



Regulatory Impact Analysis Evaluation 2012

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Table of Contents

Executive Summary	i
1 Introduction and Background	1
2 Overview of Approach	2
3 Summary of Findings	6
4 Areas for Improvement	8
4.1 Status Quo and Problem Definition	8
4.2 Objectives	8
4.3 Options Analysis	9
4.4 Implementation and Monitoring, Evaluation and Review	10
4.5 Consultation	11
5 Positive Themes	12
5.1 Presentation of a Range of Options	13
5.2 Clarity about Consultation	13
5.3 Use of the RIS Framework	13
6 Recommendations for Departments	15

Tables

Table ES.1: Summary of Quality Assurance Scores	i
Table 3.1: Summary of Quality Assurance Scores	6
Table 4.1: Possible Template for Summary of Options Analysis	10
Table 5.1: Performance of Sampled RISs	12

Figures

Figure 2.1: RIS Evaluation Matrix	4
Figure 3.1: Previous RIS Quality Assurance Scores (Independent Reviewer)	7

Acronyms and Abbreviations

CBA	Cost-benefit analysis
QA	Quality assurance
RIA	Regulatory impact analysis
RIAT	Regulatory Impact Analysis Team
RIS	Regulatory impact statement

Executive Summary

Castalia was engaged by The Treasury to evaluate 50 Regulatory Impact Statements (RISs) prepared by government departments and submitted to Cabinet. The purpose of this review is to evaluate how government departments are performing against the quality assurance (QA) criteria for regulatory impact analysis, and to identify areas where RISs could be improved.

Summary of the findings of this review

We found that the quality of the RISs submitted to Cabinet varied greatly. In our assessment, out of the 42 RISs initially assessed by their departments or the Regulatory Impact Analysis Team (RIAT) in the Treasury as meeting Cabinet’s RIS requirements (detailed in Cabinet Office Circular CO (09) 8):

- Only 18 RISs (36 percent) actually met the criteria
- 25 RISs (50 percent) partially met the QA criteria, and
- 7 RISs (14 percent) did not meet the criteria.

Table ES.1 compares our overall evaluation with the QA evaluations completed by each department or RIAT (for significant RISs).

Table ES.1: Summary of Quality Assurance Scores

	Meets Criteria	Partially Meets Criteria	Does Not Meet Criteria
Department Assessments	38	7	0
(Castalia Assessments)	(17)	(22)	(6)
RIAT Assessments	2	3	0
(Castalia Assessments)	(1)	(3)	(1)

In the 2008 and 2009 reviews (conducted using a smaller sample), more than 50 percent of the RISs were considered to be inadequate, falling short of meeting the QA criteria in various ways. In the 2011 review, this proportion had fallen to 26 percent. In our review, only 14 percent of RISs that we reviewed did not meet the QA criteria.

While we cannot easily compare changes in departmental performance using RISs and Cabinet Papers from different time periods, it does appear that the proportion of RISs assessed as not meeting or partially meeting the QA criteria is falling.

Main areas for improvement in the quality of regulatory impact analysis

Our review identified four main areas where RISs could be improved to be more complete, convincing, consulted, and clear and concise (the 4Cs required by the quality assurance criteria):

- **Providing a sense of the scale of the problem, and presenting evidence of the problem.** The RIS needs to provide information to decision makers on whether the problem is large or small, and real or theoretical. Many of the RISs that we reviewed did not clearly articulate the consequences of doing nothing, information that would have helped to give decision makers a sense of the need and urgency for intervention. RISs also commonly presented

problems as being of a theoretical nature even when evidence of the actual problem could have been presented to make the RIS more convincing. For example, some problems that may have little evidence in New Zealand could have been convincingly supported using evidence from other countries.

- **Presenting objectives that describe the desired outcome, both in terms of solving the problem identified and achieving broader policy objectives.** We found that the objectives listed in many RISs were too closely tied to solving the problem identified, without providing a basis for thinking about broader policy goals that might be affected by any change. While achieving the objectives should enable the problem to be solved, the RIS must also guard against the risk that the preferred option creates other (potentially serious) adverse consequences. The best way to do this is to start with the broad policy objectives sought in the particular area, and then develop specific objectives that resolve the problem while maintaining consistency with broader policy objectives.
- **Evaluating options consistently against criteria that are related to the stated objectives.** Too many RISs listed a series of objectives, and then evaluated feasible options against a completely different set of criteria. Systematically applying the same criteria to each option provides a useful discipline on the options analysis. Any preferred option needs to emerge as having better met the criteria for assessment relative to alternative options. The RIS should also provide evidence (such as cost-benefit analysis, or the results of similar interventions in other countries) to demonstrate how the preferred option would better meet the criteria than alternative options (including the status quo).
- **Describing what will happen after a decision is made.** The RIS should summarise the next steps in the process, whether this is not to proceed with further work, to analyse the issues further, or to implement a regulatory change. Where changes are proposed, the RIS should present a strategy for implementing change, and identify any risks to successful implementation. The RIS should also describe how stakeholders will be informed of any change, and how the success of the measures will be evaluated. A large proportion of the RISs that we reviewed did not sufficiently describe what would happen after a decision is made.

