Guide to Cabinet's Impact Analysis Requirements

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Ministry for Regulation
Te Manatū Waeture

Contents

1 Introduction

This Guide is about how to meet Cabinet's Impact Analysis Requirements for government policy initiatives that involve a proposal to create, amend or repeal primary or secondary legislation (a "regulatory proposal").[1] These requirements are set out in the Cabinet Office circular: CO (24) 7: Impact Analysis Requirements and are explained in this document with some additional guidance.

Cabinet's Impact Analysis Requirements (the Requirements) support and inform the Government's decisions on regulatory proposals. The Requirements are both a process and an analytical framework that encourage a systematic and evidence-informed approach to policy development. They reflect and support the key elements from *Government Expectations for Good Regulatory Practice*.[2] In particular, the Requirements focus on the expectation that agencies provide robust analysis and advice to Ministers before decisions are taken on regulatory proposals.

The key product of the Requirements is a Regulatory Impact Statement. This is a government agency document that summarises an agency's analysis of the impacts relating to a regulatory proposal. That impact analysis should be completed and summarised in a Regulatory Impact Statement before the Cabinet paper is drafted.

Cabinet's Impact Analysis Requirements and this Guide focus on ensuring Ministers receive high-quality Regulatory Impact Statements to support and inform their decisions on regulatory proposals.

For further advice or information on Cabinet's Impact Analysis Requirements and Regulatory Impact Statements, see:

- the Ministry for Regulation's website, or
- contact The Ministry for Regulation's Regulatory Impact Analysis (RIA) Team via RIA.Team@regulation.govt.nz.

[1] "Secondary legislation" means an instrument (whatever it is called) that is made under an Act if the Act (or any other legislation) states that the instrument is secondary legislation – see the Legislation Act 2019.

[2] See https://www.regulation.govt.nz/our-work/regulatory-stewardship/

2 How to use this Guide

Use this Guide together with the Cabinet Office Circular: CO (24) 7: Impact Analysis Requirements to prepare Regulatory Impact Statements.

Sections 3 and 4 of this Guide explain the purpose of Impact Analysis and Cabinet's Impact Analysis Requirements. They also summarise the topics covered by the requirements.

Sections 5 to 15 of this Guide set out the requirements in detail and explain how to meet them.

2.1 Policy development for regulatory proposals

This Guide focuses on how to meet the formal requirements for a regulatory proposal. For guidance on policy development of regulatory proposals, see the following guidance on the Ministry for Regulation's website:

- Guidance Note: Best Practice Impact Analysis
- Guidance Note: Discussion Documents and Cabinet's Impact Analysis Requirements

Further guidance and tools for the development of policy (in general) are available on the Department of Prime Minister and Cabinet's the Policy Project webpage.

The Policy Project can be contacted at policy.project@dpmc.govt.nz.

2.2 Further information beyond this Guide

The templates for a Regulatory Impact Statement and other information on Cabinet's Impact Analysis Requirements are on the Ministry for Regulation's website. The website also contains a link to the RIA Online platform, where you can seek exemptions, confirm impact analysis processes, and publish finalised RISs, etc.

Developing effective policy interventions is a complex undertaking and the realities of the policy development process may at times differ from the process set out in this Guide. This Guide cannot address all potential issues that may arise in regulatory proposals or policy situations.

Consequently, there will be times when agencies will need to exercise their best judgement on how to give effect to the intent of Cabinet's Impact Analysis Requirements in the particular circumstances.

Some agencies have their own policy development processes and guidelines, and their Quality Assurance panels/specialists should be able to help with advice about individual cases. Otherwise, the Ministry for Regulation's RIA Team can be contacted for general guidance on the development of regulatory proposals and can assist agencies with advice on individual cases, good practice in Impact Analysis, and on-going training.

The nature of the RIA Team's involvement in individual proposals will depend on the characteristics of the proposal and the policy development process, as well as the existing capabilities and internal Quality Assurance processes of the lead agency. It may involve:

- working alongside agencies to assist them in meeting Cabinet's requirements, such as by providing comments on early commissioning documentation and draft Regulatory Impact Statements
- referring proposals to other agencies or specialists who have relevant expertise in regulatory quality issues or the subject matter.

The RIA Team can be contacted via RIA.Team@regulation.govt.nz.

The Treasury may issue related guidance. For example, there is a range of guidance and tools available on Cost Benefit Analysis.

The Government Economics Network also provides training in some of the skills required for regulatory and other policy development and advice.

2.3 Check online for the latest version

This Guide will be updated periodically online, to keep it accurate and as helpful as possible. This version of the Guide was last updated in December 2024.

Check for the latest version of this guide on the Ministry for Regulation's website.

2.4 Your feedback is welcome

We welcome your feedback on this Guide, including suggestions for possible additions or improvements. We would also like examples of good practice that can be shared with other agencies. Any comments or suggestions can be sent to RIA.Team@regulation.govt.nz

3 The purpose of Impact Analysis and Cabinet's Impact Analysis Requirements

The purpose of Impact Analysis is to improve the quality of policy by ensuring that policy proposals are subject to careful and robust analysis. Impact Analysis is intended to provide assurance about whether problems might be adequately addressed through private or non-regulatory arrangements—and to ensure that particular policy solutions have been demonstrated to enhance the public interest.

The Impact Analysis framework is recommended for any form of policy development and should be started as early as possible in the process rather than left to the end. It is complementary to other approaches to improve policy quality, such as the Policy Project's Policy Quality Framework and agency-specific policy quality processes.

Impact Analysis is a formal requirement for regulatory proposals taken to Cabinet for approval.

Cabinet's Impact Analysis Requirements support and inform decisions by Ministers on regulatory proposals. The requirements and this Guide are intended to help advisers and decision-makers avoid the potential pitfalls that arise from natural human biases and mental short-cuts, including by seeking to ensure that:

- the underlying problem or opportunity is properly identified, and is supported by available evidence,
- all practical options to address the problem or opportunity have been considered,
- all material impacts and risks of proposed actions have been identified and assessed in a consistent way, including possible unintended consequences, and
- it is clear why a particular option has been recommended over others.

The requirements also contribute to the transparency and accountability of government through the routine publication of Regulatory Impact Statements.

3.1 Expectations for designing and implementing regulation

The Government Expectations for Good Regulatory Practice outline how agencies should design and implement regulation. These expectations form the basis of the Impact Analysis framework:

Before a substantive regulatory change is formally proposed, the government expects regulatory agencies to provide advice or assurance on the robustness of the proposed change, including by:

- assessing the importance of the issue in relation to the overall performance and condition of the relevant regulatory system(s)[3], and how it might fit with plans, priorities or opportunities for system improvement already identified
- clearly identifying the nature and underlying cause of the policy or operational problem it needs to address, drawing on operational intelligence and available monitoring or review information
- undertaking systematic impact and risk analysis, including assessing alternative legislative and non-legislative policy options, and how the proposed change might interact or align with existing domestic and international requirements within this or related regulatory systems
- making genuine effort to identify, understand, and estimate the various categories of cost and benefit associated with the options for change
- identifying and addressing practical design, resourcing and timing issues required for effective implementation and operation, in conjunction with the regulator(s) who will be expected to deliver and administer the changes
- providing affected and interested parties with appropriate opportunities to comment throughout the process and, in the right circumstances, to participate directly in the regulatory design process (co-design), and
- use of "open-book" exercises to allow potential fee or levy paying parties to scrutinise the case for, and structure and level of, proposed statutory charges.

[3] Relevant regulatory system(s) are those which overlap with the regulatory system that is being changed and may be administered by the agency preparing the RIS or another agency.

4 Overview of the Guide

The Cabinet Office circular: CO (24) 7: Impact Analysis Requirements sets out the requirements for when and how to perform Impact Analysis for regulatory proposals.

This Guide sets out the requirements in more detail than the Cabinet Office Circular and provides information to help you succeed in producing a high-quality Regulatory Impact Statement.

It covers the following areas:

- **Developing a regulatory proposal**: what a Regulatory Impact Statement is, and the requirement to prepare one for most regulatory proposals
- **Getting started**: seeking early feedback on problem definition and options on problems with important impacts and early process confirmation
- **Exemptions from providing a Regulatory Impact Statement**: understanding situations where a Regulatory Impact Statement is not required, and the process for requesting an exemption
- **Discussion documents**: ensuring discussion documents lead to effective consultation and support the development of future impact analysis
- **Confirming your Regulatory Impact Analysis process**: confirming the appropriate Regulatory Impact Statement template and whether the agency, a cross-agency panel, or the Ministry for Regulation is responsible for arranging Quality Assurance
- **Completing the Climate Implications of Policy Assessment (CIPA) screening page in the RIA Online platform**: to provide information so the Ministry for the Environment can determine whether a CIPA is required for your proposal
- **Preparing the Regulatory Impact Statement**: preparing the required content for your Regulatory Impact Statement and completing the appropriate template
- **Quality Assurance arrangements**: obtaining independent Quality Assurance for your Regulatory Impact Statement and understanding the assessment criteria used, as well as guidance for assessors
- **Preparing the Cabinet paper**: filling in the "Impact Analysis" section of the Cabinet paper, including documenting any exemptions

- **Regulatory proposals with inadequate Impact Analysis**: the value of giving an early warning, and the process for a Supplementary Analysis Report or Post -Implementation Review if required

- **Publication of Regulatory Impact Statements (and Supplementary Analysis Reports, if any)**: when and how to publish Regulatory Impact Statements and the requirements for Disclosure Statements for Government Legislation.

5 Developing a regulatory proposal

5.1 Impact analysis is required for government regulatory proposals

Regulatory Impact Analysis (RIA) is required for any government policy initiative that will ultimately create, amend, or repeal primary or secondary legislation, i.e. a government regulatory proposal.

Cabinet papers that include a regulatory proposal must be accompanied by a Regulatory Impact Statement, unless an exemption applies (see section 8, Exemptions from providing a Regulatory Impact Statement).

