



Key Issues for Better Regulation

**Including reflections on the British experience of ‘One-in,
Two-Out’**

Michael Gibbons

Chairman

Regulatory Policy Committee

2nd September 2013



UK's Better Regulation Programme

- Priorities: less regulation, better regulation, and regulation as a last resort

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



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

UK Better Regulation Programme

- **Managing domestic regulation**

- ‘One-in, Two-out’ rule for all new legislation
- Red Tape challenge to review stock of existing legislation
- Focus on Enforcement



- **Managing EU regulation**

- Working with other Member States to call for EU level efforts to reduce regulatory burden



The Coalition Agreement

- *“We will cut red tape by introducing a ‘one-in, one-out*’ rule whereby no new regulation is brought in without other regulation being cut by a greater amount.*
- *We will end the culture of ‘tick-box’ regulation, and instead target inspections on high-risk organisations through co-regulation and improving professional standards.*
- *We will impose ‘sunset clauses’ on regulations and regulators to ensure that the need for each regulation is regularly reviewed.*
- *We will end the so-called ‘gold-plating’ of EU rules, so that British businesses are not disadvantaged relative to their European competitors.”*

Principles of Better Regulation

- The government will regulate to achieve its policy objectives only:
 - when it has demonstrated that satisfactory outcomes cannot be achieved by non-regulatory approaches
 - where analysis of the costs and benefits demonstrates that the regulatory approach is superior by a clear margin to alternative, self-regulatory or non-regulatory approaches
 - where the regulation and the enforcement framework can be implemented in a fashion which is demonstrably **proportionate**; **accountable**; **consistent**; **transparent** and **targeted**
- There will be a general presumption that regulation should not impose costs and obligations on business, social enterprises, individuals and community groups unless a robust and compelling case has been made



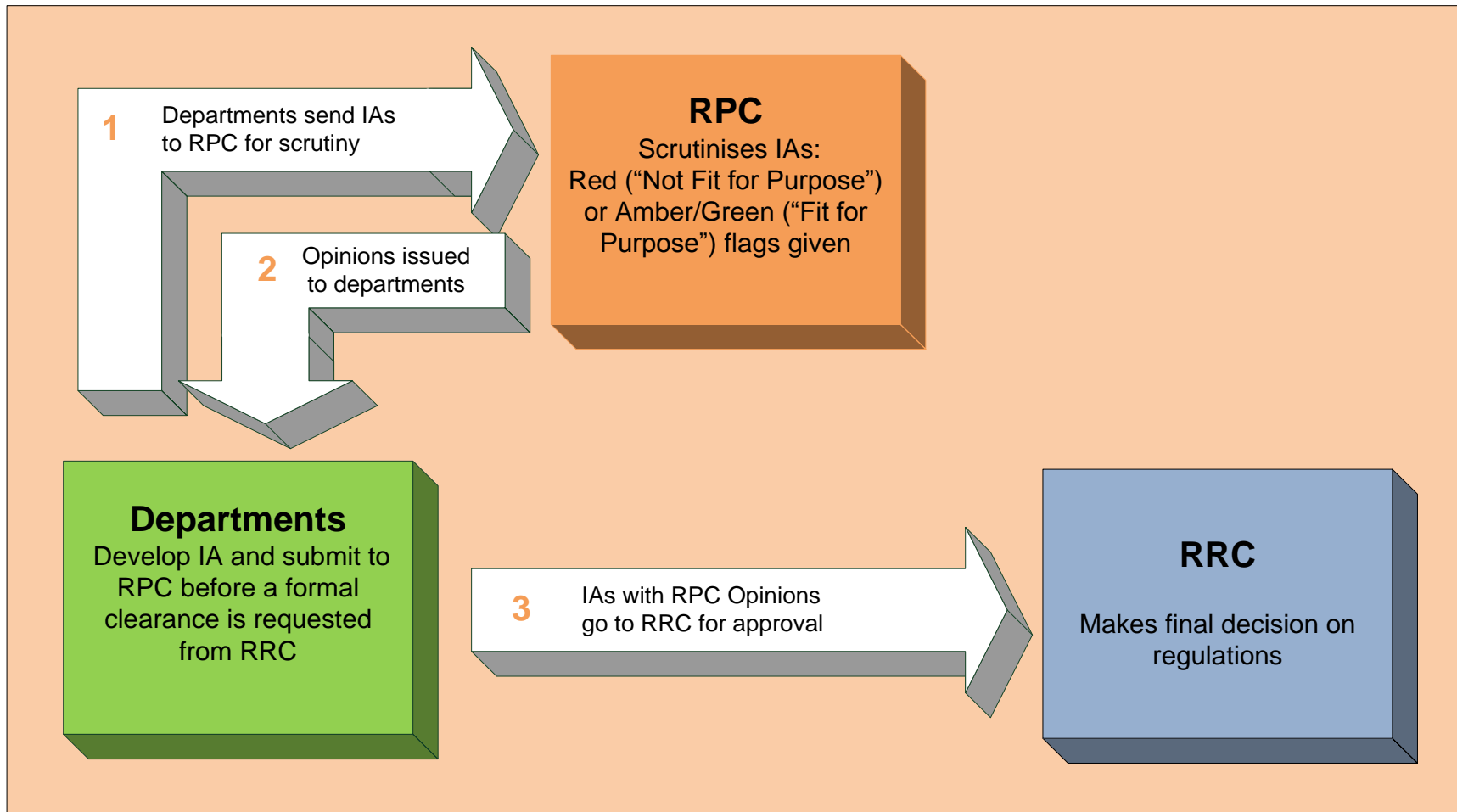
The Role of the Regulatory Policy Committee