It was pleasing to see the RIS framework applied consistently, with departures from the standard structure of the RIS only occurring where appropriate. Some of the RISs that we evaluated were of an exceptionally high standard—containing a convincing problem definition, a sensible set of objectives, a thorough options analysis, and a clear description of how changes would be implemented. The on-going challenge is to achieve that level of quality across all departments, and to maintain high standards of the RISs that are submitted to Cabinet.

1 Introduction and Background

Castalia was engaged by the Treasury to evaluate the quality of 50 Regulatory Impact Statements (RISs) that were submitted to Cabinet between 1 November 2010 and 31 October 2011. The purpose of this review is to:

- Provide an independent check on the quality assurance (QA) process that is carried out within government before RISs are submitted to Cabinet, and
- Identify any improvements required in regulatory impact analysis (RIA) to meet the quality assurance criteria set out in guidance material.

Of the 50 RISs that were subject to this review, 45 had been through the internal QA process within their department of origin. The remaining 5 RISs had been reviewed for QA by the Regulatory Impact Analysis Team (RIAT) within the Treasury. RIAT generally becomes involved in the QA process for regulatory proposals that have significant impacts or effects on New Zealand society, the economy, or the environment, or if significant policy and implementation risks have been identified.

Our evaluation follows earlier reviews completed in 2008, 2009 and 2011 by the New Zealand Institute of Economic Research (NZIER).¹ Although the RIA guidance material that RIAT provides to departments has been further developed since 2008, the expectations of RIA have not changed substantially during this period.

This report is structured as follows:

- Section 2 describes our approach to this evaluation
- Section 3 presents a summary of our findings
- Section 4 identifies specific areas for improvement, and describes how these improvements can be made
- Section 5 focuses on the positive themes we identified in this sample of RISs, and
- Section 6 outlines our suggestions for government departments to further improve the quality of their RISs.

¹ Previous reviews can be found at: <http://www.treasury.govt.nz/publications/guidance/regulatory/riareview>

2 Overview of Approach

Our evaluation of 50 RISs was completed using the guidance material and the quality assurance (QA) criteria contained in the Treasury’s Regulatory Impact Analysis Handbook (“the Handbook”). The Handbook was published in November 2009, and is available to RIS authors and QA providers. The Handbook is also available on the Treasury’s website.²

Basing our evaluation on information provided in the Handbook ensures that each RIS is evaluated against known expectations (set almost a year prior to the submission date of the earliest RIS included in our evaluation).

The attributes of a high quality RIS (the “4Cs”)

The Handbook outlines a set of QA criteria consisting of four attributes of a high quality RIS. The criteria aim to ascertain whether:

- The information presented in the RIS is **complete**
- The RIS presents sufficient evidence and analysis to be **convincing**
- Interested stakeholders have been **consulted**, and
- The material presented in the RIS is organised and communicated in a **clear and concise** manner.

While each attribute contributes to the overall quality of the RIS, the requirement for the RIS to be clear and concise is given less importance than presenting material that is complete, convincing, and reflects adequate consultation. In practice, this means that a RIS will generally be assessed as meeting the QA criteria even if the RIS could have been clearer in its description of the issues or options, or could have presented the relevant information more concisely.

The extent to which a RIS demonstrates these attributes also needs to be assessed in proportion to the scale of the problem identified, and the likely impacts of the options evaluated. Relatively minor proposals and “in principle” decisions are not expected to demonstrate a detailed level of analysis in order to meet the QA criteria. In contrast, proposals that have large economic, social, or environmental impacts are expected to conduct detailed analysis of the problem and present convincing alternatives for addressing the problem while achieving broader policy objectives.

There are no strict boundaries between the attributes of a high quality RIS

While separately considering each of the four attributes of a high quality RIS described above, we acknowledge that the attributes overlap and are somewhat interdependent. A RIS that fails to communicate material clearly and concisely may risk appearing incomplete, unconvincing, and poorly consulted. Similarly, the ability of a RIS to be convincing is likely to be compromised if the material presented is incomplete.

