTague?

Martin McTague: Yes. I think it has changed the atmosphere around regulations, but whether it has had a material impact—it doesn't look like it has.

Chair: Okay. So I think what you are saying is, "It may be a slow-burner."

Q25 **Chris Evans:** I am looking at figure 4 now. I hear all the time from businesses in my constituency that we must cut red tape. I say, "What red tape?" and they go, "Red tape." I say, "What red tape?" and they go, "Red tape." Do you think "red tape" is a catch-all term for people who just want to have a damn good moan about things?

Chair: Mr Evans has a way of calling a spade a spade.

Chris Evans: I am looking at figure 4 and most of the areas businesses find most burdensome: tax, employment law, health and safety. Do you think "red tape" is just a vogue word that people have come up with just to have a good moan?

Tom Thackray: I would say no. I think it is real. I think the burden of regulation is real. In terms of regulation that was cut during the last Parliament, I think the figures were properly scrutinised, so they actually have an impact on business when you take them away. I don't think belittling or playing down the mood music of business is the right thing to do. As I think Martin said earlier, the definition of regulation is where we get into problems here.

Q26 **Chris Evans:** This is what I am trying to get at. I am just saying that when you ask people what specific red tape they are talking about, they have real difficulty in defining what they mean. I get that an awful lot. I get issues about planning, individual issues and anecdotal issues, but I don't have a sort of catch-all term, and that is what I was trying to drive at there.



Martin McTague: I can probably help. What I have found is that it is that overwhelming feeling, which a lot of small business owners get, that there is lots of regulation out there that they don't understand and they don't know how it may impact on their business. It is a sense of being overwhelmed and not understanding the risks that their business is taking on a day-to-day basis. When you then pin them down and ask what it is they are worried about—well, it is just that vague feeling that it is all crowding in.

Chris Evans: Exactly right.

Martin McTague: I think that is real and should not be dismissed, but it will not be solved by dealing with one particular regulation.

Matthew Upton: Can I just say something quickly on that from a consumer perspective? As I say, this is not a consumer versus business issue, and there are some areas where we will be aligned, such as regulation that leads to things like the state of terms and conditions in contracts at the moment or the state of an energy bill, if you have had one recently through your door—specific regulations that are trying to act in the interests of both businesses and consumers, but that work for neither. No one understands the t's and c's. Business have to abide by them, but they don't work for anyone.

In terms of the catch-all sense, often I think it can be used as a term when people do not want to act right by consumers. We see specific examples in sectors like payday, where there are a lot of complaints about stopping the ability to charge 5,000% interest rates, which is seen as a regulatory burden. In the private rented sector, there is a case I was reading this morning of someone who was kicked out of their house because they asked for the mould to be fixed in their flat and the landlord said they were moaning too much. I am sure that, if some of those regulations were not in place, it would make things easier for some businesses. It is a bit of a mixed picture, to be honest.

Q27 **Chris Evans:** What about layering more regulation? If you start a job, you have an induction programme and you have training. If you start a business as an entrepreneur and you strike out on your own, there is no manual. Do you think in many respects that the Government should maybe be giving more signposts to potential entrepreneurs and people who want to start businesses, about where they can start cutting through? I am trying to find ways of helping people so that we are not here talking about this vague "red tape".

Martin McTague: That is a nice idea. The only problem is that I think we are having trouble encouraging people to be entrepreneurial to start off with. If we gave them a manual of all the regulations they may have to comply with, I don't think we would have any.

Q28 **Chris Evans:** That's the feeling I had when I asked that question.

Tom Thackray: I can add to that. There is a lot of good advice out there for businesses in sector trade associations, who often do have the time



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and the resource to dedicate to what regulation is coming down the track and how you might turn your attention to it. If we can get small and medium-sized businesses more networked and more involved in their sector associations—

Q29 **Chris Evans:** The No. 1 fear when I was a trade union official was that small businesses are afraid of contracts and employment law, in particular. There was not a lot of help, therefore, when I was a union official. When I became a Member of Parliament and I employed staff, I had help with employment contracts. A lot of entrepreneurs do not have that, and legal advice is expensive. Do you think that is something that can be addressed in some way to get over that fear of employing people?

Martin McTague: I think that is right. A lot of the evidence we see about companies that are failing to grow shows that it is because of that exaggerated fear of taking on new people because it could end up in a tribunal or have all sorts of implications that they had not foreseen. Having a more educated approach to that and more leadership and management training will address a lot of those problems.

Q30 **Chair:** We have witnesses from the Department of BIS and others from the regulatory side of things after you. What three things do you think would make life better—forget the big target—for your members and, indeed, for consumers? Mr Upton, we will start with you and go the other way for a change.

Matthew Upton: One would be to raise awareness of the flip side of business regulation, which is consumer detriment. We have a report out in a few weeks, which is going to estimate the total scale of consumer detriment across the UK. We are looking at tens of billions of pounds every single year for consumers. The figure for consumers is similar to the £400 in business pockets.

Q31 **Chair:** Say someone is trying to take legal action because of their landlord, or that sort of thing—

Matthew Upton: This is the sharp end. This is buying a good that breaks instantly, the failure to get a refund and all that sort of stuff. This side—the hidden detriment of consumers finding it very difficult to switch to the best energy deal, for example—is separate from that. That is a whole new scale of detriment. We would ask—I think the Department takes this very seriously—to keep consumer detriment as a high-profile issue. We rightly get a lot of attention and anger about tax rises, benefit cuts and the money that those things take out of consumers' pockets, but consumer detriment is the same thing: it is all money out of people's pockets.

The other thing—this will probably be echoed by the other members of the panel—is that there is absolutely a need for prescriptive regulation in lots of cases. It is really simplistic just to say that whole swathes can be stripped away and it becomes a numbers game, but I think there is the opportunity for smarter regulation. We can learn a lot from behavioural economics, in terms of what really works for consumers. We can test



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things with consumers and businesses to make sure regulation is genuinely fit for purpose, rather than just layer on rule after rule.

The final thing, which links to my first point, is that we must make the point about how important consumer protections are. There will probably be a lot of push, in the context of the economic situation that we find ourselves in post-Brexit, to strip away and make things easier for businesses by just simplifying and stripping away lots of consumer protections. There is the idea that that will make things easier, but it is like pulling the tail of a snake—be careful what you wish for.

Consumer protections are really complicated. Consumer confidence is all wrapped up in them. There is a reason our consumers feel much more confident than their European neighbours, and that feeds through to businesses as well. So don't rush into anything, don't do anything rash and really think through what the impacts are, because protecting consumers helps businesses as well.

Chair: Thank you for that. That is very clear.

Martin McTague: I only have two asks.

Chair: Only two? Mr Donnelly is smiling behind you.

Martin McTague: I can only think of two that quickly. One is to lobby whoever the new Chancellor is to try to widen the scope of the RPC to take into account tax administration. The second one is to make sure you are properly resourced for what will be a lot of work incorporating current EU regulations into UK law.

Chair: We are certainly going to be asking about that.

Tom Thackray: I would echo Martin's point about including as much as possible in the target at the moment. If it is not included, we need to be slightly clearer about why it is not included in the target.

The other point, which we haven't really touched on in this session is the focus on existing regulation. I think we would be able to set much more accurate targets for Departments if we looked back at previous regulations and looked at their real impact, so you can see how far you can push them to deregulate in the future.

Q32 **Chair:** Could you give an example of anything there?

Tom Thackray: One of the criticisms in the NAO Report was that while the BRE guidance suggests that Departments should look back at regulation once it has been implemented, that happens in practice very seldom. Actually, if you did more of that backward-looking at regulation that is already in force, you would be able to set a more realistic target for that Department.

The final point, which I have mentioned a couple of times, is, do go sector by sector. I think that is where most of the knowledge about the



application of regulation is, and I think that is where it has borne the most fruit over the last few years.

Chair: Thank you very much indeed. We appreciate as a Committee your time and your expertise. Our transcript from this hearing will be available in the next couple of days—it is uncorrected, straight to the website—and you will get a copy. Our report is likely to be out in September or even October because of the way our recesses fall. We will make sure you get a copy. Thank you very much for giving your time. You are very welcome to stay for the next session. We need to switch witnesses over—their seats will be warm for you, if you want to stay.