Government regulatory proposals may include:

- decisions to introduce legislative changes that are merely enabling (i.e. the substantive decisions as to whether and what sort of intervention will be made later), including creating or amending a power to make secondary legislation
- decisions to create, or amend, a statutory authority to charge third parties to cover the costs of a government activity (i.e. cost recovery proposals)
- "in principle" policy decisions and intermediate policy decisions, particularly those where regulatory options are narrowed down (e.g. limiting options for further work/consideration)
- decisions to release discussion documents that explicitly or implicitly narrow down the range of options, including regulatory options, being considered by the Government
- seeking negotiating mandates for, concluding, or seeking approval to sign or be bound by, treaties with regulatory impacts
- secondary legislation made by a Minister under an enabling power in an Act and the Minister's decision is referred to Cabinet for noting
- decisions about a regulatory proposal that has previously been announced, for example by a Minister or in a political party manifesto or confidence and supply agreement or a coalition agreement
- decisions to adopt a member's bill as a government bill or take further decisions in relation to the content of that bill.

A Regulatory Impact Statement must be provided alongside Cabinet papers that seek approval for such decisions when they are submitted to Cabinet committees (or a similar Ministerial group). In rare circumstances, the policy proposal and draft legislation may be

submitted together. In these cases, the usual procedure is for the paper to be submitted to the relevant Cabinet policy committee rather than directly to the Cabinet Legislation Committee (LEG).

5.1.1 Impact analysis during the Parliamentary process

During the parliamentary process, it often becomes necessary to amend a bill. The policy content of the amendments may be such that further approvals from Cabinet are needed for new policy or to alter existing policy approvals. If so, the original Regulatory Impact Statement should be updated to indicate how the changes affect the agency's impact analysis e.g. how they alter the nature and/or magnitude of the impacts). The updated Regulatory Impact Statement needs to be resubmitted for Quality Assurance (see section 12, Obtaining independent quality assurance).

You should also contact the RIA Team to discuss the RIA requirements when a proposal is to be submitted to Cabinet seeking a decision on whether a Member's Bill should be adopted as a Government Bill.

5.1.2 Impact analysis for proposals to repeal legislation

The Government encourages agencies to regularly review and maintain their regulatory systems and proactively identify where regulations are out of date, no longer needed, or the costs of regulation exceed the benefits. The Ministry for Regulation will consider whether proposals to repeal legislation could be exempted or, if not, whether streamlined impact analysis would be appropriate.

6 Getting started with impact analysis

6.1 Early engagement with the Ministry for Regulation

Inadequate impact analysis often arises from incomplete problem definition, unclear objectives, and a failure to consider all feasible options. These are foundations for analysis of regulatory proposals, and getting them right at the outset can avoid poor quality regulation and subsequent revisions. Inadequacies in these areas cannot be easily fixed at a later stage, so early engagement with interested parties and experts to test initial thinking can help to avoid these problems, leading to more robust analysis and a more straightforward policy process.

Cabinet has directed agencies to contact the Ministry for Regulation as soon as possible after work commences that may result in a regulatory proposal being recommended. You will have to decide when the best time to get feedback is, but ideally it would be both: after tentative decisions have been made to pursue action or commission a policy project, and before your agency is committed to a particular regulatory solution The appropriate point may be when preparing a first Ministerial briefing.

The Ministry will review the agency's definition of the problem, its proposed rationale for government intervention, and the range of options being analysed before deciding to engage. The Ministry will consider the significance of the policy issue, the degree to which the use or exchange of property rights may be affected, and the anticipated policy development process.

Aside from providing guidance on Cabinet's Impact Analysis Requirements and supporting quality analysis generally, feedback may include identifying alternative potential options to solve the policy problem, connections to other initiatives, testing whether there is scope to address related issues, requesting to be consulted later in the policy process, or recommending contact with other agencies or subject matter experts. Agencies should also seek feedback from their own impact analysis experts and relevant policy specialists.

For example, if a policy problem or proposal impacts incentives or the ability to compete in markets, limits choice or ability to switch between options, or is not competitively neutral between businesses or business models, the Commerce Commission's Competition Assessment Guidelines should be referenced and MBIE should be consulted. The Competition Assessment Guidelines can be found on the Commerce Commission website.

Agencies are requested to initiate early engagement with the Ministry for Regulation via the channels specified in the Early Engagement section of the Ministry's website.

6.2 Other tools to assist policy makers early in the policy process

The Policy Project administered by the Department of Prime Minister and Cabinet also recognises the potential for early, robust consideration to efficiently drive improvements to policy quality. The Policy Project's *Start Right* is a set of tools and guidance designed to assist policy practitioners to consider all the important drivers of policy quality early in the policy-making process. *Start Right* covers both regulatory and non-regulatory policy, and is both compatible with, and supportive of, the Impact Analysis process.

Start Right recommends early "Validation and Testing" activities relating to the assessment of the policy problem / opportunity and key assumptions. You may find it useful to use these tools as part of your impact analysis process.

For more information, see the Policy Project webpage or contact policy.project@dpmc.govt.nz.

7 RIA Online

The RIA process is facilitated through the RIA Online platform, by the Ministry for Regulation's RIA team. RIA Online supports information sharing on regulatory proposals between a government agency and the Ministry for Regulation. Agencies can provide high-level details about each regulatory proposal so that the RIA Team can respond to the request.

RIA Online is where you can:

- create the proposal
- complete screening questions relating to the climate implications of policy assessment (CIPA), which are then reviewed by the Ministry for the Environment
- apply for an exemption from the impact analysis process, if the proposal is eligible
- get confirmation of the process to follow when submitting your proposal to Cabinet.
- publish RISs once they are finalised

Further information on accessing the RIA Online platform is available on the Ministry for Regulation's website.

If you have questions about RIA Online or the RIA process you can contact the RIA Team via email at RIA.team@regulation.govt.nz.

7.1 Getting access to RIA Online

If you haven't accessed RIA Online before, you'll need to set up an account with us. Send us an email at RIA.Online@regulation.govt.nz, with the Subject line "RIA Agency Access Request". Setting up an account in RIA Online is an automated process, so once you've requested access via email, you should be able to access your account within an hour or so.

Note that we can only approve and set up RIA Online accounts for people with a government email address ending with the suffix ".govt.nz".

8 Exemptions from providing a Regulatory Impact Statement

Conducting impact analysis is encouraged and always recommended in the development of advice on any form of government policy initiative. However, a Regulatory Impact Statement is not required for certain types of regulatory proposals.

You must apply to the Ministry for Regulation's RIA Team for an exemption and provide evidence of being granted that exemption to Cabinet. The exception to this is for 'technical and case specific exemptions', which can be claimed by agencies themselves (see sections 8.2, Technical or case-specific exemptions, and 8.6.1, Claiming a technical or case-specific exemption).

8.1 Grounds for an exemption

The grounds for an exemption are grouped under the following categories:

- technical or case-specific
- declared emergency
- minor or limited impacts
- discretionary.

Technical and minor/limited impacts exemptions are complete and unconditional. Where the RIA Team grants an emergency or discretionary exemption, conditions may be imposed.

8.2 Technical or case-specific exemptions

A Regulatory Impact Statement is not required where a government regulatory proposal:

- is for a matter to be included in a Revision Bill (as provided for in the Legislation Act 2019)
- is for a matter to be included in a Statutes Amendment Bill (as provided for in Standing Orders)
- is for the repeal or removal of already redundant legislative provisions
- provides solely for the commencement of existing legislation or legislative provisions (e.g. an Order in Council to bring legislation into force)
- is solely a request to authorise spending in an Appropriation Bill or an Imprest Supply Bill

- is solely a request to confirm secondary legislation that has already been made (e.g. through a Secondary Legislation Confirmation Bill)
- is solely for the annual setting of income tax rates (as required under the Income Tax Act 2007) where the rates remain unchanged
- is to implement deeds of settlement for Treaty of Waitangi claims, other than those that would amend or affect existing regulatory arrangements
- is to bring into effect recognition agreements under the Marine and Coastal Area (Takutai Moana) Act 2011.

These exemptions relate to the circumstances of a regulatory proposal. They include technical adjustments to improve the enforceability or clarity of existing law and transitional arrangements.

The exemptions above can be claimed by agencies themselves without seeking confirmation from the Ministry for Regulation's RIA Team. For more information on this process see the below section 8.6.1.

8.3 Minor or limited impacts exemption

Regulatory proposals may be exempted from providing a Regulatory Impact Statement if the proposal has:

- no or only minor economic, social, or environmental impacts, **OR**
- the economic, social, or environmental impacts are limited (e.g. in scope and type), and are easy to assess.

For proposals that fall under either of these categories, the RIA team makes the decision based on information provided by the agency. Some examples are provided below of each category and factors that influences whether or not a proposal is eligible.

A. Minor Impacts

A wide variety of proposals fall under this exemption. Common themes include:

- technical adjustments that do not fall under the technical or case-specific exemptions but are likely to have no or very low impacts.
- changes to the internal administrative or governance arrangements of the New Zealand government which are likely to have no or very low impacts outside of government (e.g. the transfer of responsibilities, staff, or assets between government agencies).

- changes to statutory governance arrangements being implemented through a Treaty of Waitangi settlement where these changes are likely to have no or only minor impacts.

Below are common themes that make a minor impacts exemption more or less likely.

More likely to be eligible for minor impacts exemption	Less likely to be eligible for minor impacts exemption
Proposal has localised impacts, or the implications are limited to a small group of affected people or parties.	Proposal has regional or national impacts or widespread implications.
Proposal clarifies an area of current law, or amends the purpose statement of legislation, consistent with the objectives of that regulatory system.	Proposal substantially alters the nature or objectives of the relevant regulatory system.
Proposal codifies, rather than changes, an existing practice.	Proposal creates or amends the legal rights or responsibilities of government agencies or agency chief executives.
Net Present Value of the proposal is expected to be low over the medium-term (when all of the impacts can be monetised).	Proposal affects policy processes which are public facing (e.g. consultation requirements).
	Proposals that impact the use and exchange of private property.

B. Limited impacts

Limited impacts exemptions are given where a proposal is expected to have more than minor impacts, but those impacts are limited in scope and type, and those limitations are easy to assess. Below are some factors which influence the eligibility of a proposal.

More likely to be eligible for limited impacts	Less likely to be eligible for limited impacts exemption
Proposals which have non-minor fiscal impacts but straightforward impacts on the public (e.g. changes to the rate at which interest accrues on student loans for overseas borrowers)	Proposals that impact the use and exchange of private property.
Proposals that expand existing arrangements in a predictable fashion, where secondary or wider impacts are unlikely (e.g. extending a levy at the existing level into the future, or making	Proposals where there is a reasonable chance of secondary or wider impacts.

inflation adjustments to existing financial figures in legislation).	
Proposals to defer commencement of regulatory change that is not yet in effect.	Proposals for which the impacts are not easy to assess (e.g. there is limited data or information available about expected impacts).