The interdependencies between the four attributes inevitably create a degree of subjectivity in identifying the problem areas within a RIS. For instance, internal QA providers may overlook problems with clarity and completeness due to their familiarity with the material presented. In contrast, a third-party QA provider who is unfamiliar with the content may need to see additional background information, and may therefore be prepared to tolerate a RIS that is not concise. As a result, we should expect to observe

² The Regulatory Impact Analysis Handbook and other RIS guidance material can be found at: <http://www.treasury.govt.nz/publications/guidance/regulatory/impactanalysis> (Last accessed 7 June 2012)

some differences in our assessment of whether the quality of each RIS meets the QA criteria and the assessments made through internal QA processes within departments.

The four components of the RIS

To maintain a structured approach to our evaluations, we disaggregated the RIS into four main components, and separately assessed each component of the RIS against the four attributes described above. This approach allows us to provide targeted suggestions on how each RIS could be improved by focusing on how the 4Cs are applied at different points in the RIS. For example, this approach would allow us to identify room for improvements where the problem definition may be complete and convincing, but the options for resolving the clearly identified problem are incomplete.

The four components of the RIS used in this evaluation are:

- **Status quo and problem definition.** This component should provide all relevant background information needed for the reader to understand the current situation. It should identify a clear problem, and describe the nature and scale of the problem.
- **Objectives.** This component should describe what the Government wants to achieve by considering this issue (the desired outcomes from the review).
- **Options analysis.** This component should identify and describe feasible ways to solve the problem, and should analyse the strengths/benefits and weaknesses/costs of each option against the objectives.
- **Implementation, monitoring, evaluation, and review.** This component should describe the steps that will follow Cabinet decisions, such as how any changes will be implemented, whether there are any risks to implementation, and how affected parties will be informed of changes.

Developing and applying a RIS evaluation matrix

This evaluation approach results in the 4x4 matrix shown in Figure 2.1. This matrix outlines our expectations of a high quality RIS. Consultation tends to cover material contained across all components of a RIS, and is therefore presented as a single area for evaluation. This format was revised accordingly where consultation clearly relates to one component only (for example, where stakeholders were consulted on the problem definition and preferred option separately).

We used the matrix to evaluate each RIS, assessing whether each component meets, partially meets, or does not meet the attributes described in the QA criteria. Our individual evaluations were then submitted to the government department or agency that prepared the RIS.

Figure 2.1: RIS Evaluation Matrix

	Status Quo & Problem Definition	Objectives	Options Analysis	Implementation, Monitoring, Evaluation & Review
Complete	<p>Is a problem identified and explained?</p> <ul style="list-style-type: none"> Describe the key features of the current situation (including any existing legislation, regulations, and relevant features of the market). Explain relevant decisions that have already been made. Identify the problem, and describe the costs and benefits under the status quo (i.e. the outcomes expected without intervention). 	<p>Do the objectives describe the desired outcome?</p> <ul style="list-style-type: none"> Identify relevant policy objectives in addition to the purpose of the RIS. State whether any constraints exist, such as time or budget. 	<p>Are all possible options identified and described?</p> <ul style="list-style-type: none"> Identify the full range of practical options (regulatory and non-regulatory) that may wholly or partly achieve the objectives. Within any regulatory options, identify the full (viable) range of regulatory responses, including the range of settings that could be adopted 	<p>Is an implementation path identified and explained?</p> <ul style="list-style-type: none"> Summarise how the preferred option(s) will be given effect, including timing, communication, transitional arrangements, and any enforcement strategies. Outline plans for monitoring and evaluating the preferred option, including performance indicators and how the necessary data will be collected.
Convincing	<p>Does the problem need to be addressed?</p> <ul style="list-style-type: none"> Describe the scope of the problem and its impacts. Identify the root cause of the problem (not just the symptoms). Demonstrate the scale of the problem using empirical or anecdotal evidence. 	<p>Will the objectives identify the best option?</p> <ul style="list-style-type: none"> Identify any potential trade-offs between the objectives. Explain the Government's desired outcomes in the context of the problem, while ensuring specificity does not unduly limit the range of options. 	<p>Has the best option been selected?</p> <ul style="list-style-type: none"> Evaluate the options against the objectives, ensuring the analysis is commensurate with the size and complexity of the problem, the magnitude of the impacts, and risks. Identify costs and benefits under preferred option(s) for stakeholders. Compare options against consistent criteria. 	<p>Is the implementation path realistic?</p> <ul style="list-style-type: none"> Identify any implementation risks, and describe how these risks will be mitigated. Describe how the proposal would interact with, or impact on, existing regulation—including scope to reduce or remove any existing regulations. Explain how the monitoring and evaluation process will identify if any additional changes are needed.
Clear & Concise	<p>Is the problem clearly described?</p> <ul style="list-style-type: none"> Explain the problem in the context of the status quo. Use tables and subheadings where appropriate. 	<p>Is it clear how the objectives will be applied?</p> <ul style="list-style-type: none"> Clearly identify hierarchy and any relationships between the objectives. 	<p>Is the analysis of options presented consistently?</p> <ul style="list-style-type: none"> Summarise and present the outcome of the options analysis in a consistent format. 	<p>Are the implications clear for affected parties?</p> <ul style="list-style-type: none"> The information is presented in a clear way for affected parties to understand any resulting implications.
Consulted	<ul style="list-style-type: none"> Explain who has been consulted and what form the consultation has taken. Summarise key feedback received, with emphasis on any significant concerns raised about the preferred option, and how the proposal has been altered to address these concerns (and if not, why not). If there was limited or no consultation undertaken, state the reasons why. 			