Examination of witnesses

Witnesses: Sir Martin Donnelly, Graham Turnock and Michael Gibbons.

Chair: For our second panel we have the people in charge of making sure that the Government target on reducing regulation is in place. Again from my left to right, we have Michael Gibbons, who is the chair of the Regulatory Policy Committee—welcome to you; Sir Martin Donnelly, the permanent secretary at the Department for Business, Innovation and Skills; and Graham Turnock, the chief executive of the Better Regulation Executive. It seems these regulatory roles could keep you going for the rest of your lives, given the amount of work involved. I will hand straight over to Chris Evans.

Q33 **Chris Evans:** Welcome to the Committee. The Small Business, Enterprise and Employment Act 2015 required the Government to set a target called the business impact target. How are you doing against that?

Sir Martin Donnelly: I will ask Graham to give you a detailed readout. I will just say that the first annual report on the business impact target came out in June and showed, I think, a breakdown by Department as well as in total.

Graham Turnock: So far, £885 million net reduction, so that is just under 10% of the way towards the £10 billion target.

Q34 **Chris Evans:** That is not quite right, though, is it? If you look at paragraph 8 in the executive summary, it says, “The £8.3 billion of expected costs imposed on business so far this Parliament that are not included in the scope of the Target greatly exceed the £0.9 billion”, which is the £885 million you just quoted. So the target is pretty useless because you have taken out that £8.3 billion. Can you explain why you have done that?

Sir Martin Donnelly: Yes. The target is set by Ministers. You rightly referred to the SBEE Act, which explains the system for deciding on exemptions. Ministers have decided that tax burden is dealt with separately through HMRC and they have a separate target that you might want to talk about. There are other exemptions, including international



and European legislation. Any further exemptions—I guess we will come on to the national living wage—have to be examined against the need to ensure that growth, small business impact and minimising the cost to business are all checked. Then there is a transparency, so we have to explain why things are outside, and the Government does that. You are right that it is not the total, but there is clarity about what's in and what's out and then we focus on the bits that Government can have the most impact on.

Q35 Chris Evans: But if you look at figure 2 on page 17, the four things in here that you have taken out, if I'm right, are "EU in origin", "International in origin", "Relate to fees and charges" that regulators impose on the country and "Others, eg emergency measures". They are some big-ticket items that you have taken out of the target. The question I have to ask, Sir Martin, is, is this target totally useless and just smoke and mirrors, so the Government can feel good about themselves?

Sir Martin Donnelly: We have to work within the parameters that Ministers set for the target, but on the question of how useful it is, I believe that it is useful. But I would echo the points that were rightly made by your last witnesses: this is work in progress. We have been working on the issue of improving regulation in the UK for a good 15 years. We think that we are making progress and that this business impact target does concentrate Departments' minds on thinking more, and more effectively, about the impact of specific regulation on business. By setting them targets, we are, over time, improving that.

Q36 Chris Evans: But you have a target of £10 billion—am I right?

Sir Martin Donnelly: Yes.

Q37 Chris Evans: In paragraph 2.6 of the Report and figure 3, it says that you were not including will raise "cost to business by £8.3 billion" and that does not include the new national living wage, which will add costs of £4.1 billion. So you are going to fail to hit this target, then. If you include everything, you are not actually reducing any regulation.

Graham Turnock: If I may correct one part, you said it does not include the £8.3 billion, but I think it does include the £4.1 billion for the national living wage.

Q38 Chris Evans: Sorry, I've misread it—but could you clarify that? It says, "Of this net increase, the National Living Wage is expected to add costs of £4.1 billion to business, and increases in the National Minimum Wage to add £3.1 billion of costs."

Sir Martin Donnelly: Government Ministers have decided and explained to Parliament that they do not consider that those are appropriate to take as within the business impact target that we are looking at.

Q39 Chris Evans: Could you walk me through why you came to the decision to exclude things like EU regulation, international regulation, and fees and charges? I can understand emergency measures, because they cannot be foreseen anyway, but I am interested in those three in



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particular, given that, as we have seen in the press over the last couple of weeks, the EU has obviously been quite high up the agenda.

Sir Martin Donnelly: Yes. On EU regulation, I think there are two factors, and my colleagues who both know more about this will want to chip in. One is that, often, EU regulations are negotiated some time—perhaps several years—before they are implemented. The other is that since we are looking here for incentives for Departments to deal more effectively with the regulation for which they are responsible, EU regulation has so far been handled on a European level. We have the REFIT Platform. We have commitments from the European Council to look in particular at how you lighten the burden on small business and so on. That has been looked at separately to ensure that the link between the incentives to meet your target for deregulation are not obscured by what is going on in Brussels.

On fees and charges, it is a bit the same. Do you want to add anything on that, Graham?

Graham Turnock: Fees and charges is subject to a Treasury regime, which starts with the presumption that there should be full cost recovery for services. We believe that including it in the business impact target would be a duplication of that regime, which already creates the right incentives on regulators.

Q40 **Chris Evans:** So how will the target be affected by the forthcoming Brexit? It's got to be reset and recalibrated.

Sir Martin Donnelly: When we have left the European Union, areas of regulation currently dealt with on an EU level will logically be dealt with on a national level. Then the starting position—Ministers will want to decide, again, the precise parameters—is that they would be caught by the business impact target, but the precise details of course will have to be decided by Ministers.

Q41 **Chair:** Let me bring in the Comptroller and Auditor General.

Sir Amyas Morse: I just want to pick up on that full cost recovery point.

Generally speaking, the Treasury's full cost recovery formula is the most expensive possible way of looking at costs, with the full loading of overheads and everything else. It is not a mitigating argument, is it? You are saying, "Well, we're charging full cost recovery, which means we are actually giving them a bit of a pasting on costs." Would that be fair? We all know that that's how it works—even the Treasury Officer of Accounts is smiling.

Richard Brown: Something I do very rarely.

Graham Turnock: It is certainly intended to ensure that there is a proper calculation of costs. Additionally, we asked Departments to put pressure on their regulators to maximise their efficiencies such that those costs are minimised. I certainly agree with the Comptroller and Auditor General that there is a risk that it simply becomes passed through, but we have tried to



mitigate that by asking Departments to work with their regulators to minimise costs.

Q42 **Chair:** How is that going? How can you be sure? What assurances have you got that you are actually getting them to reduce their costs?

Graham Turnock: I think it is going in the right direction because regulators are under pressure to reduce staff numbers anyway and they are reducing the number of inspections, so that would naturally lead to lower costs. Mention was made of some of our sector-specific reviews; a good example would be our review of the chemicals industry, which has led to much better targeted inspection regimes and should lead to more reasonable fees being charged.

Q43 **Chair:** The Comptroller and Auditor General is itching to come in.

Sir Amyas Morse: Are you saying that reducing the number of staff at a regulator will necessarily reduce regulation?

Graham Turnock: I am saying that there must be a correlation between a reduced number of inspection staff and reduced numbers of inspections. Therefore, because charges are often based on the cost per inspection, there would be lower costs.

Michael Gibbons: Before I comment on essentially the issues of exclusions, to which attention has been drawn, I just want to make sure that the Committee is fully aware of the distinction between the role of the independent Regulatory Policy Committee, which I chair, and the role of BIS and the BRE in sponsoring the framework within BIS. Our purpose is not to comment on Government policies; it is to scrutinise the evidence base for new measures, largely via impact assessments, to give Ministers the benefit of whatever advice we come with before they make decisions, and to add credibility with external stakeholders where we validate Government conclusions. It was very pleasing, at least for me, to hear the respondents from business say that they derive some confidence in Government claims as a consequence of our role in the process.

The questioning so far has been about the definition of the target. The definition of the previous Parliament's target also had exclusions. Those exclusions, for Whitehall, are the same as they are now, which is to say the European Union—you have rightly drawn attention to that—financial systemic risk, and fees and charges. Last time, the numbers outside the one in, one out account, which has been widely publicised, were bigger than those within it. We are not talking about a difference here. I at least can understand the Government's rationale for wanting to exclude measures over which, in the case of the European Union, they don't actually have control.