The Regulatory Policy Committee (RPC)

- An independent advisory body providing external scrutiny on the quality of evidence for government regulatory proposals
- Eight Committee members:
 - Michael Gibbons, Chair Energy Sector, Business
 - Sarah Veale Trades Union Congress, Union Group
 - Martin Traynor British Chambers of Commerce, Business Group
 - David Parker Academic, Professor of Economics
 - Jeremy Mayhew Adviser / Councilman, Public/Private Sector
 - Alex Ehmman Institute of Directors, Business Group
 - Ian Peters CEO of the Institute of Internal Auditors, Business
 - Ken Warwick Consultant, Economist
- Supported by a Secretariat of civil servants
 - Policy officials and economists

The Role of the RPC in the Clearance of Major (over £1m) Regulatory Proposals



‘RAG’ Ratings

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

2012 Key Figures

- We issued 656 Opinions in 2012, 534 of which were first time submissions.
 - 19% of the main Opinions raised major concerns ('Not Fit for Purpose').
 - 30% of the main Opinions were Green – the level we would ultimately like to see all IAs reach.

Red / Amber / Green Performance 2012

DEPARTMENT - 2012 FULL IA's	IAs	RED	AMBER	GREEN	Fit for Purpose	2011
Cabinet Office	1	0	1	0	100%	80%
Foreign & Commonwealth Office	1	0	0	1	100%	N/A
Ministry of Defence	1	0	0	1	100%	0%
Health and Safety Executive	15	1	5	9	93%	91%
Department for Transport	50	6	19	25	88%	77%
Department of Energy and Climate Change	25	3	9	13	88%	82%
HM Treasury	15	2	8	5	87%	89%
Department for Business, Innovation and Skills	92	15	49	28	84%	77%
Department for Environment, Food and Rural Affairs	61	10	26	25	84%	70%
Department for Work and Pensions	18	3	8	7	83%	42%
Department for Education	39	7	20	12	82%	86%
Department for Culture, Media and Sport	17	3	9	5	82%	76%
Department for Communities and Local Government	29	7	15	7	76%	69%
Ministry of Justice	14	3	11	0	76%	69%
Department of Health	31	10	16	5	68%	47%
Home Office	31	10	17	4	68%	50%
Food Standards Agency	2	1	1	0	50%	50%
Scotland Office	3	2	1	0	33%	N/A
TOTALS	445	83	215	147	81%	72%

The RPC's Seven Recommendations

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



The 'One-in, Two-out' Rule

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“We will cut red tape by introducing a ‘one-in, one-out’ rule whereby no new regulation is brought in without other regulation being cut by a greater amount.” (May 2010)