Determining an overall score for each RIS

After evaluating the individual components within a RIS, we then scored its overall quality—whether it meets, partially meets, or does not meet the QA criteria as a whole. The scoring is clearly influenced by how the RIS performs on the individual components assessed in the matrix. If a RIS performed poorly across any of the four key components of the RIS, then it is unlikely to meet the QA criteria. Similarly, if a RIS performed poorly on one of the key attributes of a good RIS, it is unlikely to meet the QA criteria.

However, we have not mechanically used our evaluation of the individual components of the RIS (for example by adding up the number of boxes in the matrix where the RIS was inadequate). Instead, we based our overall score for each RIS on whether the RIS fulfils its core objectives of allowing:

- Cabinet to make well-informed decisions, and
- External parties to understand how any proposed changes would affect their interests.

Again, this approach involves a certain amount of subjectivity and professional judgment. But importantly, this approach stands back from the individual assessment of each attribute and component of the RIS to evaluate its ability to fulfil its primary purpose as a decision making and communication tool.

3 Summary of Findings

The quality of the RISs we evaluated varied greatly. Those that met the QA criteria maintained high quality standards throughout the RIS, with a convincing problem definition, a sensible set of objectives, a thorough options analysis, and a clear description of how changes would be implemented. RISs that partially met the criteria were typically incomplete, or were unconvincing. Those that did not meet the criteria exhibited fundamental weaknesses in one or more components that impacted on the RIS’s ability to inform decision makers and stakeholder.

Summary of overall QA assessments

The distribution of scores among the 50 RISs is presented in Table 3.1, and compared with the assessments carried out by each government department or RIAT. We evaluated many RISs more harshly than the departments or RIAT, but in a small number of cases, we judged RISs as meeting criteria when departments considered the RIS as only partially meeting the criteria.

Most of the differences in assessment did not indicate significant discrepancies in review standards. Where we judged RIAT-assessed RISs harsher, for instance, the change was from ‘meets’ to ‘partially meets’ and from ‘partially meets’ to ‘does not meet’.

Table 3.1: Summary of Quality Assurance Scores

	Meets Criteria	Partially Meets Criteria	Does Not Meet Criteria
Department Assessments	38	7	0
(Castalia Assessments)	(17)	(22)	(6)
RIAT Assessments	2	3	0
(Castalia Assessments)	(1)	(3)	(1)

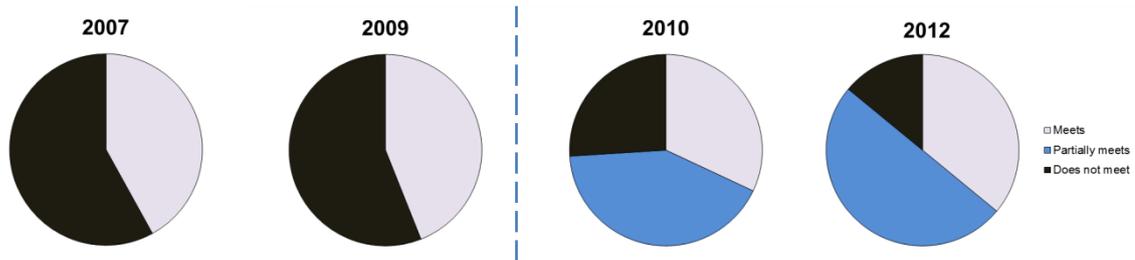
These assessments seem to confirm improvements in regulatory impact analysis

Together departmental and RIAT assessments considered that 60 percent met the criteria, but we found that 36 percent met criteria.