You are asking about the BIT in this Parliament, and I draw the Committee's attention to two points. There are two major changes in the exclusions from the definition of the target this time. The first, as has been mentioned, is the national living wage—the biggest single measure in the account to date is outside the account. The second is a rather long list of



different categories of exclusion, which are largely there because the regulators have been brought in scope. We on the RPC welcome the regulators being brought in scope, but it appears that the way it has been done makes it inevitable that they have had to have lots of exclusions that are rather widely drawn and can be rather complicated.

Q44 Mr Bacon: I apologise to the witnesses that I had to step out of the Committee briefly, so I missed the changeover from the previous panel.

I would like to ask a rather broad question—perhaps “deep” is a better word—on EU regulation. I have heard a lot of stuff on the radio in recent days from law professors whom I would have thought might know better, so I would like your confirmation or clarification. Regardless of what, ultimately, Her Majesty’s Government decide to do with particular pieces of regulation and, indeed, precisely because there is a whole pot pourri of different regulations covering a vast terrain, some of which are directives that have been transposed, some of which are directives that may get transposed but have not yet been, some of which are in train, and some of which are regulations that have direct effect, can you confirm that for the purposes of Brexit, whenever it happens, the obvious thing to do is, at the moment of Brexit—rather like what happened with India at independence in the late ’40s, where they nationalised the entire imperial statute and tweaked it at their leisure over a period of some years and did not really get round to it until the mid-1950s—to nationalise the *acquis communautaire*, so that there are no legal lacunae that the learned professors, whom one has been hearing on the radio, have been talking about? We would then, as it were, tweak—or, perhaps, more than tweak—at our own pace. Is that how it is seen inside Whitehall, Sir Martin?

Sir Martin Donnelly: I am not an EU lawyer and I don’t feel competent to answer that question. However, the position that you outlined is certainly one of the options that will be under consideration in the period before we leave the EU. My personal understanding is that that is possible but, as I said, I am not an EU lawyer.

Q45 Mr Bacon: I understand. I am not a lawyer either. I was a legal journalist but it is not quite the same thing. It was put to me this morning, by someone whom I think ought to know, that that is widely understood in Whitehall to be the likely solution in some shape or form. Is that fair?

Sir Martin Donnelly: I would not want to comment on likelihood, particularly this afternoon, but my understanding is that people will want to put that option to Ministers.

Q46 Chair: Let me be clear: there is discussion about this in Whitehall. Even if you are not able to share your advice to Ministers, there will be people working up advice that may or may not include what Mr Bacon outlined.

Sir Martin Donnelly: It is certainly the case that our legal teams and the Government’s legal service are very focused now on all these issues.

Chair: I hope that is the case.



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Sir Martin Donnelly: It has only been three weeks since the referendum and there is a lot of work to do.

Q47 **Chair:** We asked your colleague at the Treasury this question: were there any plans in BIS for what would happen in the event of a vote for the UK to leave the EU?

Sir Martin Donnelly: We were following the guidance given by Ministers, which was not to make contingency plans for this outcome.

Q48 **Chair:** Okay. So on other issues such as jobs and migration, on which BIS sometimes has a different view from other parts of Government—you had not planned for any of that either?

Sir Martin Donnelly: We have been working very hard in the past few weeks, engaging and listening to businesses of all sizes. Ministers have been out there. There have been a lot of meetings including with the groups that you—

Chair: In the past few weeks. Since the vote, you mean.

Sir Martin Donnelly: Since the vote, yes.

Q49 **Mr Bacon:** I mentioned I was a legal journalist. I was a financial journalist as well and I used to follow trade talks—the GATT round and things like that—quite closely many years ago. There is now said to be a severe skills shortage in the area of trade negotiations because we have not had trade negotiators of our own; we have relied on our one twenty-eighth seat, represented by the EU Trade Commissioner. What steps are now being taken? Obviously some of it is going to be training up people but there are, on this planet, quite a few skilled trade negotiators and many of them are our friends in Canada, Australia, New Zealand and elsewhere. What steps are being taken to gear up and skill up Her Majesty's Government for these negotiations in the short and medium term?

Sir Martin Donnelly: This is getting a little way from the Report, but I will do my best.

Chair: I know, Sir Martin, but it is your first outing since the vote so we are keen to hear.

Sir Martin Donnelly: I will do my best to answer but I would be grateful if you would take this as a personal view. As you know, it is the case that article 50 or whatever route has not yet been taken. If it is article 50 we would therefore expect a period of at least two years in order to prepare for the new situation. It is also the case that we have a lot of people who are experienced negotiators in a range of fora, such as G7 financial negotiations. In Europe, as you will know, the Commission trade negotiators work very closely with the national member states. It is similarly the case that a lot of people have reached out to us, which is much appreciated. We are seeking to use the offers that are coming in to train and, where appropriate, to bring people in.



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I think the key challenge in the short term is perhaps less on the trade negotiator front than the question of international trade law. We need to ensure that we have the right number of trade lawyers able to deal with the very detailed issues which you will know come up in the range of sectors. The second issue, and we are working very actively on this, is to make sure we connect with business as to what precisely the regulatory, tariff or quota issues we would have to deal with are. A lot of them will actually be regulatory.

Chair: Thank you.

Q50 **David Mowat:** I wanted to follow up on Mr Evans' questions about targets and things that are in scope. The overriding, massive, quantitative achievement of the programme has been the plastic carrier bags figure. Would that be right? Of your £0.8 billion savings towards the target, 120% of it has come from the plastic bags initiative. Is that fair?

Sir Martin Donnelly: Yes.

Q51 **David Mowat:** I read that with interest. What we have done is passed a regulation that requires business to do something they weren't doing and said, because of that, they are going to get the benefit of the revenue of the plastic bags—that is actually questionable; I will come back to that—and we are therefore going to claim that as £1 billion toward our target. Is that a fair summary?

Graham Turnock: It is a fair summary but it follows the rules.

Q52 **David Mowat:** Following that, you charge 5p per bag. Had you charged 7p per bag you'd have got £1.4 billion towards the target?

Graham Turnock: I don't think so.

Q53 **David Mowat:** Why is that?

Graham Turnock: Because there is provision for the businesses to give a substantial part of the proceeds to charity. I think it may well be the case that the charitable contribution would have gone up if the charge had been higher.

Q54 **David Mowat:** Alright. What I am getting to is that there is a sort of Alice in Wonderland element to this, isn't there? We passed a law requiring businesses to do something they were not doing. As a consequence of that law and the regulation we have imposed on business to do something they were not previously doing, we are claiming £1 billion towards our target. That is like something out of Alice in Wonderland.

Chair: Figure 13 shows that.

David Mowat: Your point was that that is the rules, but that is also an Alice in Wonderland-type answer, to be honest. Does it really strike you as being within the thrust of what the Government are trying to achieve in this policy and with this target that we can have £1 billion towards it because of a regulation we have imposed on business?



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Michael Gibbons: Can I try? We validated this measure so I am happy to answer for it being within the rules. Incidentally, in the last Parliament this would not have counted against the “one in, one out” account, because it is a new regulation and new regulations, however beneficial to business, did not qualify as being in the scope in the last Parliament. The change has been made for this Parliament.

It is a regulation; there is no question about that. The benefit arises because, as a direct result of the regulation, the businesses concerned will receive an income stream related to the 5p. I think your supposition of the consequence of increasing the number is probably near to reasonable. Also as a result of that, they need to purchase fewer plastic bags. They therefore have a profit as a consequence—a benefit as a consequence—which we have validated. Graham is right to point out—

Q55 **David Mowat:** They have a profit if and only if consumers don’t spend less on other things because they are spending that money on the bag. That is one of your assumptions in this.

Michael Gibbons: That would potentially be an indirect effect. We are measuring the direct effects, which are that there will be a payment and there will be fewer plastic bags. Graham rightly makes the point that businesses are then invited to make a contribution to charity. Because they are invited and it is not a regulatory requirement, we have not scored it as a direct effect. That is why you see a big benefit on the account.

Q56 **David Mowat:** So I am right in saying, I think, that had you put in a charge of 7p and not 5p you would be even closer to your target. You could charge £1 and you’re there. You’re there—you have got your £10 billion, actually. This is not what the Government meant to happen when they were talking about reducing regulation.