8.4 Discretionary exemptions

Discretionary exemptions may be granted subject to conditions as determined by the RIA Team following discussions with you. Conditions are determined case-by-case. Relevant factors include the timeframe for development and implementation of the proposal, the extent and nature of likely impacts, and the degree of uncertainty, risks or novelty of the proposal.

A Regulatory Impact Statement **may** not be required where both of the following apply:

- Formal Impact Analysis is not the best and most cost-effective way to ensure that Ministers have access to relevant information to inform their decisions, **AND**
- The regulatory proposal fits within one of the following situations:

  i. the relevant issues have already been adequately addressed by existing Impact Analysis,

  ii. a Regulatory Impact Statement would substantively duplicate other government policy development, reporting and publication requirements or commitments, or

  iii. the government has limited statutory decision-making discretion or responsibility for the content of proposed delegated legislation.[4]

The following paragraphs provide some further information on when these discretionary exemptions may apply.

8.4.1 The relevant issues have already been adequately addressed by existing Impact Analysis

This is most likely to arise where:

- final decisions are being made post-consultation, where Impact Analysis has already been provided to Cabinet before that consultation, or

[4] Such as, for example, making the minimum necessary legislative changes required to comply with international obligations that, due to previous treaty actions, are automatically binding on New Zealand.

- decisions are being made about the content of delegated legislation that had some previous consideration when the enabling power to make delegated legislation was proposed.

In cases like these, conditions could require that additional information and analysis is provided to update or supplement the previous RIS.

8.4.2 A Regulatory Impact Statement would substantively duplicate other government policy development, reporting and publication requirements or commitments

This is likely to include situations where:

- a business case is required for a project involving substantial capital investment, or
- an extended National Interest Analysis is required and presented to Cabinet at the same time as the action in relation to the international Treaty.

More information on National Interest Analysis and Regulatory Impact Analysis

In accordance with the Cabinet Manual and Standing Orders 405 to 408, all multilateral treaties or "major bilateral treaties of particular significance" concluded by New Zealand require the preparation of a National Interest Analysis (NIA). Drafting Guidelines produced by the Ministry of Foreign Affairs (MFAT) in collaboration with the RIA Team requires that, for treaties with regulatory impacts, the NIA also includes all the requirements which would otherwise be considered in a Regulatory Impact Statement (becoming an "extended NIA"). In general, where a Treaty action is being approved by Cabinet and an extended NIA is being provided at the same time, a separate, standalone Regulatory Impact Statement is therefore not required.

The International Treaty Making Guide, which includes the NIA drafting instructions, contains guidance on how Cabinet's Impact Analysis Requirements apply to treaties. For questions regarding international treaties and arrangements, please contact the Treaty Officer in the MFAT Legal Division (treatyofficer@mfat.govt.nz).

The RIA Team is in the process of preparing a new guidance note on the interaction between Cabinet's Impact Analysis Requirements and the Treaty making process.

8.4.3 The government has limited decision-making discretion or responsibility for the content of proposed legislative action

This is likely to include situations where government is:

- making the minimum necessary legislative changes required to comply with international obligations that, due to previous treaty actions, are automatically binding on New Zealand, or

- approving proposals developed through a statutory process done by an external party with statutory authority for that process.

8.5 Emergency exemptions

8.5.1 Technical emergency exemptions

A Regulatory Impact Statement is not required where a government regulatory proposal is:

- to make, amend, or to modify or suspend the effect of, primary or secondary legislation, under statutory powers only able to be exercised during a declared emergency or emergency transition period [5]
- to do one or more of the following:
    - temporarily defer or extend legislative deadlines, or
    - provide limited temporary exemptions or modifications to existing legislative requirements, or
    - temporarily enable alternative methods of legislative compliance.
- in situations where a declared emergency has made compliance with the existing legislative requirements impossible, impractical, or unreasonably burdensome; or
- to temporarily defer the start date of legislative requirements not yet in force, in order to reduce burdens, or where the Government or affected entities will no longer be ready by the planned start date, as a result of an emergency.

These emergency exemptions are specifically designed for urgent regulatory changes in an emergency. They draw on the experience of COVID-19 and other emergencies such as the Christchurch earthquakes.

Proposals covered by emergency exemption one would include new instruments required to manage or contain an emergency. For example, Orders made by the Director-General of Health exercising the functions of a Medical Officer of Health to prevent the outbreak or spread of an infectious disease under section 70 of the Health Act. They would also include proposed modifications to existing legislation, such as allowed by Immediate Modification Orders provided for in the Epidemic Preparedness Act.

Proposals covered by exemptions two and three are some of the most common temporary legislative changes sought in recent declared emergencies. While the changes must be temporary, measures covered by these two categories of exemption need not necessarily end when the emergency itself formally ends.

[5] Such as, for example, Immediate Modification Orders made in accordance with sections 14 or 15 of the Epidemic Preparedness Act 2006.

Note that the actual statutory declaration of an emergency is not included in the proposed technical exemption. These declarations already fall outside the scope of the Cabinet's Impact Analysis Requirements, as they are not treated as secondary legislation and do not normally come to Cabinet for approval.

8.5.2 Discretionary emergency exemptions

A Regulatory Impact Statement **may** not be required where the RIA Team is satisfied that a government regulatory proposal, not covered by other existing Regulatory Impact Statement exemptions, is:

- intended to manage, mitigate or alleviate the short-term impacts of a declared emergency event or of the direct actions taken to protect the public in response to a declared emergency event, **AND**
- required urgently to be effective (making a complete, robust and timely Regulatory Impact Statement unfeasible), **AND**
- the need for the proposal was not reasonably foreseeable.

This exemption may be granted subject to conditions, which may include, as appears most feasible or appropriate:

- the inclusion, provision and/or publication of some specific information, or elements of impact analysis in alternative form such as a Supplementary Analysis (which could be provided to Cabinet, to Ministers with delegated power to act, or others as appropriate), and/or
- a commitment to include a suitable sunset provision and/or undertake a post-implementation review on agreed terms and timing.

This exemption recognises that some regulatory changes sought in emergency or emergency transition situations may fall outside the grounds of the technical exemptions but may still warrant an exemption or conditional exemption due to obvious urgency.

Such changes will usually be temporary, narrowly focussed, and seek to support, protect, or reduce the burden of compliance on newly vulnerable or heavily impacted groups or areas. For example, this could cover the sorts of changes made in response to COVID-19 to support the mortgage repayment deferral scheme or the business debt hibernation regime. It could also cover proposals to waive or reduce statutory fees or charges imposed by the government.

8.6 Applying for an exemption

If you consider one of the exemptions may apply to your regulatory proposal (or aspects of the proposal), you should apply for an exemption from Ministry for Regulation's RIA Team. You can do this by applying for an exemption through the RIA Online platform. The

exception to this process is technical exemptions which can be claimed by agencies themselves (see section 8.6.1, Claiming a technical or case-specific exemption).

The Ministry for Regulation's RIA Team will consider the information you provide and, if necessary, may request further information or clarification. If this information changes, agencies should seek reconfirmation of the exemption decision.

When considering an exemption request, the Ministry will take into account whether the proposal restricts the use or exchange of private property, and will be less likely to grant an exemption where there is such a restriction. The Ministry will be more likely to grant an exemption where there are no such restrictions on the use or exchange of private property, or such restrictions are being reduced.

If you are seeking one of the discretionary exemptions, there may be further discussion needed with the RIA Team. These discussions could include matters such as:

- how Cabinet's Impact Analysis Requirements have already been met
- why further Impact Analysis is not the best and most cost-effective way to provide Ministers with information relevant to their decision-making
- the extent to which Government's decision-making discretion or responsibility has been constrained, and
- the potential conditions of any emergency or discretionary exemption (i.e. the provision and/or publication of some alternative information, or elements of impact analysis in alternative form. For the emergency discretionary exemption, this may include a sunset provision and/or Post-Implementation Review).

The RIA Team will then determine whether and to what extent a regulatory proposal, or aspects of it, is exempt from the requirement to provide a Regulatory Impact Statement. If it is a discretionary exemption, the RIA Team will also determine any conditions of the exemption and the timing for fulfilling those conditions. This timing will largely depend on the timing of the decisions the conditions are intended to assist.

Where an exemption applies, the Ministry for Regulation will provide the agency with a statement for inclusion in the relevant Cabinet paper.

Note, if you do not apply for an exemption, or you are not granted one, *and* a Regulatory Impact Statement is not submitted along with the Cabinet paper seeking policy approval, then it will be subject to the process for proposals with inadequate Impact Analysis (see section 14, Regulatory proposals with inadequate Impact Analysis).

8.6.1 Claiming a technical or case-specific exemption

As noted above in section 8.2 (Technical or case-specific exemptions), it is not necessary to apply for a technical or case specific exemption (excluding technical emergency

exemptions). Instead, if you are confident the proposal qualifies for this type of exemption you can note in the Cabinet paper that it has claimed an exemption under the circular and provide the relevant exemption ground. We recommend you check with your internal agency RIA coordinator before claiming one of these exemptions.

Any agency that is unsure whether their regulatory proposal qualifies for one of these exemption grounds (e.g. whether a deed of settlement would affect existing regulatory arrangements) is encouraged to contact the RIA Team via email or by creating a proposal in RIA Online.

8.7 Next steps if an exemption is granted

If the RIA Team approves an exemption application, the team will provide you with a statement setting out that decision which you need to include in the Cabinet paper. If relevant, this statement will also outline any of the conditions of that exemption.

If the proposal is exempt subject to conditions, you will need to fulfil the conditions of the exemption and advise the RIA Team when you have done so. Depending on the nature of the conditions, you may be required to do this before or after the relevant Cabinet paper is submitted. For example, the condition may be that you publish and consult on an exposure draft of the proposed legislation before seeking Cabinet Legislation Committee (LEG) approval.

If an exemption is not granted, the RIA Team will advise you which Regulatory Impact Statement template you will need to complete, and whether the RIA Team or your agency will be responsible for arranging Quality Assurance of that Regulatory Impact Statement.

If there is not enough information to decide this, the RIA Team will request further information from you as part of the process described in section 10 of this guidance.