Although these scores are not directly comparable to previous evaluations (due to the degree of subjectivity involved in scoring and changes in methodology for the 2010 review), it is interesting to note that the 2010 review³ returned similar results to the 2012 review—departments deemed that 64 percent of RISs met the quality assurance criteria, but NZIER considered that 32 percent of RISs met the QA criteria.

³ Published in 2011.

Figure 3.1: Previous RIS Quality Assurance Scores (Independent Reviewer)



Source: RIS Evaluation Reports (NZIER 2008, 2009, 2011). The line indicates when the evaluation criterion changed from “adequate/inadequate” to “meets/partially meets/does not meet”.

More importantly, there appears to have been an increase in the proportion of RISs that are deemed to meet, and a decrease in the examples that do not meet the QA criteria. This trend is encouraging, and suggests that departments:

- Are growing increasingly familiar with the Treasury’s RIA guidelines, QA criteria, and expectations of quality
- Have embedded the QA criteria into internal review processes designed to measure and ensure an acceptable quality, and
- Have enhanced their RIA capabilities, and are more confident of being able to meet the QA criteria as a result.

The reduction in the number of RISs that are deemed to not meet the QA criteria is also evidence that RIA is improving across departments. In the 2008 and 2009 reviews (conducted using a smaller sample), more than 50 percent of the RISs were considered to be inadequate. In the 2011 review, this proportion had fallen to 26 percent. In our review, the proportion of RISs that did not meet the QA criteria has fallen again to 14 percent. (It should be noted that after the 2009 Evaluation, the criterion changed from “adequate/inadequate” to “meets/partially meets/does not meet”, so while the different systems do not exactly align, we believe that ‘inadequate’ and ‘does not meet’ can be considered to be reasonably equivalent.)

While these high-level indicators are encouraging, our evaluation also identified specific aspects of a RIS that departments should aim to improve. We observed several problematic themes within RISs that partially met or did not meet the QA criteria. Even RISs that met the QA criteria could benefit from further improvement. These areas for improvement are discussed in the following section.

4 Areas for Improvement

We observed some systemic weaknesses in each of the RIS components. The main areas that we believe can be improved in each component of the RIS are discussed below.

4.1 Status Quo and Problem Definition

One strong theme we observed in RISs that partially met or did not meet the QA criteria is the failure to **clearly identify which decisions have already been made**, and what issues require further decisions. Although only one fifth of RISs failed to do this, it caused flow-on problems for the rest of the RIS. For example, failure to clearly identify previous decisions often results in the scope of the problem being poorly defined, which makes other parts of the RIS hard to follow. Presenting a clear timeline of relevant decisions and events would help to provide context for the problem, and would ensure that the RIS creates a distinction between the problem presented and the issues that have been addressed through previous or parallel work.

A well-defined problem should not only be articulated succinctly (for example by stating in one sentence what key problem the RIS seeks to address), but should also be **supported with evidence on the scale of the problem** in order to be convincing. Just over half of all RISs provided some evidence on the scale of the problem. Many of these RISs had clearly stated problems, but failed to substantiate the need, or urgency, for government intervention. RISs with strong problem definitions often used a combination of empirical and anecdotal evidence to demonstrate the scale of the problem. Where the required information is not available, the RIS should establish a strong theoretical basis for concern, for example by using hypothetical examples. Providing an adequate sense of scale is essential to convince the reader that the problem warrants intervention.

The RIS should serve as a standalone document, and must therefore **present sufficient information to enable the reader to develop a sound understanding of the issues** discussed. In total, 28 of the 50 RISs failed to present sufficient background information on the problem to allow a layperson to understand the status quo and problem definition.

We found that several RISs did not include useful background that was contained in Cabinet Papers—in some cases making it very difficult for the RIS to be understood in isolation. This suggests that RIS authors continue to fail to understand the different purposes served by the RIS and Cabinet Paper (as highlighted in previous evaluations). While the RIS must be published, the Cabinet Paper does not: this means that members of the public may have to rely on the contents of the RIS to understand the issues. The increasing reliance on RISs by external parties trying to understand the implications of regulatory interventions on their interests means that departments need to consider a broader readership when writing RISs.

4.2 Objectives

The Objectives section was weak in a large proportion of RISs that we evaluated as partially meeting or not meeting the QA criteria. Several RISs presented objectives that were overly specific, unnecessarily narrowing the range of possible options to remedy the problem (and in some cases clearly favouring the preferred option). This damages the overall credibility of the analysis. The **objectives should be sufficiently specific to the issues, but should not dictate the desired solution** to the problem. We found that a third of RISs presented objectives that were either too specific to the preferred option, or too broad to allow for a meaningful comparison.