Michael Gibbons: I would agree with you that it is not deregulation as we know it, but it is a regulation with a positive—

David Mowat: It certainly isn’t deregulation as we know it.

Q57 **Chair:** You talk about it being a positive outcome, but every business that qualifies under this—that has to provide bags—has to have changed, for example, its till system and charging system to get the 5ps. Then it has to make sure it accounts for that and—if that’s what it chose—the charity, although you are saying that is out of scope. As Mr Mowat has rather deftly highlighted, and you have acknowledged—I think you said this—it is regulation, but not as we know it. Sir Martin, do you have any comments about this, before we go back to Mr Mowat?

Sir Martin Donnelly: Yes, I would make two comments. One is that it is not something that the Government itself has decided, and that’s an important point.

Chair: Sorry. What is not—

Sir Martin Donnelly: The fact that this figure was added to the net total. It was decided through the independent RPC and the process—so the



process is independent. The flipside of that is that other things, such as lifting the cap on student tuition fees, which also benefits universities and other enterprises like that, have not been counted. Work we did on ring-fencing simplification has also not been counted. You have to draw the line somewhere. Every system is going to throw up slightly unusual cases. My point would simply be that we have got a coherence in the system that, over time, produces better outcomes for business. You can certainly argue the toss on individual cases, but I think you have to look at the system as a whole.

Q58 David Mowat: I have never been in the retail business, but you could argue that we have given business £1 billion, apparently, with this initiative. If it was such a good thing, businesses might have done it themselves anyway—it did not need the Government to pass a law to put in this regulation, which then counted £1 billion towards the deregulation target.

Sir Martin Donnelly: You might have for the wider environmental issues—

Q59 David Mowat: No, I am not saying it should not be done. What I am questioning is whether it should score towards a £10 billion target, as 10% of it. If we go to figure 12 on page 35, there is the “Increase in estimated benefit” with the £200 million a year, which is presumably the £1 billion towards your target, but if I look at the line for standardised tobacco packaging at the top, you have included there an increase in cost. Have you included in that a loss of revenue—people selling fewer cigarettes?

Michael Gibbons: Yes.

Q60 David Mowat: You have included that. So that £48 million is not just a packaging cost; it includes the reduction.

Michael Gibbons: That’s right.

Q61 David Mowat: I will just finish then, Sir Martin, by asking you a question. You say it is an independently verified figure, which is a bit like saying, “Well, it wasn’t us that did it; it was the independent people”, but you are claiming it towards your target, aren’t you, so effectively you own it?

Sir Martin Donnelly: We are saying that there is a set of rules that apply to all these cases—they get applied independently and we then take the results. We do not influence individual—

Q62 David Mowat: Would you agree that when Ministers were dreaming up this deregulation challenge and the target of £10 billion, this was not the sort of thing that they thought would be in it?

Sir Martin Donnelly: I think they were trying to design an overall system. You have to do it in system terms, otherwise you do not get the coherence.

Q63 David Mowat: So the answer to my question is that when Ministers were coming up with the £10 billion target to reduce regulation across the



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country, someone said to them, "Well, we might think of some new regulations that increase benefits to business. That's a great thing to have."

Sir Martin Donnelly: If there are benefits to business, they get assessed, picked up and put into the system. Overall, that seems fair.

Q64 **Mr Bacon:** May I ask for a point of information, just to flog this plastic bag thing a bit more, because it is such fun? When you said that there is a provision for giving some of the money from the collected tariff, as it were, to charity, can businesses give the whole 5p to charity, if they want?

Michael Gibbons: It is their decision.

Q65 **Mr Bacon:** They can give the whole lot to charity, if they wish?

Michael Gibbons: Yes.

Q66 **Mr Bacon:** So when I see the sandwich shop where I buy my sandwich every Friday putting the whole 5p into a tin for the Royal British Legion, that is perfectly okay. They didn't need to change their systems. Is it necessary to change your systems to do that? They haven't done—I still get my sandwich.

Michael Gibbons: I don't recall what the IA said, but I can imagine that in some cases it was necessary and in others it probably wasn't. I would need to check.

Chair: We are getting away from the subject of the Report a little. I suspect it is a bigger issue for organisations larger than your sandwich shop, Mr Bacon.

Chris Evans: Can I put on record that the plastic bag charge was a Welsh innovation? We had it first.

Chair: It's all your fault.

Q67 **Chris Evans:** Before we move on, I want to mop up one or two questions about the target. Why was the national living wage not included? It is obviously a flagship policy for the Government. There is an ongoing dispute just outside my constituency about the national living wage in a bakery. Why wasn't it included in the target when it seems to me to be one of the biggest burdens faced by larger-sized businesses?

Sir Martin Donnelly: The Government set out their reasoning in a statement to the House on 3 March. The argument was essentially that it was part of a wider package for business that included reductions in corporation tax and national insurance which, taken together, outweighed the cost of introducing the national living wage. Because that package included tax, which, as we have discussed, is outside the business impact target parameters, it was deemed reasonable to treat those measures together and therefore to exclude the national living wage from the BIT.



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From where I sit, the important thing was the transparency. The Government took a specific decision, justified it specifically and did not seek to change the wider rules, thereby maintaining the coherence of the system.

Q68 **Chris Evans:** How would you explain that to the average employer who would say that they are struggling to pay the national living wage? How would you explain to them, in layman's terms, why it is not included as a burden on them?

Sir Martin Donnelly: It is accompanied by reductions in the taxation rates that they will pay on their profits and on national insurance for their workforce which, taken together in gross, outweigh the costs.

Q69 **Chris Evans:** Would you say there was an element of cherry-picking with this target? You pick the easy wins—the low-hanging fruit, such as plastic bags—but the bigger issues are just parked.

Sir Martin Donnelly: I think it is a very good Report from the NAO in a very complicated area. There are some decisions for Ministers and, ultimately, Parliament to take about coverage. What concerns me as an accounting officer is that, within the parameters we are set, the job is done professionally, and that it has a positive impact on lightening the unnecessary burden on business. Sometimes, of course, the burden is required. The evidence I see suggests that we are, however imperfectly, continuing to deliver this and that we are getting better at it over time.

Q70 **Chair:** Joe Perkins from the National Audit Office wants to come in.

Joe Perkins: Can I come in briefly on the tax offset issue? The national living wage was introduced at summer Budget 2015. There were quite a lot of changes to business taxation at the same time, including corporation tax cuts and cuts to employee national insurance contributions, but also the apprenticeship levy. The net effect of those is estimated by the Treasury to be quite a big burden on business, of the order of £3 billion a year in 2020-21. The witnesses, or the Government, have selected a certain set of changes to taxation as offsetting the national living wage, but there were other changes to business taxation at that time.

Michael Gibbons: If I may come in on that, because you said that the witnesses said this? I would like to make clear the position of the Regulatory Policy Committee: from time to time there are inevitably tensions with the nature of our advice to Government. We are independent; we are set up to have those tensions. We made it clear that our view of the national living wage as a new exemption was that we would straightforwardly wish for it to be included in the regulatory account—the BIT account—as, indeed, the changes in taxation would be included in the Government's fiscal account. We felt we should just keep it straightforward. In our published opinion on the national living wage, we said that if the same rules for one in, one out in the previous Parliament had been followed, this measure would have been within the scope of the target.



I would like to add to the commentary on the national living wage, because it came up in the previous session. I would like to reassure the consumer representative that the impact assessment did discuss the wider impacts on employees in particular and on society. It did not, to be fair, monetise them, but it did a full job in discussing the implications. That was a case—one not always followed around Government—where the wider implications of the effects on society were properly discussed.

- Q71 **Chris Evans:** I would like to turn to paragraph 3.4 of the Report, on page 22, and look in particular at the red tape challenge. It says: “many departments have only a partial understanding of the total costs and benefits to business of the regulations for which they and regulators are responsible and of the scope for reductions.” Why is that?

Sir Martin Donnelly: The short answer is that it is a very complicated area. A lot of work has been done with and by Departments, including in some cases reviewing the entire stock of their regulation. We have also found—I defer to both colleagues here—that the red tape challenge approach of a bottom-up look at a series of regulations across a sector, often from more than one Department, is a very effective way of finding those that have most impact on business and where something can be dealt with. Obviously, some Departments are more business-facing than others, so they perhaps face less of a challenge in understanding that. We found the red tape challenge and its predecessors to be a pretty effective way of getting at where the burden really exists.