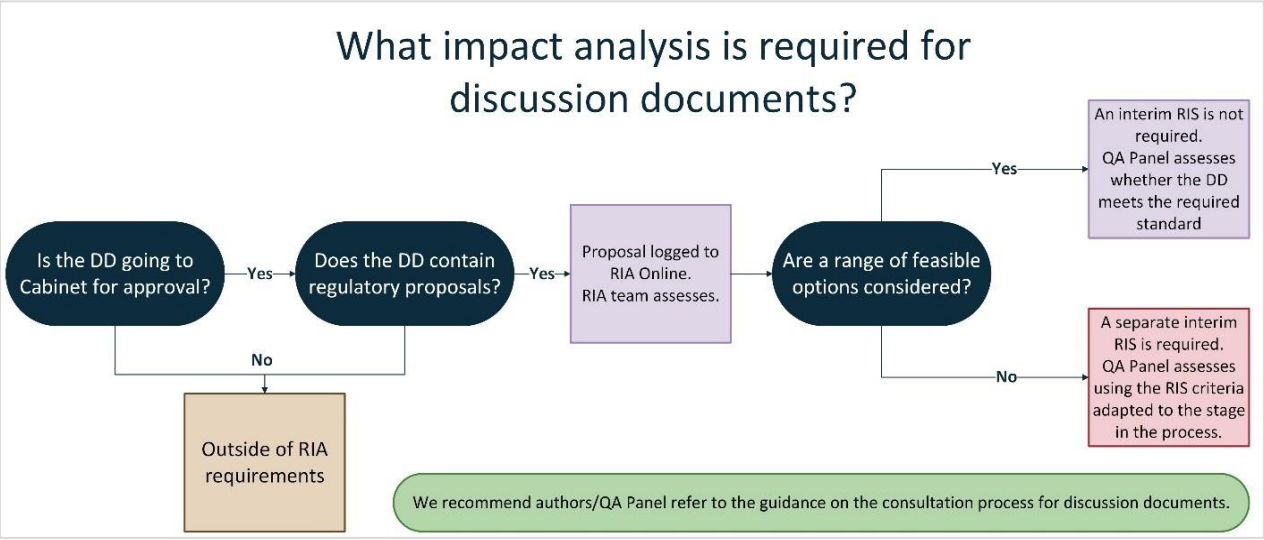
9 Ensuring discussion documents support future impact analysis

Discussion documents are intended to prompt feedback that will inform future policy decisions and supporting impact analysis. To do this effectively, discussion documents that include regulatory options must be quality assured against the standard contained in the *Guidance Note: Discussion Documents and Cabinet's Impact Analysis Requirements* available on the Ministry for Regulation website.[6]

As provided for in paragraphs 26–28 of the circular, a Regulatory Impact Statement is required to support Cabinet decisions to release a discussion document if it includes regulatory options, the discussion document explicitly or implicitly narrows down the range of options being considered by the Government, and it is not eligible for an exemption. High level issues papers that do not include regulatory options are outside the RIA requirements.

Proposals to release a government discussion document that includes regulatory options must be registered in RIA Online. The RIA Team assesses whether the options have been narrowed, determines, the appropriate process for the agency to follow and advises on the quality assurance (QA) arrangements. The RIA Team confirms the process and provides the agency with a statement to include in the Impacts Analysis section of the Cabinet paper.

Diagram one – Discussion document process



As shown in the above diagram, there are two possible pathways depending on whether the options in the discussion document have been narrowed.

[6] A rare exception to the need for quality assurance would be if the discussion document contained regulatory options which would be exempt from Cabinet's Impact Analysis Requirements.

- **The options are not narrowed and there is a range of feasible options** – the content of the discussion document is reviewed by the agency's quality assurance panel (or QA expert) against the QA criteria and is approved by the panel or expert if it meets the standard, or

- **The options are narrowed** (i.e. there is one regulatory option or a small range of feasible options, and other options have been ruled out) – a separate interim RIS is likely to be required or else Cabinet's Impact Analysis Requirements will not be met. The interim RIS should be reviewed by the panel (or QA expert). Although the QA panel should be provided a copy of the discussion document for context, a formal review of the discussion document itself is not required.

There may be some situations where the pathway is less clear and the options are "implicitly" narrowed (i.e. the document explores a subset of regulatory options without committing to a particular pathway). In this situation, a separate interim RIS is generally required, unless the responsible Minister certifies that the discussion document is not intended to narrow the options under consideration and that all feasible options are still on the table. If that is the case, a recommendation needs to be included in the Cabinet paper noting that Ministerial certification has been provided. The discussion document can be reviewed by the agency's panel (or QA expert) and approved if it meets the standard.

9.1 Recommendations regarding the consultation process for discussion documents

In order to support effective public consultation, the Ministry for Regulation recommends that agencies aim to:

- **Actively seek feedback by consulting widely** throughout the policy development process with relevant groups:

- **Allow a reasonable time period for comment.** What is reasonable will depend on the circumstances and the nature of the proposal. The Ministry for Regulation recommends 60 days as the starting default minimum for public consultation. Justification should be provided if it is less than 60 days. As noted in the earlier discussion of international obligations, New Zealand has obligations on consultation that will apply to regulatory proposals in a wide range of sectors. That generally includes providing interested parties with a reasonable opportunity to comment, and 60 days is a common international minimum benchmark for what is considered reasonable in this regard.

- **Advertise broadly.** To reach the widest range of potential respondents that are likely to be impacted by the proposed options, the government needs to consider how it will alert relevant people and stakeholders as early as possible to the fact that a consultation process is intended or is now underway. This potentially includes both

advance notice and the use of a wide range of different communication channels, including social media, and potentially tailored messages with different relevant audiences in mind.

- **Make it easy to respond**. Tailor the consultation process to the preferred engagement style of those being consulted (e.g. take into account ethnic and cultural considerations). Also allow for responses in different forms to provide accessibility (e.g. online forms, uploaded or emailed documents, face-to-face meetings/forums) and possibly also formats for the disabled community

- **Coordinate** the consultation process to the extent possible with other internal teams and other agencies on policy changes planned or underway.

- **Consider existing regulatory stewardship arrangements**[2] to identify any wider regulatory impacts associated with the proposals and which agencies need to be involved in the consultation process.

- **Minimise consultation fatigue** for relevant groups that could potentially be consulted by more than one agency, or by multiple consultations within the agency.

9.2 The quality assurance process for discussion documents

The responsible agency should arrange for quality assurance of the discussion document to be undertaken by a group or person with expertise within the agency that is independent from the document's development and/or approval. The standard conditions of approval are that the content of the discussion document must meet the QA criteria and that the agency's panel (or QA expert) must verify that this is the case.

Quality assurance criteria for discussion documents

- **Written in plain language and proportionate in terms of size and complexity.** Is the discussion document written in language that is appropriate for the intended audience? Is it clear, concise, and well-organised?[7] Is the level of detail and complexity appropriate for the audience? Is the length of the document proportionate to the magnitude and proposed impact of the proposal?

- **Clear scope and objectives.** Is it clear what is in and out of scope of the consultation exercise? Are the consultation objectives clear (including decisions that have already been made by Cabinet and decisions that have yet to be made)? Is it clear how the feedback from respondents will be used to inform future decisions?

[7] For more information see the Public Service Commission guidance under the Plain Language Act https://www.publicservice.govt.nz/guidance/plain-language-act-2022-guidance-for-agencies/, or refer to the Plain Language Standard checklist https://write.co.nz/resources/free-tools/

- **Initial analysis**. Does the document clearly address the regulatory context and the nature of the problem or presenting issue/question with reference to some evidence? Does the document contain a range of feasible options? Is there some initial analysis of the possible impacts of options?

- **Open consultation questions.** Are the questions open and do they invite discussion? Is there scope for respondents to provide feedback on issues not covered by direct questions posed in the discussion document?

We also encourage – but do not require – QA panels to assess whether the document includes suitable questions for stakeholders that will prompt respondents to:

- confirm and challenge the analysis
- provide feedback on the assumptions, estimated magnitude of impacts etc., and
- suggest additional options.

A statement from the panel (or QA expert) about whether the content of the discussion document contains sufficient impact analysis to meet the quality assurance criteria should be included in the "Impact Analysis" section of the Cabinet paper.

In situations where content of the discussion document does not meet the relevant standard, the documents need to be referred back to the RIA team by the panel (or QA expert) to determine the next steps. For instance:

- a statement will need to be included in the Cabinet paper informing Ministers that the content of the discussion document does not contain sufficient impact analysis to meet the quality assurance criteria and a brief explanation provided about the deficiency in relation to the relevant criteria,
- where the RIA requirements are not met and the discussion document is still placed on the Cabinet Committee agenda, Ministers can decide whether to release the discussion document, and
- an interim RIS may be required.

If the content of the discussion document is assessed as not meeting the quality assurance criteria and is submitted to Cabinet without an interim RIS, this will be recorded by the RIA team as non-compliance for reporting purposes.

10 Confirming your Regulatory Impact Statement process

The RIA Team determines the appropriate Regulatory Impact Statement template and responsibility for arranging independent Quality Assurance based on information the author provides about the agency's processes and on the particular proposal. It is best to seek these decisions as soon as possible in the policy process – before drafting the Cabinet paper.

For further information on the templates for a Regulatory Impact Statement see section 11, Preparing a Regulatory Impact Statement. For further information on potential Quality Assurance arrangements see section 12, Obtaining independent .

10.1 The confirmation process

Once the author is clear that Cabinet's Impact Analysis Requirements apply to the proposal or aspects of it, they need to provide information to the RIA Team through RIA Online to enable these template and Quality Assurance decisions.

The RIA Team will determine the appropriate template for the Regulatory Impact Statement, and whether the authoring agency or the Ministry for Regulation is responsible for arranging Quality Assurance, taking into account the following factors for the relevant government agency:

- the agency's policy capability and the demonstrated robustness of its in-house Quality Assurance processes
- the strength of the agency's regulatory stewardship practice in the affected regulatory system
- the robustness of the agency's planned policy process
- the level of significance of the likely impacts of the regulatory options
- the complexity of the proposal (e.g. is it addressing multiple policy problems)
- the levels of risk or uncertainty around the likely impacts of the regulatory options.

The RIA Team will make these decisions based on the information submitted by the author through the RIA Online platform. More information on RIA Online is available on the Ministry for Regulation's website.

If necessary, you may be asked for additional information, or the RIA Team may discuss the information and options with you. If none of the templates are suitable for your proposal, the RIA Team will discuss that with you and may agree an alternative approach (see section 10.3, Agreeing departures from the templates).