We also observed that a fifth of all RISs failed to **include broader relevant policy objectives**, especially when the range of remedial options clearly had the potential for wider impacts. RIAAT's QA guidance directs departments towards objectives that "relate logically to, and fully cover, the problem definition", and Section 2.5 of the RIS Handbook says that objectives "should be specified broadly enough to allow consideration of all relevant alternative options". In other words, while achieving the objectives should enable the problem to be solved, RISs must also guard against the risk that preferred options have unintended consequences.

Good RISs **present high-level objectives, then disaggregate them** into more specific criteria. This approach encourages all relevant policy objectives to be considered, while also demonstrating how options will be assessed using specific criteria. We also believe that it is appropriate for RISs that deal with complex issues to present first-order and second-order objectives. For example, it is logical for a RIS examining regulatory funding issues to include objectives that relate to the overall mandate of the regulator as well as more targeted objectives for assessing alternative funding mechanisms. The third of RISs that successfully presented this distinction between first and second order objectives were much easier to follow. We recommend that RIS authors adopt this approach where applicable.

Given that the objectives presented in the RIS essentially serve as criteria for the options analysis, they should **clearly describe the desired or acceptable outcome**. Two thirds of RISs achieved this at a high level, by explicitly stating if objectives have varying priorities, and identifying how trade-offs will be resolved where competing objectives are presented. RISs that excelled in this area used the objectives to develop a concise set of criteria to evaluate options—clearly setting out how the options would be measured and compared in their ability to achieve the stated objectives.

4.3 Options Analysis

A strong theme in RISs that partially met or did not meet the QA criteria was the failure to **consistently analyse each option** (preferably against the stated objectives or a clear set of criteria). In many cases, options appeared to be dismissed without being measured against the objectives. As a result, the analysis appeared to be biased towards a particular option (which was often analysed in greater detail). Although consistent analysis of options is crucial to the credibility of the RIS, only 40 percent of the RISs we assessed did this effectively.

We also found that over half of the RISs lacked **evidence to substantiate the selection of a preferred option**. Very few RISs drew on international experience with particular regulatory choices, or modelled the quantitative impacts of each option. Instead, most RISs simply described the reasons for preferring a particular option, which in some cases was not commensurate with the complexity and likely impacts of proposed changes. As a decision-making tool, the RIS needs to provide well-supported recommendations.

The use of summary evaluation tables is effective to highlight the strengths and weaknesses of identified options. The 40 percent of RISs that used summary tables were much easier to follow, and were often more convincing than RISs that did not use summary tables. Using a table also forces the RIS author to assess each option consistently against the objectives, making it easier for the reader to see which option meets the objectives best. An evaluation table template is presented in Table 4.1.

Table 4.1: Possible Template for Summary of Options Analysis

	Objectives		Impacts			Net Economic Impact
	A	B etc...	Costs	Benefits	Risks	
Option 1	Meet/Fail	Meet/Fail				+/-
Option 2	Meet/Fail	Meet/Fail				+/-
Option 3	Meet/Fail	Meet/Fail				+/-

One enduring problem that departments appear to have is in **analysing the economic impacts of particular options**. The RIS guidance material includes good information, and Treasury’s Cost Benefit Analysis (CBA) Primer is an excellent reference.⁴ While a full CBA may require considerable resource or expertise for difficult policy problems, too often no attempt is made to look at the high-level, longer-term impacts of a proposed government action. Identifying the individual costs and benefits, explaining the specific causation from each intervention option, and coming to a conclusion about the net benefits and their likelihood, should be standard practice.

These impacts often lurk below the surface of a RIS, but have the potential to overwhelm any apparent near-term costs or benefits of solving the immediate problem. A concentrated focus on net economic impact analysis—in terms of the effect on total welfare—should include considerations of how other government actions and interactions might change behaviour. We found several cases where the effects of a preferred option would have impacts for other departments or affected parties beyond those described in the RIS.

We also found some confusion about how options should be evaluated where the proposed changes relate to a decision that has been made at a Ministerial level (such as confidence and supply agreements), limiting a department’s scope to act. Some RISs took the approach signalled in a confidence and supply agreement as a given, and focused on how best to implement that approach. Other RISs compared the approach in the confidence and supply agreement against alternative ways of achieving the desired outcome. Although this issue only relates to a small number of regulatory proposals, the issues addressed in confidence and supply agreements are often significant or high-profile.

Confidence and supply agreements are one example where an earlier decision has been made limiting the scope of analysis and the feasible options, but there are other cases where proposed interventions follow a specific direction by Ministers or Cabinet. In these cases, we think it is best that the department contact RIAT early and discuss the best way of a) conducting meaningful and useful analysis, and b) communicating where and how departmental discretion has been limited.