- Q72 **Chris Evans:** But many Departments are not signed up. For example, it says in the same paragraph that “the Department for Environment, Food & Rural Affairs has compiled a comprehensive database of the legislation it has in force”, but that five of the 14 Departments have “no plans” to quantify regulations. I know that that is outside your remit, Sir Martin; you can only speak for BIS. I suppose I could ask Mr Turnock. If this is a No. 1 priority of the Government, why is EFRA massively up on this, yet the other Departments are dragging their feet and making excuses about it?

Graham Turnock: If I can answer for why EFRA is so strongly in the lead, there are very strong, coherent policy objectives in the Department that coincide with the better regulation objectives. EFRA sees simplification of the system of support to farmers as absolutely critical to its policy focus, and that is partly why it puts a lot more in. If you look at the figures, the NAO has reported on the size of the EFRA BRU, and it is considerably larger for its budget than most other Departments. We applaud EFRA for being very focused on the agenda. Some other Departments are not quite as focused, and generally that is where their policy interests are not so strongly aligned with the better regulation agenda, but that does not mean they are not doing good work. Quite often, they have chosen to focus on putting their energy into sectoral bottom-up reviews rather than doing an across-the-piece stock review, as EFRA did.

- Q73 **Chris Evans:** Could you explain the comments of the BRE in paragraph 3.5 that departmental budgets are “specifically designed to avoid the



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need to calculate the size of the each department's stock"? How did that come to be the case? Are people serious about reducing red tape and regulation?

Graham Turnock: Yes. Is your question—

Chris Evans: There are two questions there. Sorry, I should have waited for you to elaborate on why you think budgets are specifically designed to avoid the need to calculate the size of the each department's stock. How has that come about?

Graham Turnock: The point is that if we had set the target as a reduction in percentage terms of the stock, we would have had to calculate the stock. By setting it as an absolute figure, we clearly do not need to calculate the stock. What we need to do is apportion that £10 billion between Departments in an equitable and reasonable way. That is what we meant to say.

Q74 **Chris Evans:** I will come on to some information on this, but in the experience of the BRE, are Departments serious about this target or are they coming up with pretty lame excuses to avoid doing it?

Graham Turnock: I think that the large Departments, on whom we are mainly dependent in hitting the £10 billion, are very well seized of the challenge that has been set of them and have, generally speaking, put in place substantial Better Regulation Units to support that. The indications are that their Ministers are focused on delivering as well. There are a number of smaller Departments that do not actually make that much of a difference to the £10 billion. The picture is a bit more mixed there, and they have very small Better Regulation Units, even for the size of their small budgets.

Q75 **Chris Evans:** But my concern is this. If you look at footnote 1 of figure 6 on page 23, it says: "As of June 2016, three departments had not agreed their deregulatory budgets". Those were: the large-spending Department for Education; the Home Office, which probably has more regulation in terms of legislation than any other Department; and, most worryingly of all, HM Treasury. How has that come about? Are there any discussions with those Departments to agree those budgets? What has the progress been?

Graham Turnock: Absolutely. I think all three Departments are characterised by the fact that they did not have large programmes of deregulation in the previous Parliament. They were asked to deliver against one in, one out and one in, two out, but in the case of Treasury and DFE, they had very few new pieces of regulation. That meant they did not have to do very much deregulation. The Home Office ended up in deficit under one in, two out. They do not have experience and confidence in delivering large regulatory programmes. Because we were in the business of agreeing budgets with Departments, there would have been a choice for us as to whether to accept a very unambitious target from those Departments or to engage them in longer discussions to try to get to the



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bottom of a better understanding of what they could do, and that is what we are doing.

Q76 **Chris Evans:** To be clear, you are saying that the Treasury does not have the confidence. Is that the word you used? Did I get that right?

Graham Turnock: I would say that they have not got the experience of having delivered a substantial deregulatory programme, so therefore, yes, they are not confident in setting a large deregulatory target.

Q77 **Chris Evans:** Even though they regulate more than anyone else and have introduced more regulation in those five years than any other Department.

Graham Turnock: It is fair to say that they have regulated a lot, although much of that has come from Europe, so they were simply applying European regulation.

Q78 **Chris Evans:** That's got to be deeply concerning.

Sir Martin Donnelly: May I briefly come in on this?

Q79 **Chris Evans:** I know I'm not being fair; I am talking about the Treasury and there is no Treasury witness here.

Sir Martin Donnelly: To underline the point that Graham made, it is important that we get the right stretch targets. We are in close discussion, including with Ministers, on precisely what those targets should be for the last three Departments. I spoke to the Treasury about that yesterday. People are very aware of the need to reach agreement. It is important that we reach agreement on a figure that is neither unrealistically high nor not stretching. The target process has helped us to focus all Departments on what they need to do, and there has been some pushback, which is fair enough, but we are getting there.

Q80 **Chris Evans:** So it's a bit rich of the Treasury to issue guidance to Departments that they should monitor their ongoing impact around decisions when they have not got the confidence to set their own budgets. Would you say that was fair?

Sir Martin Donnelly: No, I don't think that is entirely fair. There are some issues around financial services regulation that are quite specific and are partly covered by an opt-out in terms of systemic risk, I think. We just need to be clear that we are setting meaningful targets that can be met.

Q81 **Chair:** Do you think you have got enough powers, whether carrots or sticks, to get Departments to meet this agenda?

Sir Martin Donnelly: Honestly, I think that the encouraging thing about this agenda is that Departments themselves are owning more of it. I have been around this circuit long enough to know that it is quite easy to game systems. We are in a better place in terms of Department genuinely taking on the often difficult trade-offs they have to make between more regulation or regulation of a particular form and meeting their targets. Ultimately, for it to work, it has to be embedded in the culture of



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Departments. The BRE supporting, training and having people on secondment to the RPC from seven or eight Departments has made a significant difference.

- Q82 **Chair:** One of the previous witnesses raised the issue of going back—I think it was the CBI—and looking at the real impact of existing regulations and learning from that. According to the NAO, only two out of 83 regulatory decisions have been reviewed. Are you confident, Mr Turnock, that the Better Regulation Executive, but also Departments individually can make good decisions if they are not looking back at what has worked and what has not? I will probably bring you all in on that, but do you want to start, Sir Martin?

Sir Martin Donnelly: It is a very important point. There is more to do. The BRE told Departments back in 2013 to publish updates on forward regulatory review programmes on statutory reviews. In the Small Business, Enterprise and Employment Act 2015, we made clear that reviews were required with this five-year review period for primary and secondary legislation. So, that five-year period is beginning for a lot of them and there are a lot of other reviews going on, including, I think, in the areas that the NAO looked at.

Graham Turnock: Yes, certainly. We really started ramping up the pressure on Departments in 2011. Before that, they had made a series of administrative commitments to carry out reviews. We weren't convinced that they felt particularly bound to those commitments. From 2011 onwards Ministers agreed a policy of a default of a statutory review, so the legislation would contain a statutory commitment to review. I think it's fair to say that to begin with we found it hard to get Departments to make that commitment and so eventually in the Small Business, Enterprise and Employment Act 2015 that was a statutory requirement to consider.

- Q83 **Chair:** We know there are a lot of statutory requirements about impact assessments of different sorts and Bills; we all sit there in Bill Committees adding in another or another, because we think it's a way of holding Government to account in the future. But they can be implemented with varying degrees of enthusiasm. Have you had any evidence yet of how effectively that is beginning to bite, or is it just going to be ignored or swept under the table?

Graham Turnock: Yes, so we did a spot-check on the same 10 regulations that the NAO looked at from the first year of this Parliament and I think that revealed compliance with the Small Business, Enterprise and Employment Act 2015, which was very encouraging in the case of those 10 regulations. I think we will probably want to widen that spot-check, but it looks as though it is biting effectively at this stage—perhaps not enthusiastically.

Michael Gibbons: I have a slightly different perception and rather more sympathy with the NAO Report on post-implementation reviews, and I am coming from a position of being a really very strong believer in the potential value of good post-implementation reviews to learn about policy



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making and perhaps to learn about natural biases, unintended consequences and unconsidered factors. So, we just do not know how much learning there is going to be, but I am quite sure that there is great potential to learn.