Decisions on your Regulatory Impact Statement process are not necessarily final as they are made on the basis of knowledge and assumptions about the policy process at that time. If any of these factors change, for instance, timeframes become compressed, or additional policy options are included, you must advise the RIA Team and the decisions will be reviewed.

If you have any issues or concerns about these decisions, please go back to the RIA Team to discuss.

10.2 Completing the Climate Implications of Policy Assessment (CIPA) form

Cabinet requires that central government agencies must undertake a greenhouse gas (GHG) emissions analysis, known as a CIPA, and report on the results of that analysis in the Cabinet paper for all policy proposals that meet certain qualifying criteria.

For non-regulatory proposals you are expected to engage with the Ministry for the Environment's CIPA team separately. For regulatory proposals, this has been integrated into RIA Online.

For further information on Cabinet's CIPA requirements, see:

- The Ministry for the Environment's webpage, or
- Contact the Ministry for the Environment's CIPA team via CIPA@mfe.govt.nz.

10.3 Agreeing departures from the templates

The RIA Team may agree on a case-by-case basis to depart from the Regulatory Impact Statement templates.

Impact Analysis is required for a wide range of subject areas and to achieve many different objectives. In some cases, it is likely that these standardised templates will be unnecessarily and inappropriately constraining. For example:

- several different aspects of a single problem are addressed and cannot easily be separated into several single-issue impact statements because of their interdependence
- the regulatory decision is about whether, or to what extent, Parliament should delegate its legislative power on a particular matter, and who is best placed to exercise that power appropriately. (Here the level and nature of impacts on the so-called "winners" and "losers" is largely the same. Instead, the analysis is more likely to focus on issues like relative credibility and expertise, certainty versus flexibility, constitutional propriety, and appropriate safeguards)

In such cases it may be necessary for the agency and the RIA Team to work together to develop case-specific tailored approaches that better reflect the type of Impact Analysis that is appropriate to the proposal.

The RIA Team is monitoring these instances to determine what, if any, further adjustments may be needed, and further guidance to provide.

11 Preparing a Regulatory Impact Statement

The Regulatory Impact Statement, whichever template is used, is a government agency document. It presents the outcomes of your Impact Analysis process and provides a summary of your agency's best advice to your Minister and Cabinet on the problem definition, objectives, identification, and analysis of the range of feasible options, and information on implementation arrangements.

By contrast, the Cabinet paper is the Minister's document. A Cabinet paper presents the Minister's advice or recommendations to Cabinet.

The purpose of the Regulatory Impact Statement is to:

- provide the basis for consultation with stakeholders, and with other government agencies
- provide the basis for engagement with Ministers and therefore help to inform the policy discussion and Ministers' decisions
- inform Cabinet about the range of feasible options and the benefits, costs, and risks of the preferred option(s), and
- enhance the transparency of, and accountability for, decision making, through public disclosure once decisions are taken.

The Regulatory Impact Statement should provide an objective, balanced presentation of the analysis of impacts, with any conclusions reached by the agency explained and justified. It should be prepared before the Cabinet paper, so that it informs the development of the preferred option and hence the Ministerial recommendations in the Cabinet paper. It should provide a reference point from which the Cabinet paper is developed, thus avoiding the need for a lengthy Cabinet paper and repetition between the two documents.

In some cases, it will be helpful to start work on drafting the Regulatory Impact Statement early in the Impact Analysis process, building up the document as you go along. In other cases, it may be more suitable to put together the Regulatory Impact Statement at a later stage when policy development is further advanced, and proposals are ready to be put to Ministers.

You may also find it useful to use the Regulatory Impact Statement format as a vehicle for providing advice to the portfolio Minister during the course of policy development.

Efficient and effective consultation must also have taken place when carrying out Impact Analysis and the results of this set out in the Regulatory Impact Statement. Further

guidance on consultation can be found in the *Guidance Note on Discussion documents and the impact analysis requirements* on the Ministry for Regulation's website.

11.1 Standard templates

Your Impact Analysis must be provided alongside the Cabinet paper, and unless agreed otherwise with the RIA Team, the analysis will be presented using one of the standard templates. The Regulatory Impact Statement templates are available on the Ministry for Regulation's website.

The templates are designed to tailor the form and content of the Impact Analysis to the significance and nature of the regulatory proposal.

11.1.1 The standard Regulatory Impact Statement

The standard template requires analysis of all the feasible options. The template includes a coversheet that highlights the issues decision-makers need to readily access and helps them to identify the aspects of the standard Regulatory Impact Statement that they may wish to closely scrutinise.

11.1.2 Cost Recovery Impact Statements (CRISs)

The stage 1 Cost Recovery Impact Statement (CRIS1) is designed specifically for proposals seeking policy agreement to recover costs, but not yet seeking policy agreement on cost recovery levels. For example, a CRIS1 might be appropriate where there is a proposal to enable cost recovery in primary legislation, with the specific level of cost recovery to come at a later date through regulations.

The stage 2 Cost Recovery Impact Statement (CRIS2) is designed specifically for proposals seeking agreement on cost recovery levels.

11.2 Required content

The templates include guidance notes and advice on how to fill them out. This advisory text should be deleted in the final form of the Regulatory Impact Statement.

Your Impact Analysis should be completed and summarised in a Regulatory Impact Statement before the Cabinet paper is drafted. Further guidance on how to do Impact Analysis can be found in the *Guidance Note on Best Practice Impact Analysis* available on the Ministry for Regulation's website.

11.3 Consultation and circulation

The Regulatory Impact Statement summarises the impact analysis that you have already done, and therefore will reflect the results of your consultation to date. The completed templates themselves provide a vehicle for further consultation as appropriate with affected parties and with government agencies.

The Regulatory Impact Statement should be circulated at various points in the policy process:

- You will ideally circulate the draft Regulatory Impact Statement for comment to relevant government agencies before the Cabinet paper is prepared. You should include those agencies that have expertise in understanding the impacts of policies on specific affected parties (e.g. Whaikaha – the Ministry of Disabled People and the Ministry of Pacific Peoples).
- It is best practice to circulate your draft Regulatory Impact Statement to interested agencies with the draft Cabinet paper as part of agency consultation.
- The draft Regulatory Impact Statement **MUST** be available to be circulated as part of ministerial consultation.

11.4 Manager sign-off and agency disclosure

The standard Regulatory Impact Statement template requires that:

- It must be signed off by a staff member at manager level (or above) for the responsible agency. There is a space in the template for their signature.
- You must also disclose information about any key gaps, assumptions, dependencies and significant constraints, caveats or uncertainties regarding the Impact Analysis. The templates provide space for this information.

These requirements emphasise that the Regulatory Impact Statement is an agency document, not a Ministerial one, and that its quality and the analysis in it is the responsibility of the policy team and the responsible manager.

12 Obtaining independent quality assurance

Independent quality assurance is a key part of Cabinet's Impact Analysis Requirements. It helps Ministers determine the confidence they can have in the analysis, bearing in mind the decisions they are asked to make.

Regulatory Impact Statements must be independently assessed against quality assurance criteria provided by the Ministry for Regulation (see section 11.2.2, Assessing). Quality assurance should be undertaken before the final advice is provided to the portfolio Minister and must take place before the Regulatory Impact Statement is lodged with the Cabinet paper.

If the Regulatory Impact Statement is not independently quality assured before it is lodged with the Cabinet paper, then it will be subject to the process for proposals with inadequate Impact Analysis (see section 14, Regulatory proposals with inadequate Impact Analysis).

12.1 The quality assurance process

12.1.1 The purpose of independent quality assurance

Cabinet requires that independent quality assurance is undertaken on all Regulatory Impact Statements.

The purpose of independent quality assurance is to advise Cabinet on whether it is making decisions on the basis of the best possible advice. It does this by requiring that an independent quality assurance panel/specialist has considered whether the analysis and information summarised in the Regulatory Impact Statement are of a sufficient standard to properly inform the decisions being taken. This assessment is summarised in a formal Quality Assurance Statement that is included in the Cabinet paper accompanying the Regulatory Impact Statement.

12.1.2 Who should undertake quality assurance

The RIA Team determines who will be responsible for quality assurance based on the information you provide in RIA online about your agency's processes and on the particular proposal. There is a range of possible arrangements for carrying out quality assurance depending on what is most appropriate.

Table 1 Options for quality assurance

Quality assurance may be undertaken by:

- The Ministry for Regulation's RIA Team
- Internal quality assurance panels within agencies
- Panels made up of people from several agencies
- An individual assigned as the quality assurance specialist, who may be inside or outside of the agency (especially in the case of smaller agencies).

Whether the agency undertakes quality assurance or the Ministry for Regulation gets involved in a joint agency/ Ministry for Regulation panel is determined by the RIA Team and is guided by the following criteria:

- Whether the proposal is significant – The potential impacts and how it fits with Government's strategic priorities.
- Whether the Ministry for Regulation can add value through quality assurance – This depends on other factors such as the strength of the agency's regulatory stewardship, the robustness of the planned policy process, the agency's policy capability, and the level of risk and uncertainty.

Quality assurance panels are normally made up of three people – one of whom should be the panel chair.

When selecting people to provide quality assurance, the agency must ensure it is done by a person or group not directly involved in the policy process for the proposal and nominated by the agency's Chief Executive. This means:

- the quality assurance assessor/s should have suitable capability – including a thorough understanding of Cabinet's Impact Analysis Requirements, and sufficient experience and expertise in policy analysis
- internal assessors should be sufficiently senior as to have sign-out authority on behalf of the agency, and
- a certain level of independence is required.[8]

[8] The people providing the quality assurance should not be members of the same team that has prepared the Regulatory Impact Statement or otherwise been involved in the policy process. In smaller agencies where this is not possible, the quality assurance may need to be outsourced in order to ensure independence (see Table 1 Options for quality assurance for options).

Many agencies have standing quality assurance panels from which individuals may be assigned to take on responsibility for specific cases. Some do not have such capability themselves but may have an arrangement with a larger agency for help in such cases.

If your agency does not have such capability, you can contact the RIA Team for assistance with making arrangements for individual cases. However, if your agency is likely to produce more than a handful of Regulatory Impact Statements per year you should consider a more permanent arrangement. The RIA Team can help arrange this with you.

If a permanent internal panel is not possible, another option is to identify a pool of experienced people who can be drawn on, on an *ad hoc* basis. This pool could include people from other agencies (not just internally sourced). The RIA Team can help to facilitate this.