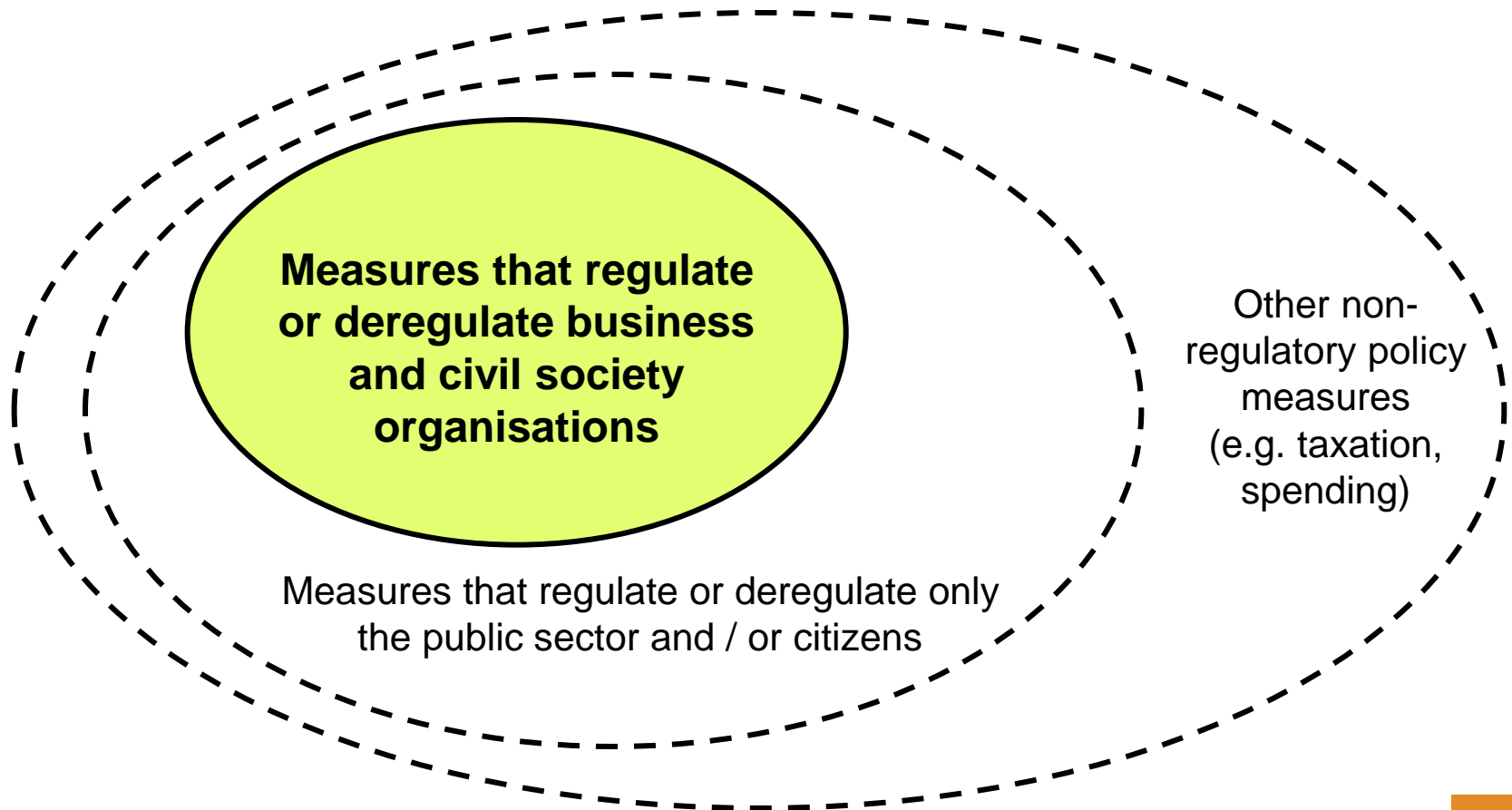
The Coalition:
our programme
for government

 HM Government

- Objectives
 - bear down on cost of regulation
 - change culture across Government
- From 2013, rule has changed to 'One-in, Two-out' (OITO), reflecting increased political ambition