We in the RPC have been particularly looking forward to the “five years later” post-implementation reviews coming through the system, and I’m bound to say that, looking backwards, we have not received anything of significance. We have received 11, creeping up to 13 I think, and only two of them were even in the scope of one in, one out, and all of them were of no major significance. So we are concerned about what we have already received and I think we are expecting another 50 non-statutory reviews, beyond the 55, this year.

As far as I am aware, the departmental plans that exist for doing these reviews do not include sending many to us. I think two¹ of the top 10 are due to come to us, which we think is not enough. And I pick out the biggest of all of the account last Parliament. The biggest were pensions measures. The big “out” was the conversion from RPI to CPI—£3.5 billion. In itself, it was probably of the same order of magnitude of everything else put together. There is no plan that I am aware of to send a post-implementation review to the RPC for scrutiny, as I believe was intended by the impact assessment. So we are very concerned to see more of these.

Q84 Chair: I am keen to follow up on that, and so is Richard Bacon, because that’s very concerning. The other question it prompts is this: when you get this post hoc evaluation by a Department, is there a consistent methodology that you’re convinced is giving you the information you need as a Committee to have an understanding of how well it’s worked, or is there any area for improvement there? And I will bring in Richard Bacon next.

Michael Gibbons: I think I can only answer part of your question. We have done a lot of work, including with the BRE and with colleagues in BIS who are experts on evaluation and indeed post hoc evaluation, and so we are ready. We have designed the template and the format of our approach to post-implementation reviews, and as I say we have carried out some of them. So we have already got started. Whether we get what we are looking for from future reviews that we have not seen and may never see, I don’t know, but that is definitely something—we are with the NAO Report – where we agree that more should be done and more should be sent to us.

Q85 Mr Bacon: Mr Gibbons, do you think that Government isn’t actually nearly as interested in finding out whether things worked or not, and in the consequent consistent baselines, as it might pretend that it is?

Michael Gibbons: I don’t think I can attribute reasons of that sort to it. The Government is clearly very busy. It has a lot—

¹ Clarification from Regulatory Policy Committee: between two and four



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Q86 **Mr Bacon:** Yes, but it spends a lot of taxpayers' money, and one would hope that it would want it to be well spent. I have been on this Committee since 2001, so I am now in my 15th year as of last month, and I am astonished by the frequency with which I have seen things go wrong in one place and then go wrong in another, unrelated place. One example is the lack of a senior responsible owner, which we know to be a generic problem. One saw that with the Bowman radio communication system in the Ministry of Defence, and then later with the InterCity franchising fiasco in the Department for Transport. There are many other examples. What worries me is that this Committee appears to be the collective memory for Government.

Chair: Actually, Mr Richard Bacon in particular.

Q87 **Mr Bacon:** There is a good book on this subject, by the way. What I cannot understand is why Government does not appear more curious about its own failures. There is a very rational explanation for that; I am just wondering if you have got an explanation.

Michael Gibbons: I stick with the comment that they are committed to doing this as part of the Government rules. They haven't done it yet; we look forward to them doing it.

Mr Bacon: Isn't that the triumph of optimism over experience?

Q88 **Chair:** When do you hope for that, in a timeline between now and, say, the next general election in 2020?

Michael Gibbons: Well, the 55 statutory review should be with us this year. We are only at 13 at the moment, and there are a further 50 that do not have statutory underpinning but are committed, as far as we are concerned, administratively, so we should be seeing over 100. We have seen 13, and none of them are of significance yet, so the really big, important ones, where real learning could be discovered, we have not seen yet and we don't know when we are going to see them.

Q89 **Chair:** Graham Turnock or Sir Martin, why is that the case?

Graham Turnock: To date, we think that 14 should have been sent to the RPC. We think three are early, so there are four overdue currently. We are chasing up the Departments concerned, emphasising that they have made a statutory commitment, it is a serious matter if they do not meet that statutory commitment and we will be on their backs.

Q90 **Chair:** You will be on their backs. What other penalty is there?

Graham Turnock: If you have made a statutory commitment and failed to meet it, clearly there are consequences—judicial consequences, conceivably. We intended this to be a serious commitment, and we look forward to—

Q91 **Chair:** Sir Martin, you are a permanent secretary and an accounting officer. Are you frightened if Mr Turnock and his crew come after you? Does it make you jump? What is the problem? What is the sticking point, do you think, for you and your colleagues?



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Sir Martin Donnelly: I certainly think these need to be taken seriously, for all the reasons that Mr Bacon has outlined, and because they are part of the commitment. The five-year period is an important one, because it is long enough to work out what has gone on and get the learning, which we must get back into the system.

We will also aim to use the annual report on where we are in meeting the target to show who has done what. I think this is an issue which we need to highlight again over the coming months to Departments, because they take on the responsibility. It is not being met, but we need to make sure it is met, and met substantively.

Graham Turnock: I just want to highlight the fact that it is not us that the Department should be frightened of. They had made a statutory commitment. We are highlighting to them the fact that they are exposed to failure in meeting that commitment—

Q92 **Chair:** The early warning sign of what is to come.

Graham Turnock: It can mean judicial review.

Sir Amyas Morse: Just thinking about BIS as, I guess, the champion of business, would you say that people in small businesses, once they finish their day of earning their living and turn to their other role as unpaid public servants filling out administration, feel that the system that we have been talking about actually champions their interests or puts them at the centre of things? Or would you say that as they listen to the technical justifications for why things can be scored or not caught, they find that an inspiring picture of how well they are being defended at the centre of government? How do you think they would react, listening to it?

Sir Martin Donnelly: I think the answer to that has to be empirical. The business perception studies we do every two years or so show an encouraging trend, from 62% seeing regulatory issues as not getting better a few years ago in 2009 to 51%. We believe it will shortly fall below 50%; we will be producing another survey.

The other thing we are doing, which is really important, is following some small businesses over a year—12 of them—in a so-called longitudinal survey, to give us really detailed information about what they are actually doing, what matters to them, where we are helping them and where we are not. We will get that information next spring, I believe.

Michael Gibbons: There are very few grounds on which the RPC can give a red-rated, “not fit for purpose” opinion on an impact assessment. The main one we use is inaccurate assessment of the costs and benefits on business and civil society. In I think 2013—I am happy to confirm later—the Government introduced a small and micro business assessment test, and we were very pleased that it introduced that. That enabled us, if we were not satisfied having applied that test, to red-rate a measure on those grounds. That is a very specific piece of attention drawn to the small business impact. It requires the Department to ensure that it has understood the impact on small businesses and done whatever is



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reasonable and proportionate to mitigate the effect. If we judge that they have not done a proper job on either of those counts, we will red-rate as not fit for purpose.

Sir Amyas Morse: Have you applied those ratings to existing regulation or only to new regulation?

Michael Gibbons: Only to the flow since the measure was brought in, probably in 2013. But again, it would be part of a post-implementation review to see what would have happened to the early measures had they been applied then.

Chair: We are certainly going to be coming back to this.

Q93 **Chris Evans:** I want to come to paragraph 4.11. This is a question really directed at Mr Turnock. It says there: "HM Treasury's Green Book guidance says that while a regulation is being implemented, policymakers should monitor the actual impact of the regulation." However, the NAO Report finds that "in practice the government places little emphasis on monitoring the impacts of regulatory decisions. The BRE's 136-page Better Regulation Framework Manual"—I am sure that is a bestseller—"contains only three sentences about the value of ongoing monitoring in a regulatory context." Do you think that was a mistake, or do you think you should have devoted more time to that? That is a key part of—

Graham Turnock: What I would say is that there is a whole publication, the Treasury's Magenta Book, on monitoring and evaluation. Essentially, that is the key reference work for Departments. What we are simply requiring Departments to do is to consider monitoring in the context of regulation. We did not think that it needed expanding in our guidance, which picks up on particularly bespoke issues under the system of regulatory accounting.

Q94 **Chris Evans:** The NAO looked at 10 impact assessments and 10 produced in the last Parliament, and only five of those included monitoring and evaluation plans. Could you explain that in a bit more detail?