Outsourcing independent quality assurance such as from a private sector consultant or subject matter expert (e.g. academic) may be appropriate for some large or complex pieces of work, or for small agencies where conflicts of interest are difficult to avoid. In these circumstances, it is important that the assessor is familiar with Cabinet's Impact Analysis Requirements and with the quality assurance criteria. The extent, nature, and timing of the assessors' involvement in the quality assurance process and the number of times they consider the draft Regulatory Impact Statement and provide feedback is likely to vary. It is important that time is allowed for at least one iteration, as it is not often that quality assurance is completed with only one round of comments before the final assessment.

Where the agency has a permanent internal panel, the quality assurance process is set-up by the agency. Those agencies set the process for the number of reviews and may escalate to a higher level within the agency when the process is not being followed.

12.1.3 Support for effective quality assurance arrangements

Senior management buy-in and support is essential to the credibility and effectiveness of a robust Quality Assurance process.

A high-level of awareness throughout the agency about Cabinet's Impact Analysis Requirements and the quality assurance process is important in ensuring that all Regulatory Impact Statements obtain the required quality assurance and are independently assessed to a consistent and robust standard.

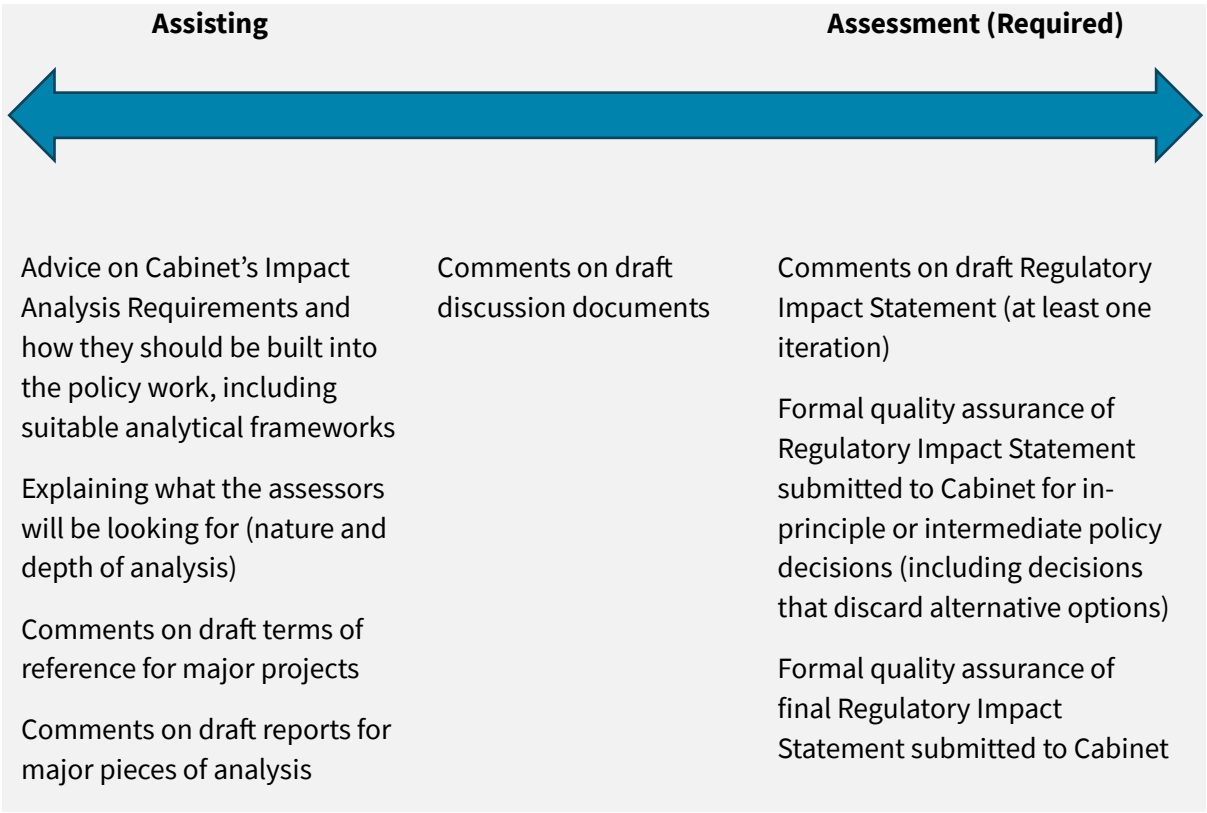
Widespread understanding of the role of the assessors and the quality assurance process is also needed. The quality assurance process should be documented and communicated across the agency.

Having the Impact Analysis framework embedded early as part of the generic policy development process will help lift the quality of analysis more generally and enable the requirements to be met.

12.2 What quality assurance involves

There are two aspects to quality assurance: assisting and the formal assessment. This is illustrated in the following diagram.

Diagram two - Degree of quality assurance involvement



12.2.1 Assisting

The RIA team provides assistance and support and liaises between authors and assessors to advise on Cabinet's Impact Analysis Requirements and set-up the quality assurance process. The authors are expected to contact the RIA Team on a voluntary basis if they want early engagement from the RIA team or the assessors. The RIA team may assign assessors who have indicated they are available to provide longer-term support from that stage in the process.

12.2.2 Assessing

Formal assessment of the final Regulatory Impact Statement is a mandatory requirement and represents the core role of assessors. An assessment of the overall quality of the Regulatory Impact Statement is made by the assessors using the following quality assurance criteria.

Table 2 Quality Assurance criteria

Complete

- Is all the necessary information in the Regulatory Impact Statement, as set out in the relevant template?

Convincing

- Is the analysis accurate, robust and balanced?
- Are the analysis and conclusions supported by the analytical framework, and a commensurate assessment of costs and benefits and supporting evidence?
- Do the assumptions make sense?

Consulted

- Does the Regulatory Impact Statement show evidence of efficient and effective consultation with stakeholders, key affected parties and relevant experts?
- Does it show how any issues raised have been addressed or dealt with?

Clear and concise

- Is the material communicated in plain English?
- Is the Regulatory Impact Statement of an appropriate length?

The same quality assurance criteria are used regardless of the type of Regulatory Impact Statement, the template used for the Regulatory Impact Statement or who independently assesses it.

12.3 Formal assessment (required)

The core role involves assessing the final Regulatory Impact Statement. Based on our experience, we strongly recommend that you plan for at least one iteration of the Regulatory Impact Statement. This means the quality assurance assessors would provide comments on at least one draft of the Regulatory Impact Statement.

Formal assessment is required for Regulatory Impact Statements provided for final policy decisions, as well as those that are to be submitted to Cabinet to support any in-principle or intermediate policy decisions.

However, the quality assurance for interim Regulatory Impact Statements will need to be tailored to the circumstances, considering the stage of policy development, the nature of the decision being sought, and the level of analysis possible. At early stages of the policy process, it may not be feasible to prepare a comprehensive Regulatory Impact Statement, so the quality assurance assessment will need to reflect these constraints.

Both the quality assurance assessors and the people responsible for the preparation of the Regulatory Impact Statement should be clear that the assessors are concerned solely with the quality of the underlying analysis and its presentation in the Regulatory Impact Statement. The role of assessors is not to assess the merits of any policy options

considered in the Regulatory Impact Statement — the assessors do not provide a view on whether the proposal is a good idea.

In practice, it can sometimes be hard to draw a firm distinction between the quality of the Regulatory Impact Statement and the quality of the proposal: essentially the assessors need to determine whether Ministers have enough information of sufficient quality, to make an informed decision.

12.3.1 Background material

As well as the final Regulatory Impact Statement, the quality assurance assessors may ask for material to test statements made about the Impact Analysis. For example, the assessors may wish to view evidence that has been cited or referenced, assumptions and calculations underlying the cost benefit analysis, or the summary of stakeholder submissions.

The assessors will need to know what the Cabinet paper is asking Ministers to decide (in particular, the recommendations), so that they can determine whether there is enough information of sufficient quality to assist Ministers to make an informed decision. The assessors should request a copy of the Cabinet paper if it is not provided along with the Regulatory Impact Statement.

12.4 Undertaking formal assessment of the Regulatory Impact Statement

An assessment of the overall quality of the Regulatory Impact Statement is made by the assessors using the quality assurance criteria previously outlined in Table 2 Quality Assurance criteria.

The outcome of the quality assurance process is a formal statement from the assessors on the quality of the Impact Analysis. You must copy this (without edits) into the "Impact Analysis Requirements" section of the Cabinet paper.[9]

The purpose of the Quality Assurance Statement is to provide Ministers with an independent view on the extent to which they can rely on the analysis in the Regulatory Impact Statement to help them make an informed decision on the regulatory proposal. This is an assessment of the content of the Regulatory Impact Statement and the robustness of the process for its development. It is not a comment on the merits of the regulatory proposal or recommended regulatory option (as this remains the responsibility of the policy team). Nor is it necessarily a comment on the competence or effort of the Regulatory Impact Statement authors, given the limitations or constraints (often related to

[9] In some cases, the Quality Assurance statement can be long and there is a need to reduce the size of the statement so the Cabinet paper can fit within size restrictions. The statement should not be edited or summarised by the author of the Cabinet paper without the approval of the Quality Assurance panel.

timeframes or Ministerial willingness to allow meaningful external consultation) under which the analysis may have been produced.

When undertaking the assessment, the assessors need to balance the quality assurance criteria and assign an overall rating as to whether the Regulatory Impact Statement "meets", "partially meets" or "does not meet" the criteria.

Table 3 Quality assurance ratings

Does not meet
• The Regulatory Impact Statement falls short of the standard on more than one aspect, or a key component is inadequate. • A "does not meet" rating is effectively a judgement that the Regulatory Impact Statement does not contain sufficient information and analysis to allow Ministers to take a properly informed decision on the matters they are currently being asked to decide.
Partially meets
• Meets the quality standard on most dimensions. • One particular deficiency that should be highlighted and explained. The assessors may make a recommendation as to how the deficiency could potentially be addressed. • A "partially meets" rating is effectively a judgement that there are deficiencies in the information and analysis provided. But, if Ministers are made aware of that, take that into account and are willing to take a risk in the circumstances, they might still be able to make a reasonably informed decision.
Meets
• Meets the quality standard, however there may still be scope for comment on what has been done well and what could have been done better.