‘One-in, Two-out Scope’ and Focus

- Priority is measures that regulate or deregulate business



OITO Mechanism

STATUTORY INSTRUMENTS	
2012 No. 2405	
COMPANIES	
The Accounting Standards (Prescribed Bodies) (United States of America and Japan) Regulations 2012	
Made - - - -	17th September 2012
Coming into force - -	1st October 2012
<p>The Secretary of State, in exercise of the powers conferred by sections 464(1) and (3) and 1292(1)(a) of the Companies Act 2006(a) makes the following Regulations:</p> <p>Citation, commencement and expiry</p> <p>1.—(1) These Regulations may be cited as the Accounting Standards (Prescribed Bodies) (United States of America and Japan) Regulations 2012.</p> <p>(2) These Regulations come into force on 1st October 2012.</p> <p>(3) These Regulations cease to have effect on 31st December 2015.</p> <p>Prescribed bodies</p> <p>2. Subject to regulations 3, 4, 5 and 6, the following are prescribed bodies for the purposes of section 464 of the Companies Act 2006—</p> <p>(a) the body known as the Financial Accounting Standards Board(b), and</p> <p>(b) the body known as the Accounting Standards Board of Japan(e).</p> <p>3. The Financial Accounting Standards Board is a prescribed body only in respect of the group accounts of parent companies with securities registered with the Securities and Exchange Commission of the United States of America.</p> <p>4. The Accounting Standards Board of Japan is a prescribed body only in respect of the group accounts of parent companies with securities admitted to trading on the Fukuoka Stock Exchange, the Nagoya Stock Exchange, the Osaka Securities Exchange, the Sapporo Securities Exchange, the Tokyo Stock Exchange and the Tokyo Financial Exchange.</p> <p>5. The bodies listed in regulation 2 are not prescribed bodies in respect of the group accounts of parent companies with securities admitted to trading on a regulated market in an EEA State.</p> <p>6. The bodies listed in regulation 2 are prescribed bodies only in respect of the group accounts for financial years ending on or before 31st December 2014.</p>	
<p>(a) 2006 c. 46.</p> <p>(b) The Financial Accounting Standards Board is owned by the Financial Accounting Foundation, a Delaware corporation with file number 0733152.</p> <p>(c) The Accounting Standards Board of Japan is owned by the Financial Accounting Standards Foundation of Japan.</p>	

- **Impact Assessment**
- **Cost and benefits to business calculated for each new proposed regulation**
- **Net cost is scored for OITO ('Equivalent Annual Net Cost to Business' or EANCB)**
- ***EANCB subject to independent verification by Regulatory Policy Committee***

OITO Control



- Each Department (Ministry) must ensure that the value of new INs is offset by OUTs of double that amount
- Exceptional Cabinet clearance (collective agreement) will need to be sought for new INs that do not meet this condition

RPC Responsibilities for OITO

- Validating the direction of regulatory proposal – an ‘IN’ or an ‘OUT’
- Validating that the size of the ‘IN’ or ‘OUT’ being claimed is robust and in accordance with the OITO Methodology
 - If an ‘OUT’ is overestimated, business will be exposed to greater regulatory burdens in the future than it *actually* has had removed from it today
 - If an ‘IN’ is underestimated, business will receive a smaller benefit in the future to compensate for the burden now
 - Excluding any impacts on the analysis of pension reforms, we estimated that our scrutiny has led to a net difference between numbers initially claimed by departments and those finally published on SNRs 1 to 6 of over £350m.

OIO Examples

OIOO / OITO Classification



*Regulatory
Measure*

Cost = £20M
Benefit = £5M
Net Cost = £15M

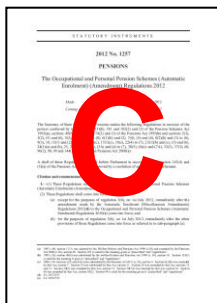
£15M 'IN' (OIOO)
£30M 'IN' (OITO)



*Regulatory
Measure*

Cost = £2M
Benefit = £2M
Net Cost = £0M

'Zero net Cost'



*Deregulatory
Measure*

Cost = £2M
Benefit = £12M
Net Cost = -£10M

£10M 'OUT'

OIO Transparency

THE SIXTH STATEMENT OF NEW REGULATION

Better Regulation Executive

JULY 2013

Table 1: Net Regulatory Cost / Benefits to Business (includes One-in, One-out and One-in, Two-out) from January 2011 to December 2013

Forecast Net Regulatory Cost (in black) and Benefits (in red) to Business from OIO and OIO (shaded grey)						
SNR1	SNR2	SNR3	SNR4	SNR5	SNR6	Forecast Sum Total ¹
-£3,288m	-£221m	£9m	£2,664m	-£119m	£24m	-£931m

- Government reports publically on performance every six months, as part of the 'Statement of New Regulation' (SNR)
- SNR also lists the measures expected to come into force over the following six months



Expansion of RPC Remit

Expansion of Remit – Challenger Businesses

- **Challenger Businesses**
 - September 2012 – Business and Enterprise Minister announced new independent scrutiny of the rules and regulations that are barriers to growth for businesses
 - RPC to investigate where businesses, seeking to enter new markets or expand, are being unjustifiably hampered by rules, regulations and behaviours, and to report publicly