Graham Turnock: Actually, I think they said none of them contained plans for monitoring and evaluation.

Q95 **Chris Evans:** Yes, none of them. Sorry, my eyes are going. Why were they not included?

Graham Turnock: I think that is a question properly for the Departments, but what I would say is we have checked with those Departments concerned and in six of those 10 cases, they do have active plans to monitor; they simply did not put them in the impact assessment. What we do is red-rate them if they have incorrectly calculated the cost for business or incorrectly assessed the impact on small business. The Regulatory Policy Committee can and does comment critically if other aspects are not covered. Those Departments did not do their jobs properly, but we stopped short of red-rating them because our rules prevented us from doing so.



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Q96 **Chris Evans:** But according to the Report, even where they do monitor actual impacts on businesses, “the BRE does not report the results of such monitoring or update progress recorded towards the Target as new evidence emerges.” Why is that? What I am concerned about is that there is then no hard evidence of how you are moving towards the target.

Graham Turnock: There are a couple of things there. First of all, as we just discussed, under the small business Act there is a much stronger presumption that Departments will do a statutory post-implementation review, so we should be getting much better assessments of whether the benefits foreseen actually come through. We will be in a much stronger place as a result of that. As Michael was saying, at the moment we have only emerging evidence coming through from the 2010 to 2015 Parliament.

Q97 **Chair:** We are always slightly cynical that it is always going to get better, although we recognise this is work in progress. How are you going to make sure that Departments learn from each other? The Committee is going to be looking at things and coming up with its findings, but it is your job and your executive’s job to make sure that lessons are learned across Whitehall. What is the plan to get that to happen?

Graham Turnock: We put on a lot of training courses for Departments—I would say a dozen training courses a year.

Q98 **Chair:** How many?

Graham Turnock: A dozen. In fact, probably more—getting on for 20. I am absolutely certain that we would want to cover lessons from the post-implementation phase as part of that.

Q99 **Chair:** Training courses are all very well—people go along and do the training course, but when they are helping to draw up policy or making recommendations, there may be a big priority that the Secretary of State or the Department has that diverts them from actually thinking about this, although they can do the course fine. How will you know that they have actually implemented it? Will there be anything in their promotion prospects, for example, to make sure that they are actually watching this seriously and taking that learning on board? How do you actually get it to bite?

Graham Turnock: We talked about the RPC’s role. I think one of the things the RPC can do is challenge and check on whether lessons have been learned when new proposals for regulation or deregulation are put through.

Q100 **Chair:** Who is responsible if they haven’t? Perhaps it is better to ask Sir Martin. If your Department gets a rap on the knuckles from the Committee because it wasn’t as effective as it should have been or it wasn’t reducing burdens as it had intended, obviously there is a positive learning process that one would expect to go through for next time. But if it consistently happened and you found that your Department, for example, was doing badly, how would you get that through your teams to make sure that it was seen as enough of a priority, without diverting



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them from BIS's other priorities?

Sir Martin Donnelly: It is an important issue for me as a permanent secretary and for my permanent secretary colleagues. We are each in the process of having meetings with the Minister for the Cabinet Office to review our process on this. Certainly BIS and other Departments have a Minister responsible for checking progress against the next target and also ensuring that we as a Department and other Departments are doing the business for the RPC. Over time, people are actually getting better at that, but it is a Government manifesto commitment both to achieve the £10 billion target and to make this process add value.

Q101 **Chair:** You talk about the £10 billion target. We know, as politicians, that politicians readily set figures and targets. But if you look at this as a percentage of turnover for small businesses, do any of you have an estimate or an idea of what percentage of turnover they should have to spend on regulation as a maximum? That is really where it will bite for the individual business, whatever the national figure. It is a difficult question, I know, but have you any ballpark figure—a range? Clearly half their turnover would be far too much, but is it 10%? Is it 1%?

Sir Martin Donnelly: It is a really difficult area to give a useful figure in. We have work going back 10 years to try to look at the total amount of regulation—there were figures of £100 billion to £150 billion and there was an attempt to pull the administrative burden out of that. Of course, a lot of regulation permits businesses to do things—you have to meet health and safety standards and so on. It is a positive in the right form. Thinking of it as a blob is not really very helpful and is quite difficult in analytic terms.

Q102 **Chair:** But there is a blob nationally. The £10 billion figure is a blob.

Sir Martin Donnelly: We are not yet in danger of overdoing it. The £10 billion figure in the last Parliament has produced positive results—perhaps it is just worth underlining that. The OECD, the World Economic Forum and others say that we are getting better, including in global terms, at managing regulation intelligently and bringing it down. So another £10 billion is a continuation of that. I don't feel confident giving you the figure under the line.

Graham Turnock: As Sir Martin says, there have been estimates in the past of £100 billion. If you add other estimates to that, you probably get to between about £150 billion and £200 billion of costs to the economy, and then obviously it is a simple matter of arithmetic.

Q103 **Chair:** So you have to divide it.

Graham Turnock: It comes in the region of 10%.

Q104 **Chair:** So you have an idea of the burdens at the moment.

Graham Turnock: It must be in the region of 10%. We know that for small businesses it is disproportionately more, and we are obviously very concerned about that.

Q105 **Chair:** So that is why small businesses are supposed to be exempt from a



number of these measures.

Graham Turnock: Certainly microbusinesses, yes.

Q106 **Chair:** We also had evidence from Citizens Advice. It highlighted that one of the concerns when Parliament sets regulations is to protect consumers, yet the Government has resolutely set its face against doing a wider assessment of the impact on consumers. I wonder if you could explain the rationale for that—vulnerable people; it could be environmental issues and all the rest of—plastic bags. We haven't looked at regulation on the other side of that debate. Why is that, Sir Martin?

Sir Martin Donnelly: And BIS is also responsible for consumer issues, and we do take this very seriously. I would make two points: one is that when we get this right, as in the Consumer Rights Act, we can protect consumers more effectively with simpler investigative powers and also lighten the burden on business; so there are potential win-wins here.

Q107 **Chair:** But you don't know if you don't measure, do you?

Sir Martin Donnelly: The second point I would make—and you are right that the choice is made here by Ministers—is that we are talking about the business impact target. This is the impact on business of meeting all the Government's wider objectives. If we extend what we are focusing on, the risk is that we lose that value.

Q108 **Chair:** I take the point, but the very clear point has been made, which we all see, and I am sure you see too, that if you can reduce the burden on businesses by saying "We don't really care how much you pay people, whether you pay their pensions, whether you take account of health and safety"—if you really took an extreme view—it would be cheap for businesses but it would be pretty bad on a wider scale and actually could have knock-on costs to the wider economy, let alone the individual consumer or non-recipient of the benefits of it.

Sir Martin Donnelly: And we have to look at the wider social impact as part of that initial analysis, and that goes to the RPC.

Q109 **Chair:** So, to Michael Gibbons.

Michael Gibbons: Can I start off by saying I and the RPC, as you might expect, are great believers in the real potential value of the use of impact assessments as a sort of business case—I am a businessman—for why a regulation should be introduced. It is entirely appropriate to look at the impacts on all sectors of society. The BIT provides a very clear incentive for the impact assessment, currently, to get the calculations concerning business and civil society right, because if it does not we are entitled to red rate it, declare it not fit for purpose and send it back round the circle, which Departments find irritating and troublesome. So there is a clear incentive, which Departments respond to, and we have been saying it has an impact.

The difficulty for us is that the impact assessment is not and should not be just about business; it is about the impact on the whole of society,



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including consumers, employees and so on. We found on our own analysis that in 2014 only something of the order of a third of the impact assessments where the wider impact is assessed; this proportion went up somewhat, last year, to 60%; but that range is just too small, and so we wish that to be improved. The incentive that could be considered here is for us to have the ability to red rate—to declare not fit for purpose—an impact assessment that doesn't do the proper complete job that an impact assessment should.

Q110 Chair: Do you look at knock-on costs as well? We are very concerned in this Committee about what we call cost-shunting. When you look at this and want to try and look at the wider impact assessment, there can be, as this advice also highlighted, actual cash costs to consumers—that is easy to identify—but also hidden costs: problems that arise and then maybe have a knock-on effect. For instance, if you get into debt because of a regulation that has changed, that can have a knock-on effect to all sorts of areas. I won't highlight examples, but I think you know what I am driving at.