4.4 Implementation and Monitoring, Evaluation and Review

The Implementation and Monitoring, Evaluation and Review sections were the weakest component of many RISs. Even RISs that were excellent in other areas were often unsatisfactory in this area.

⁴ <http://www.treasury.govt.nz/publications/guidance/planning/costbenefitanalysis/primer>

- **Over half the RISs we evaluated suffered from a general lack of detail in describing the implementation strategy.** Information describing when the changes will be implemented, whether any transitional measures will be put in place, and how the changes will be communicated to affected parties should be included in the Implementation Section. Some RISs we assessed simply stated which regulations would be changed, rather than detailing the ‘on-the-ground’ changes, such as how public services would be delivered differently.
- **Two thirds of sampled RISs failed to identify and address perceivable implementation risks.** In some cases, significant concerns were noted during consultation, but do not appear to be considered in the implementation strategy. This theme was also noted in the 2011 review.
- **Seventy percent of sampled RISs failed to present information on how changes will be communicated to affected parties.** It should be possible to present information describing how stakeholders will be informed of any changes, and whether stakeholders will have any further opportunity to comment on the proposal in a clear and concise manner.
- **Sixty percent of sampled RISs had unconvincing monitoring and evaluation plans,** often using a generic statement that the changes would be monitored through existing systems without explaining whether those systems tracked the necessary variables. Several RISs stated that there was insufficient information to define the scale of the problem or to assess the impact of the preferred option, yet in the same RIS stated that existing monitoring systems to review the effectiveness of changes would be utilised. Where information gaps have been identified, the monitoring plan should present credible ways to fill those gaps so the impacts of proposed changes can be adequately measured. We appreciate that pre-committing to monitoring and evaluation activities can be difficult in advance of receiving funding for those activities; however, departments should explain what variables would be used to track the impacts of planned changes.

The RIS should enable affected parties to identify how any changes proposed in the RIS would affect them. These weaknesses in the implementation and monitoring sections of the RISs limit the value of the RIS as a tool for communicating with stakeholders.

4.5 Consultation

All of the RISs were consulted on to some degree. As noted in previous RIS reviews, the consultation process continues to be generally well-described—typically naming the parties consulted and stating whether there is overall support or opposition for the preferred option.

The main area that most RISs should aim to improve is in **presenting consultation feedback**. Although two thirds of RISs made some statement about the feedback they received during consultation, few RISs explained whether changes have been made in response to concerns raised during consultation or why other concerns have been dismissed. Presenting the views of major stakeholders is crucial to demonstrating the feasibility of the preferred option or recommendations. RISs that fail to provide this information risk appearing non-transparent.

5 Positive Themes

The 50 RISs we evaluated continued to be strong in areas highlighted in previous reviews. In addition to being drafted in plain English with minimal use of jargon, most RISs:

- Identified a sufficient range of feasible options, both regulatory and non-regulatory
- Clearly described the scope and scale of consultation, and
- Applied the RIS framework consistently—only departing from the standard structure where appropriate.

We elaborate on these specific themes below.

Characteristics of a Good RIS

We identified several characteristics of good RISs, and assessed whether each of the 50 RISs exhibited or did not exhibit each characteristic, as summarised in Table 5.1 below. Some weaknesses were widespread, but did not have a significant impact on our assessments. For example, only 30 percent of RISs explained how the proposed changes would be communicated to affected parties. Other weaknesses, although less common, more fundamentally detracted from the overall quality—although only 20 percent of RISs failed to identify broader public policy objectives, these failures also made it hard to compare alternative options and identify the best option.

Table 5.1: Performance of Sampled RISs

RIS Component	Characteristic of a Good RIS	Proportion of RISs
Problem definition	Clearly identifies previous relevant decisions	78%
Problem definition	Supported with evidence on scale of problem	52%
Problem definition	Presents sufficient information to enable the reader to develop a sound understanding of the issues	44%
Objectives	Sufficiently specific to the issues, but does not dictate the desired solution	68%
Objectives	Includes broader relevant policy objectives	80%
Objectives	Presents high-level objectives, then disaggregates into more specific criteria	30%
Objectives	Clearly describes the desired or acceptable outcomes	64%
Options	Consistently analyses each option	40%
Options	Provides evidence to substantiate the selection of a preferred option	54%
Options	Uses summary tables to effectively present the options analysis	40%
Options	Deals appropriately with decisions that have been made at a Ministerial/Government level (e.g. confidence & supply)	70%

RIS Component	Characteristic of a Good RIS	Proportion of RISs
Implementation	Provides detail on implementation strategy	44%
Implementation	Identifies implementation risks	36%
Implementation	Presents information on how changes will be communicated to affected parties	30%
Implementation	Explains monitoring and evaluation plans	42%
Consultation	Describes feedback received during consultation	64%

5.1 Presentation of a Range of Options

Departments went to some effort to explore other ways of solving the problems identified. While the analysis of alternatives to the preferred option were not always to the same level of detail as the discussion of the preferred option (particularly in the assessment of economic impacts), we think this is appropriate—particularly when the length of a RIS might detract from its clarity.