Expansion of Remit - SMBA

- **Small and Micro Business Assessment**
 - June 2013 – Business and Enterprise Minister announced new Small and Micro Business Assessment (SMBA)
 - RPC to provide as part of an opinion on IAs whether regulatory proposals meet the new SMBA, which requires robust evidence that all possible steps have been taken to mitigate any disproportionate impact on small and micro businesses

Mitigation Menu:

Full Exemption

Partial Exemption

Extended Transition Period

Reduced requirements (e.g. reporting, record-keeping)

Reduced fees

“De minimis” rules

Dedicated support (e.g. guidance, training)

Direct financial aid

Opt-in / voluntary solutions

Expansion of Remit - ARI

- **Accountability for Regulator Impact**
 - July 2013 - Business and Enterprise Minister announced that non-economic regulators who are planning a significant change in policy or practice will be expected to assess and quantify the impact of that change on business. They will be required to share their assessment with businesses affected, discuss and if possible agree it with them before making the change, and then publish their final assessment.
 - Where regulators and business cannot agree on the impact, the RPC has been asked to investigate, assess and determine the best means of resolving the dispute, which may include arbitration.



EU Engagement



RPC EU Activity

- Scrutiny of IAs transposing or implementing EU legislation in the same way as IAs for domestic proposals
 - Review and provide an opinion on IAs accompanying transposition or implementation proposals
- EU legislation outside the scope of the Government's OITO system
 - unless proposal is 'gold-plating' EU legislation (an IN under OITO)
 - Removing the 'gold-plating' of EU legislation (an 'OUT' under OITO)
- However, RPC required to validate the EANCBS of proposals implementing EU legislation
 - (> £1m) for SNR publication

RPC EU Activity – ‘5 Watchdogs’

- In addition to the RPC, there are four other independent scrutiny bodies across the EU
 - Czech Republic (Regulatory Impact Assessment Board, RIAB)
 - Germany (National Regulatory Control Agency, NKR)
 - Netherlands (Dutch Advisory Board on Regulatory Burden, ACTAL)
 - Sweden (Swedish Better Regulation Council, Regelrådet)
- The Watchdogs collaborate at the EU level
 - Improving the EU approach to evidence based policy making based on robust impact assessment subject to independent scrutiny and challenge
 - Common position papers on EU Smart Regulation
 - Influencing the EU institutions (European Parliament, Commission and Council)
 - Expanding the network of independent watchdog bodies across the EU

High Level Group on Administrative Burdens (the Stoiber Group)

- Group of independent expert stakeholders appointed to a ‘High Level Group’ to advise the European Commission on reducing administrative burdens linked to its legislation
- *"The motto of administrative burden reduction has to be: as little legislation as possible. Europe has to give priority to ideas and innovation without bureaucratic stop signs. We will give economic growth in Europe a forward push if we manage to get on with this."* – Edmund Stoiber, Chairman of the High Level Group.
- Stoiber Group includes the chairs of the German, Czech Republic and UK Watchdog bodies, plus observers from Dutch and Swedish watchdogs
- HLG’s third mandate (December 2012 to October 2014) – effort to focus on:
 - SMEs: administrative burdens on SMEs and micro enterprises; and
 - *ABRplus*: how to make Member State public administrations more efficient and responsive to the needs of stakeholders when implementing EU legislation – follow up to the European Commission’s Administrative Burden Reduction (ABR) programme