Michael Gibbons: Yes, absolutely, and, yes, of course we consider, proportionate to the size of the measure, not just the direct costs and benefits but the indirect costs and benefits; but sometimes they are just not there to assess, and all we can do is to comment harshly in our opinion, which we do—but the real incentive is to red rate it. I will give you a particular example. In 40% of the cases we have seen in the last year, proposals showed a net cost to society. Now that cannot be robust. We have no idea why it shows a net cost to society. It could be the Departments have not been able to monetise, and that is fine, but they have not discussed the consequences—or whether they have not troubled to do the work. We don't know what the reason for that is, but it clearly cannot be satisfactory.

Q111 Mr Bacon: You don't know what the reason is, but do you have a guess as to what the reason is? What is your surmise?

Michael Gibbons: We are very evidence based. We don't do a lot of guesswork. It is simply that the Departments, I am sure, are responding to the incentives that they have, and not responding as strongly to the incentives that aren't there, where the incentives are weaker.

Q112 Mr Bacon: Sir Martin, what incentives would you like, to help you do an even better job?

Sir Martin Donnelly: There are some decisions that are clearly for Ministers to take, but it is also the case that the Treasury appraisal—certainly the Green Book—includes the impact on wider society. So that is part of the process that all of us as Departments have to go through. It is also true, as Michael said, that you cannot always monetise some of these issues: the Home Office and the psychoactive substances ban is a classic example where we know there are some consequences that it is difficult to put a monetary value on but which are valuable to society. So it is a complex area. I think the answer is we have all got to follow the guidance that we have been given.



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Mr Bacon: Perfect civil servant answer.

Chair: Sir Martin, we can see why you got your knighthood—among many other reasons, no doubt.

Q113 **Mr Bacon:** What lessons have you learnt from your time in Government about things you would not do again?

Sir Martin Donnelly: Ooh, goodness! How long have you got?

Chair: I think Mr Bacon is suggesting you co-author a book. *[Laughter.]*

Q114 **Mr Bacon:** Are you planning any more competitions any time soon?

Sir Martin Donnelly: Competitions?

Q115 **Mr Bacon:** For naming things?

Sir Martin Donnelly: My family around the world thought that that was fascinating.

Mr Bacon: I am very pleased.

Sir Martin Donnelly: Yes, well.

Q116 **Chair:** If you had not got your knighthood before, you would probably have got it for that. Can I ask about this knotty issue about not including tax? You keep drawing this box about the limits, but you very nearly heard from the FSB and we see from the Report how much of small business burden is the tax system. We hear from the Tax Minister that digitisation is going to make it simpler and easier, but that does not seem to be the impression that businesses have. So are you having any discussions in Government about that? I also wanted to ask Michael Gibbons if he has got any views on that.

Sir Martin Donnelly: You are right—it is a very important point. It is important to businesses, so it must be important to us because we want businesses to want to grow, expand and take on more people. Graham, you have regular sessions with our colleagues in HMRC, which are part of trying to pull this together across the lines of our different tasks.

Q117 **Chair:** Graham, do you want to explain them?

Graham Turnock: Certainly. I do not know how familiar you are with the HMRC, but they have an oversight board called the administrative burdens advisory board, which is chaired by a pretty tough-minded tax accountant called Teresa Graham. They operate a challenge oversight role in relation to admin burdens for HMRC. We see them very much as our partners. We do not just say, "I am not interested in tax," and she does not say, "I am not interested in wider regulation."

We get together at least once every six months—indeed, we had a meeting with them about a month ago. We are doing things like planning joint sessions with the business groups the other side of the summer so we can both hear and understand what they are saying and ensure that we do not say, "It's not my problem; it's theirs." And then there is a much



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more working-level engagement across HMRC and BIS of teams that focus on regulation and tax admin.

Q118 **Chair:** Does that include the auto-enrolment for pensions? Does that come under tax or does that come under you?

Graham Turnock: Auto-enrolment for pensions comes under us.

Q119 **Chair:** So that is in the scope.

Graham Turnock: Yes.

Q120 **Chair:** Okay. Michael Gibbons, do you have anything you want to add to that?

Michael Gibbons: Yes. I heard the FSB as well and it has long been their position that the tax administration should be scrutinised by the RPC. I want to be clear that they were not talking about tax itself; they were talking about the bureaucracy. That is something which we have considerable expertise in assessing. It is clear that the FSB gains confidence from the nature of independent scrutiny that we give it. We take the view that a really independent body can give a much stronger challenge to Government. It can do that by making things much more transparent. It counters biases and it involves experts from across the spectrum. So we stand ready to do that sort of work, but, of course, the decision as to who does it is entirely with the Government.

Q121 **Chair:** I am not sure I quite count that as a bid, but that sounds like a strong recommendation, Sir Martin.

My final point, unless any other colleagues want to come in, is: is the whole system set up to measure this? There is a danger in Whitehall that a system itself becomes a whole set of bureaucracy in its own right. How are you watching the cost of the system that is making sure that Departments are adhering to this Government policy, which is a very big target? As you said, it is a manifesto commitment, but the danger is that the whole system overtakes the actual point of it. How are you guarding against that and monitoring the total cost of implementation?

Sir Martin Donnelly: There is a real balance to be struck, which the Report brings out. It is important—and the BRE does a very good job on this—that the BRE does not do the job of Departments. You can't and you are not resourced to it.

Equally, we do not want to build up a massive bureaucracy in Departments. We need the minimum number of people in each Department. It is right that they make the choice as to how many that is, given the complexity of the regulations that they are dealing with.

We also look to the RPC to try to keep us honest on this. All of us are, rightly, under considerable pressure to use our limited resources as effectively as possible, and this is an internal process at the end of the day. We want to do it with as light a touch and the maximum impact that we can. We have to go on iterating.



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The information that we have got from the NAO will help us to do that. Graham, you and the team will probably step back in a little while and have another look at the integrity of the overall system and see if we can streamline it further, without losing effectiveness.

Q122 **Chair:** But streamlining it further sounds to a person in a Department facing cuts, "Oh, no. Here come the BRE again with more things we have to do to change things." How are you going to ensure that that doesn't happen, that you don't become a burden in your own right?

Graham Turnock: Well, we have got some ideas on the table that we think would make life easier for Departments, which we would like to discuss with our Ministers, whoever they may be going forward.

One thing we could do is look to take out of the system all of the very small measures. You might say that that is another set of exclusions but, actually, a lot of the effort in the system goes into measuring measures that have under £1 million impact. If you took those out of the system, you could potentially save about a third of the time that Departments spend writing impact assessments. We are always thinking about, and putting to Ministers, the choice on matters such as that.

Q123 **Chair:** Okay. With new Ministers in post, we may be challenging in other parts. Sir Martin, while you are here, we have obviously discussed with you a number of times the Sheffield BIS office. Can you give us an update on where things are with that, since the decision to go ahead and close it?

Sir Martin Donnelly: Yes. As you know, that was a very difficult decision for us, particularly for the people involved. We are in a situation where we have been able to give people clarity about the way forward. We have a voluntary exit scheme, on which people are able to have the most advantageous available terms. We are working actively with other Departments and other employers to find opportunities. We have also made clear that everyone who wants one will have a job until, as a minimum, the end of 2017. We will continue to work with them to try to avoid, if we can, any compulsory redundancies.

Q124 **Chair:** Okay. Just one quick final thing. Forgive me, you may not have had sight of this, but I was wondering how the area reviews of post-16 education were going. How many have now been completed? Do you know a rough ballpark?

Sir Martin Donnelly: I can't tell you offhand, but I am pretty sure that we are sticking to plan on those.

Chair: So it is all on schedule. Okay. We are going to come back to that.

Thank you very much for your time on this slightly warm afternoon in Committee room 15. Sir Martin, you can tell your departmental colleagues that there was a queue outside door for this hearing.

I don't know if any of the Blackpool councillors are still here but, if they would like to stay behind for a moment, we can have a quick chat with you



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about how the Committee has gone, if you would like. Would others members of the public and witnesses please leave? The transcript will be published in the next couple of days and the Report is likely to appear in October, given our current schedule.