It is not necessary to document the entire suite of potential impacts simply as a thought-experiment when the preferred option is clear. On the other hand, the reader needs some assurance that officials have had an open mind about the policy process, and that the preferred option is indeed the best from an objective stand point.

We observed that presentation and clarity was a feature of good options analysis. Placing options in a summary table makes it easier to see where choices are mutually exclusive or where alternatively they could complement each other by dealing with different elements of the problem, for instance. By assessing options against consistent criteria in the Objectives section, and making a concerted attempt to gather data about impacts, some RISs were exceptionally clear, and convincing.

5.2 Clarity about Consultation

RISs treated consultation very differently. Several were poor, presenting little substantive feedback or failing to note how proposals were received (discussed in the previous section). While the poorer examples at least duplicated the material from the accompanying Cabinet Paper, the information was not always useful.

Explaining how public consultation was conducted (how long stakeholders had to make submissions, how many people attended each public meeting, etc) is useful information for decision makers (and external parties) considering contentious policies and their claimed impacts. Similarly, how the final decision will be communicated to stakeholders and the general public should be outlined. This should be simple information that can be described concisely, and the RISs we saw that attempted to do this did it well.

5.3 Use of the RIS Framework

The adherence to the template was admirable, and in some cases was probably quite difficult. The template does not easily accommodate problems that are multi-faceted, related to status quo regulation rather than specific market failures, or ‘issues’ that are risk-based. Departures from the template were largely well-considered and appropriate, and generally adapted the RIS framework, retaining the essential elements.

This is positive, suggesting the substantive RIS elements can be and are being applied in the general policy process. RIA is simply good, open minded and transparent policy analysis, so the preparation of a RIS should not be an onerous task if undertaken early.

6 Recommendations for Departments

To achieve further improvements in the quality of RIA (and therefore RISs) across government departments, we consider that departments should focus on the specific issues identified in Section 4 and seek to follow the good practice identified in Section 5. In our view, achieving progress in these areas would be best achieved through a combination of RIS coaching, and specific feedback to individual analysts and managers.

We recommend the following measures:

- **Disaggregate the QA criteria into more specific components.** We found the QA criteria to be clear in principle, but not always easy to apply. This is because the informational requirements identified in the current guidance material do not directly link to specific aspects of the QA criteria. Specifically identifying the information that needs to be presented in each RIS component from the QA criteria (as presented in the RIS evaluation matrix in Figure 2.1 above) allows expectations to be clearly communicated. For example, the matrix makes it clear that for a problem definition to be convincing, the author should include evidence to demonstrate the scale of the problem and its consequences.
- **Circulating examples of best practice techniques and RISs.** Effective styles of communication and presentation should be made available to RIS authors. There are relatively simple tools that can help improve the clarity of communication, such as beginning the problem definition with “the problem that this RIS addresses is...” and using a summary table in the options analysis section. Examples of particularly good RISs should be circulated within departments, perhaps after discussion with RIAT. As part of this review, we found a small number of outstanding RISs that could be used for this purpose.
- **Be constructive and communicative.** Even for in-house assessments, it is easy to adopt an overly critical perspective to reviewing RISs, particularly when the Government has set a high bar for justifying new regulation. We think that while it is important to maintain a critical perspective to the substance of the analysis and the choice of evidence base, analysts and managers are more likely to buy-in to the RIA regime if reviewers try to assist in the RIS preparation and provide prompts for how to improve documents. This is particularly the case when inexperienced analysts, or teams without significant policy expertise, are tasked with ‘explaining’ a difficult issue—without necessarily being responsible for the policy direction.

We are aware that individual departments often have RIS panels, with members ‘championing’ good practice, and it is likely that the above actions occur in the higher-performing agencies. We think that these forms of guidance can be further emphasised, and would build on the written guidance material made available by RIAT—particularly where repeated mistakes are being made.

Disaggregating feedback into the RIS components (Problem, Objectives, Options, etc) and keeping the underlying policy responsibilities of departments related to the RIS components will also contribute towards improving RIA across government departments. Finally, it is important that departments understand that the RIS is an integral policy document, and should not be treated as an afterthought when the Cabinet Paper is complete.



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