The Quality Assurance Statement needs to explain the key matters that have informed the overall rating. Any significant limitations or constraints should be noted that may impact on the extent to which Ministers can rely on the analysis in the Regulatory Impact Statement to make informed decisions. The difference between a "does not meet" or "partially meets" rating can be difficult to judge. In these circumstances, the text explaining why the Regulatory Impact Statement falls short of the standard is particularly important.

12.4.1 The effect of limitations and constraints

External limitations or constraints on the analysis in the Regulatory Impact Statement can have an obvious effect on the quality of analysis, and hence will potentially affect an assessment against the quality assurance criteria. Examples of such constraints could be:

- a lack of relevant data or other forms of evidence,
- limited options due to direction from the portfolio Minister, prior government decisions or commitments, and
- consultation has not occurred, due to a lack of time or other reasons.

Judgement is required when considering the extent to which any limitation or constraint should be considered a mitigating factor with regard to the quality of analysis. The key issues for the quality assurance assessors to consider are:

- Whether the limitation or constraint has been explicitly disclosed.
- Whether the limitation or constraint could have been avoided.
- Whether the limitation or constraint is such that it impairs the capability of Cabinet to fully rely on the analysis and make a decision.
- What might be done to address the limitation or constraint. (If this appears possible, the assessors could consider including a recommendation to address the issue in the Quality Assurance Statement).

Important limitations and constraints affecting the analysis presented in the Regulatory Impact Statement should be clearly set out in the Limitations and Constraints Section. Knowing that a limitation or constraint exists, and why, can itself help Ministers make more informed decisions because they can factor that into their decision-making.

Whether limitations and constraints should affect the quality assurance rating will depend on their nature and circumstances, including whether something can be done about it. For instance, if the absence of relevant data is because it just doesn't exist and cannot be generated, then (if disclosed) this would not affect the quality assurance rating because Ministers would have all the information that is reasonably available to inform their decision. But if the data was absent because there was not time to review it and build it into the analysis, then that was avoidable and should factor into the quality assurance decision. However, this could be mitigated to some extent by a commitment to obtain or collect relevant data to update the analysis ahead of finalisation of the planned change.

Another situation mentioned above is where a portfolio Minister has directed that analysis be undertaken only on particular policy options (and other feasible options are taken off the table prior to the preparation of the Regulatory Impact Statement). In this case, the assessors may state whether the analysis is as good as could be expected in light of these constraints, but nonetheless only "partially meets" or "does not meet" the quality assurance criteria. In such a situation, the Regulatory Impact Statement should also identify the alternative options that they would have analysed, had they been able to consider the full set of feasible options.

12.4.2 Preparing a Quality Assurance Statement

The outcome of the quality assurance process is a formal statement from the assessors on the quality of the impact analysis, which must be copied (without edits) into the "Impact Analysis" section of the Cabinet paper.

This Quality Assurance Statement follows the statement by the responsible agency that Cabinet's Impact Analysis Requirements apply and, therefore, a Regulatory Impact Statement is required and is attached to the Cabinet paper.

Suggested format for the Quality Assurance Statement

Name of agency [and the Ministry for Regulation if a joint panel] has reviewed the Regulatory Impact Statement (RIS) prepared by [name of agency] and associated supporting material on [date].

[Statement on whether the assessors consider that the information and analysis summarised in the RIS **meets** or **does not meet** or **partially meets** the Quality Assurance criteria.]

[Explanation of the above assessment and comments on any issues that have been identified in relation to any of the dimensions of the quality assurance criteria. For example, where the assessment is that the RIS "does not meet" or "partially meets" the criteria, state:

- the areas that "do not meet" and the impacts of these areas on the robustness of the advice to support to Ministers' decision making, or
- comment on how the policy proposal could be moved forward or put on more solid foundations (e.g. further analysis of a particular issue, consultation with certain stakeholders, or careful monitoring and preparedness to take further action if necessary).]

The purpose of the Quality Assurance Statement is to provide Ministers with an independent view on the extent to which they can rely on the analysis in the Regulatory Impact Statement to help them make an informed decision on the regulatory proposal. This is an assessment of the content of the Regulatory Impact Statement and the robustness of the process for its development. It is not a comment on the merits of the regulatory proposal or recommended regulatory option (as this remains the responsibility of the policy team). Nor is it necessarily a comment on the competence or effort of the authors, given the limitations or constraints (often related to timeframes or Ministerial willingness to allow meaningful external consultation) under which the analysis may have had to be produced.

The rating needs to be explained in the Quality Assurance Statement and any significant limitations or constraints should be noted that may impact on the extent to which Ministers can rely on the analysis in the Regulatory Impact Statement to make informed

decisions. The difference between a "does not meet" or "partially meets" rating can be difficult to judge. In these circumstances, the text explaining why the Regulatory Impact Statement falls short of the standard is particularly important.

There is no set format for the explanation of the assessment or comments on particular issues, as this will depend on the particular circumstances of the individual Regulatory Impact Statement. However, the Quality Assurance Statement should:

- be succinct,
- provide an indication as to the reliance that can be placed on the Regulatory Impact Statement as a basis for informed decision-making,
- link the issues raised to the relevant quality assurance criterion, and
- explain any gaps between the impact analysis in the Regulatory Impact Statement and what the assessors would have expected to see, and the implications or risks. That is, what further analysis could or should have been undertaken, and/or what risk mitigation can be done (e.g. additional, targeted consultation).

12.4.3 Next steps if the Regulatory Impact Statement does not meet or partially meets the quality assurance criteria

Where a Regulatory Impact Statement is assessed as "partially meets" or "does not meet" the quality assurance criteria, agencies should have an internal process. This may include briefing senior management and Ministers' offices. Where a Regulatory Impact Statement "does not meet", the authors and assessors should contact the RIA Team to discuss next steps.

12.4.4 Changes to the Quality Assurance Statement

The assessment by the quality assurance assessors should be considered independent and final. But, if there are significant changes to the Cabinet paper or Regulatory Impact Statement after you have received the Quality Assurance Statement, you should contact the assessors as the Statement may need to be revised.

There may be instances when the policy team responsible for preparing the Regulatory Impact Statement is not satisfied with the final assessment and/or the wording of the Quality Assurance Statement. In anticipation of such scenarios, agencies may wish to consider the process by which these situations will be managed. For example, identifying the responsible senior manager and how they will provide support to the assessors to maintain their independence.

12.4.5 Other assistance (optional)

The assessors may be asked by the RIA Team or the author to be involved earlier in the policy process to assist in lifting the quality of the analysis in the final Regulatory Impact Statement, and ultimately the regulatory proposal itself.

This assistance role can involve engaging at key points in the process. The assessors might provide advice at the outset of the policy development process on:

- Cabinet's Impact Analysis Requirements and how they could be built into the policy work, including suitable analytical frameworks and tools.
- What the assessors will be looking for in terms of the nature and depth of Impact Analysis and the extent of evidence on the problem, impacts and risks.

The assessors might also comment on draft reports on major pieces of analysis, or on draft terms of reference for the commissioning of major pieces of analysis (such as cost-benefit analysis), to assist in establishing a suitable analytical framework.

12.4.6 Providing comments on draft material

The purpose of commenting on draft material is to help enable the final Regulatory Impact Statement to fulfil Cabinet's Impact Analysis Requirements. The comments by the assessors should, therefore, relate to the substance of the analytical methods employed and the analytical process (including consultation), looking to the nature and level of information that will need to be presented in the final Regulatory Impact Statement. Areas of focus may include:

- the extent of evidence on the nature and size of the problem, and likely impacts,
- the analytical framework and techniques including whether an established methodology (such as market analysis or cost-benefit analysis) will be employed,
- identification and assessment of costs, benefits, and risks, and
- the nature and quality of the consultation process.

It is usually helpful if early comments (e.g. on draft Regulatory Impact Statements) are as comprehensive as possible, to avoid raising substantive issues late in the process. When reviewing draft Regulatory Impact Statements, it can be useful for the assessors to provide an indication as to the likely final assessment, highlighting any areas that require further work (and what the specific gaps are) so that effort can be focused on these main areas.

The assessors should, however, take care to preserve the independence of their final assessment by focusing on the nature and quality of the Impact Analysis rather than the features of the proposal.

12.4.7 Non-standard situations

Policy processes are often non-linear, and a wide variety of non-standard situations can arise. Quality assurance assessors may come under pressure to provide Quality Assurance Statements in a very short timeframe, on non-final Regulatory Impact Statements, or on Regulatory Impact Statements that change rapidly (e.g. as policy options are altered by Ministers). Sometimes regulatory proposals will "bypass" Cabinet's Impact Analysis Requirements altogether by not having a Regulatory Impact Statement or by not being submitted to the appropriate quality assurance process.

Agencies will need to exercise judgement in many cases. The RIA Team is available to provide advice on a case-by-case basis, and to share their experiences in dealing with similar situations.

The Policy Project provides guidance and tools that are relevant in a wide range of policy situations. For more information, see the Policy Project webpage or contact policy.project@dpmc.govt.nz.

12.4.8 Moderation and review

The quality assurance criteria must be applied consistently across proposals and over time. Moderation arrangements could include:

- having centralised oversight of all quality assurance assessments (e.g. by the chair of your agency's Quality Assurance panel)
- ensuring all quality assurance is subject to peer review by others within your quality assurance panel or pool of assessors, or
- rotating quality assurance responsibilities for types of proposals (i.e. particular policy areas) so that they are not always reviewed by the same person.

Periodic evaluations of quality assurance assessments can provide a further check. One way of obtaining this is by having an independent party (such as a consultant) review a random sample of quality assurance assessments. To assist this process, agencies should ensure that all regulatory proposals are registered in RIA Online and published on the responsible agency's website and Ministry for Regulation's website.

Keeping track of regulatory proposals in this way may also be useful in providing material for agencies' reporting requirements. In addition, the Ministry for Regulation may request information for their report backs to Cabinet on the operation of the regulatory management system and how the Government is meeting its regulatory management commitments and any other reporting the Ministry for Regulation may undertake.

13 Preparing the Cabinet paper

While the Regulatory Impact Statement is a document produced by an agency summarising its analysis of an identified problem, the associated Cabinet paper is written from the perspective of a Minister.

All Cabinet papers must include a section entitled "Impact Analysis" to link the two documents.

If an exemption has been granted, this section must include a statement from the Ministry for Regulation confirming that the proposal, or aspects of it, is exempt from the requirement to provide a Regulatory Impact Statement. If relevant, this statement will include any conditions of that exemption (see section 8, Exemptions from providing a Regulatory Impact Statement).