Contact Details

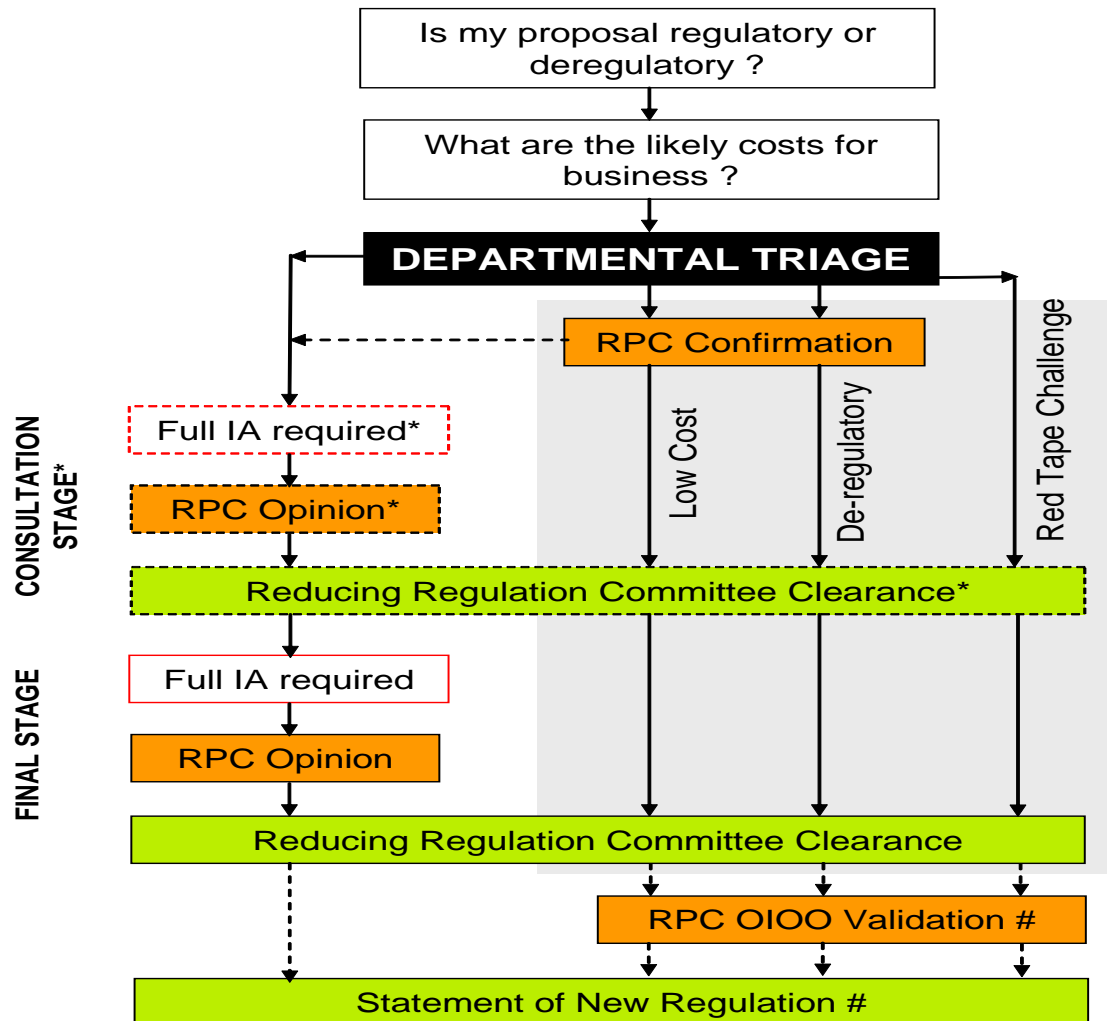
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Overview of new multi-route system



Key

* not applicable if no formal consultation planned / undertaken

only applies to measures that are in scope of One-in, One-out

■ zone of discretion : departments decide on level of appraisal and ex ante scrutiny required.

Streamlining the system

- In Summer 2012, the Reducing Regulation Committee (RRC) approved changes to the system for RPC scrutiny. Aims are to:
 - Speed up deregulatory measures, including those agreed through Red Tape Challenge (RTC) process.
 - Introduce a more proportionate approach focused on regulations with most impacts on business and civil society organisations
 - Simplify the RPC ‘Red/Amber/Green’ rating system at final stage.
- The changes came into effect on 15th August 2012.

Streamlining the system

- **Fast Track**

- All deregulatory measures, including those identified through the Red Tape Challenge.
- Regulatory measures with gross cost to business and civil society organisations below £1m per annum.
- A deregulatory measure is defined as a proposal that reduces the scope of government regulation or removes government controls from an industry or sector.
- For simplification and low cost measures, the department submits a ‘Regulatory Triage Assessment’ (RTA) to the RPC. The RPC issues a ‘Regulatory Triage Confirmation’, confirming eligibility and whether in scope of OITO.
- Measures signed off by RRC as part of Red Tape Challenge do not need to be submitted to RPC.
- A simplified ‘validation stage’ IA has to be submitted to the RPC for validation of OITO (where necessary).

Streamlining the system

- **Full Scrutiny**

- Proposals requiring full scrutiny include:
 - major regulatory measures (>£1m gross annual cost to business and civil society organisations)
 - EU / ‘gold-plating’
 - option for others

Consultation stage:

- No change to the existing scrutiny.
- An RPC opinion is issued within 30 working days with a Red, Amber or Green rating based on the RPC’s seven recommendations.

Final stage:

- Full IA is submitted to the RPC.
- The RPC issues an Opinion within 30 working days with a Red or Green rating which relates solely to the OITO assessment.
- Opinion may include other comments on the IA, which the department is expected to address.