If an exemption is not applicable (or was not granted), this section must contain two parts:

- a statement by the responsible agency that Cabinet's Impact Analysis Requirements apply, a Regulatory Impact Statement is required, and the assessment is attached to the Cabinet paper, and
- a statement from the quality assurance assessors providing an independent assessment of the overall quality of the Regulatory Impact Statement.

For information on preparing a Quality Assurance Statement for a Regulatory Impact Statement see section 12.4.2, Preparing a Quality Assurance Statement.

Where a discussion document is being quality assured, this section should include a statement from the Quality Assurance assessors on the discussion document.

14 Regulatory proposals with inadequate Impact Analysis

Impact Analysis may be considered inadequate where:

- there is no accompanying Regulatory Impact Statement for the government regulatory proposal in the Cabinet paper and the Ministry for Regulation has not granted the proposal an exemption from Cabinet's Impact Analysis Requirements[10]
- the accompanying Regulatory Impact Statement in the Cabinet paper has not been independently quality assured or has been assessed as "does not meet" against the quality assurance criteria.

In such cases, a Supplementary Analysis Report will be required or where a proposal is being implemented urgently, a Post-Implementation Review may be an alternative option. These options are outlined in sections 14.2 *Supplementary Analysis Reports* and 14.3 *Post-implementation Review as a further option for inadequate or missing impact analysis*.

The RIA team monitors compliance with Cabinet's Impact Analysis Requirements and will publish public compliance data and report it to relevant Ministers.

14.1 Providing early warning of inadequate Impact Analysis

Ministers have expressed a strong preference for early warning about proposals with inadequate impact analysis.

Early warning is the primary responsibility of the agency responsible for preparing the Regulatory Impact Statement and needs to be given sufficient priority by agency officials. Further, for any significant Regulatory Impact Statement that has not met, or in the view of quality assurance assessors is unlikely to meet, Cabinet's Impact Analysis Requirements, the Ministry for Regulation may advise the Minister for Regulation.

In many cases where the assessors conclude that a Regulatory Impact Statement does not meet the quality assurance criteria, you may be able to revise your Regulatory Impact Statement to address the identified deficiencies and have it reassessed before it is lodged. This may, for instance, require the Cabinet submission to be delayed and is therefore something that you will need to discuss and agree with your agency leadership and Minister as relevant.

Sometimes it is not possible to improve the Regulatory Impact Statement to the extent that it "partially meets", so the proposal is lodged with Cabinet Office accompanied by a

[10] Or in the case of a technical or case-specific exemption, the authoring agency has not claimed an exemption under the circular.

Regulatory Impact Statement that "does not meet" the criteria. There may also be a small number of Cabinet papers that involve regulatory options but are not accompanied by a Regulatory Impact Statement and have not been exempt from the requirements.

14.2 Supplementary Analysis Reports

In the event that a Cabinet paper with inadequate Impact Analysis does proceed and substantive decisions are made, a "Supplementary Analysis Report" is generally required unless the requirement is waived by the Ministry for Regulation. (See the next section for another option for inadequate or missing impact analysis).

The primary purpose of a Supplementary Analysis Report is to analyse at least some matters relating to the future performance of a regulatory proposal in time to inform further possible decisions on its design or operational details. In general, the sooner that this analysis is available the more useful it is likely to be. Consequently, wherever possible, a Supplementary Analysis Report should be provided before Cabinet's regulatory decisions are confirmed or draft legislation is finalised.

To help ensure that the Supplementary Analysis Report fulfils a useful purpose, the nature and timing is to be agreed by, or on behalf of, the responsible Minister, and the Minister for Regulation.

The RIA Team will discuss the nature, timing and scope of the Supplementary Analysis Report with the relevant government agency. This will be informed by factors such as the nature and significance of the proposal, the gaps in the impact analysis, and the further ministerial decision-making opportunities that a Supplementary Analysis Report could usefully inform.

In most cases, the Supplementary Analysis Report would provide Ministers with a final reassurance, or otherwise, of the policy they have approved. The report would be a form of regulatory "pre-mortem", which systematically analyses the risks associated with the proposal and how these have been, or will be, mitigated. It would provide an additional check point at which the evidence base and free and frank advice can inform Ministers. Such analysis is good practice in any event as it informs implementation planning.

The Supplementary Analysis Report may also include matters such as:

- supplementary analysis on specified issues (for instance, on costings, compliance levels, implementation plans) to inform implementation decisions
- the findings of consultation on an exposure draft of the regulatory measure
- a commitment to report the findings of a Post-Implementation Review
- a commitment that the original Cabinet paper be published – this would aid transparency by showing the information that Ministers did have available to them.

To assist transparency, the Supplementary Analysis Report is required to reference the particular purpose for which it is required, including the stage at which it is provided to Cabinet. It is a separate standalone document and is required to be published along with the original Regulatory Impact Statement, if any.

Supplementary Analysis Reports are subject to quality assurance requirements in the same way as are Regulatory Impact Statements. Each Supplementary Analysis Report is assessed against its fitness for purpose to the task it was set, including its adequacy to support any decisions it may be designed to inform.

14.3 Post-Implementation Review as a further option for inadequate or missing Impact Analysis

In situations where it is not possible to prepare a Supplementary Analysis Report before legislation is introduced to the House or regulations are made, a Post-Implementation review should be undertaken (unless the requirement is waived by the Ministry for Regulation).

A Post-Implementation Review could range from a full review of the performance of a regulatory change after a certain period, including whether it remains fit-for-purpose, to a more targeted or earlier assessment of the implementation of a regulatory change to check if any adjustments are desirable.

This alternative will likely be most appropriate where government agencies are unable to provide appropriate impact analysis in the timeframes required, but an exemption is not available.

If not already agreed by Cabinet, the nature and timing of the Post-Implementation Review (including whether, or what type of, quality assurance is expected) will be agreed by or on behalf of joint Ministers as for a Supplementary Analysis Report. These decisions will be informed by discussion between the relevant agency and the RIA Team.

15 Publishing the Regulatory Impact Statement

To foster openness and transparency around the regulatory decision-making process, the full text of all Regulatory Impact Statements and Supplementary Analysis Reports (if any) must be published on the websites of both the responsible agency and the Ministry for Regulation.

Any publication requirements for Post-Implementation Reviews will be determined on a case-by-case basis.

15.1 Withholding sensitive or confidential information

Redactions can be made from published versions of Regulatory Impact Statements and Supplementary Analysis Reports, consistent with the provisions of the Official Information Act 1982.

15.2 Timing of publication

Publication of Regulatory Impact Statements and Supplementary Analysis Reports is required at the earliest of the following events:

- when Ministers approve the publication of a regulatory impact statement under Cabinet's proactive release requirements for Cabinet papers[11]
- the Government announces its decision not to regulate
- any resulting Bill is introduced into the House or Amendment Paper is released, or
- any resulting regulation is gazetted.

Regulatory Impact Statements and Supplementary Analysis Reports (if any) may be published earlier at the discretion of the responsible Minister and/or Cabinet. For example, with the press statement announcing any new policy for which a Regulatory Impact Statement was required.

15.3 Process for publication

When the Regulatory Impact Statement and Supplementary Analysis Report (if any) is due for publication (according to the requirements set out above), agencies should request publication through RIA Online (using the same proposal you will have already created earlier in the process).

[11] https://www.dpmc.govt.nz/publications/co-23-4-proactive-release-cabinet-material-updated-requirements

Web publication must comply with the New Zealand Government Web Standards and Recommendations.

Agencies must keep the RIA Team informed (via RIA Online) about the timing of introduction/gazettal and the desired publication date so that the Ministry for Regulation can publish the Regulatory Impact Statement and Supplementary Analysis Report (if any) as soon as possible after the Bill or regulations become publicly available.

Forty printed copies of the Regulatory Impact Statement, and Supplementary Analysis Report (if any) for Bills must also be provided to the Bills Office. See the Parliamentary Counsel Office Regulatory Impact Statement Guidance**.** Select Committee clerks will include relevant Regulatory Impact Statements and Supplementary Analysis Reports (if any) in the material provided to Select Committees on Bills referred to that Committee.

The URLs to the location of the Regulatory Impact Statement and Supplementary Analysis Report (if any) must also be included in the Explanatory Note to any Bill, Amendment Paper, or regulations for which a Regulatory Impact Statement and Supplementary Analysis Report (if any) was prepared.

The Parliamentary Counsel Office (PCO) will provide standard wording for text to accompany the URLs. This wording may need to be adapted for different circumstances (e.g. when multiple Regulatory Impact Statements were prepared for a series of policy decisions). Agencies must provide a specific, designated URL to PCO for each Bill, Amendment Paper, or regulations. Agencies must ensure that these are supplied in sufficient time to enable them to be included in the copies of the draft Bill, Amendment Paper, or regulations that are printed for submission to the Cabinet Legislation Committee (LEG), when Ministers approve the publication of a Regulatory Impact Statement under Cabinet's proactive release requirements for Cabinet papers.

15.4 Disclosure statements for proposed legislation

Agencies must disclose in a standalone statement the quality assurance processes they have undertaken during the development of legislation, and key features of that legislation that are likely to be of interest to the public and Parliament.

A disclosure statement is separate from a Regulatory Impact Statement. Like the Regulatory Impact Statement, it is an agency document that provides factual information about the development and content of legislation proposed by the government. It largely takes the form of a series of questions that must be answered YES or NO, with further information required to elaborate, explain, or clarify the answer given.

The information to be disclosed is linked to existing government expectations for the development of legislation, or to significant or unusual features of legislation that tend to warrant careful scrutiny. More information about disclosure statements can be found on the Ministry for Regulation's website.

16 Improving the quality of Regulatory Impact Statements over time

Learn from previous quality assurance processes and build these lessons into future policy processes and projects. Many agencies have policy quality assessment processes that provide for this cycle of learning and ongoing improvement, and these processes are likely to cover both regulatory and other policy.

In addition, the Policy Project publishes a range of guidance and tools on how best to learn from previous policy quality assurance processes, including ex-post quality assessment, peer review and quality assurance panels. Also, *Start Right* – the Policy Project's approach for embedding quality from the outset of policy initiatives – includes mechanisms for incorporating lessons from previous policy processes into new initiatives.

For more information, see the Policy Project website or contact policy.project@dpmc.govt.nz.

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