From: s22(1)(a)(ii)
To: s22(1)(a)(ii) Helpdesk-OBPR; RIS
Cc: s22(1)(a)(ii)
Subject: RE: Preliminary Assessment form for review [DLM=For-Official-Use-Only]
Date: Thursday, 4 January 2018 17:04:58
Attachments: image001.png
image002.jpg

Good afternoon s22(1)(a)(ii)

Thank you for your email and phone call, please find below further information regarding our measure. I've tried to answer each question as best I can s22(1)(a)(ii) please do let me know if there are glaring gaps in what I've provided.

In the first instance, it might be useful to clarify outline the history and current situation with regards to MBS rebates, as differential rebates based on qualification is largely currently in place, but has been skewed over time through the introduction of the Other Medical Practitioner (OMPs) programs. In 1989 the Federal Government established a voluntary vocational register and made complementary changes to the MBS to reward completion of vocational training. A new set of content based MBS items accessible by only VR GPs was introduced and the rebates they could claim on existing items was increased by 8 percent. Non-VR GPs remained eligible to access existing items with no reduction in the rebate they received. The (A2) rebates non-VR GPs were able to claim were set at 93 percent of the new higher (A1) rate for VR GPs. The A2 rates are now worth less than 60% of the A1 rate as they have never been indexed.

The Government announced that completion of postgraduate specialist qualifications (ie Fellowship of a Specialist GP College) would be required for vocational registration from January 1995.

At present, VR GPs are eligible to claim A1 items, and non-VR GPs are restricted to the A2 items **unless** they are participating in one of the OMPs programs or participating in the Australian General Practice Training (AGPT) program as a registrar on a pathway to Fellowship. The various OMPs programs were introduced at a point in time to address specific workforce shortages. These objectives have largely been met, and the OMPs programs have blunted the financial incentives for some doctors to achieve VR. This measure will not make any changes to access to A1 items for those non-VR GP registrars working towards fellowship.

1. What are the benefits of a workforce that comprises of a higher rate of Vocational Recognised GP's? How does this achieve improved quality of GP services?

In order for a General Practitioner to become vocationally registered, they must hold Fellowship of either the Royal Australian College of GPs, or the Australian College of Rural and Remote Medicine. Gaining Fellowship requires a certain amount of general practice experience, and passing several (often very difficult) exams. A GP with Fellowship is expected to be able to provide higher quality of care compared to a non-VR GP. By returning to the original intent of changes in 1995 providing a financial incentive for GPs to gain fellowship and vocational recognition and removing the 'workaround' solutions such as the OMPs programs we would expect more GPs to seek VR status and therefore increase the number of highly qualified GPs providing services in Australia.

2. How will these changes impact patients including their carers? For example will this measure impact on the access to GP services (quality/amount of GP services available (waiting times)/ out of pocket costs?) Will this impact be different for patients from metropolitan, outer metropolitan or rural areas?

This change will benefit patients through improved access to Australian trained GPs, as well as informed choice about the quality of the GP available. The amount of GP services available, waiting times and out of pocket costs will not be affected, and the impact will be the same

regardless of geographical location.

3. How many Vocational Recognised and Non-Vocational Recognised GP's are currently accessing A1 MBS Rebates?

All vocationally registered GPs are eligible to access the A1 items. The second part of this question is a little more complicated, at present only non-VR GPs on one of the OMPs programs, and those participating in the AGPT program are eligible to access the group A1 items. s47C

s47C I will need to discuss the number of non-VR GPs accessing group A1 items through the OMPs programs with the Department of Human Services (DHS), as we do not hold this data as DHS administers the OMPs programs on behalf of the Department.

4. How many non VR GP's will be affected by these measures? What would the average financial impact of the proposed measures on non-vocational recognised GP's? Is it plausible that non-Vocational Recognised GP's will leave the profession as a consequence of these measures?

s47C Non-VR GPs currently accessing A1 group items through the OMPs programs will be grandfathered for a period of four years to provide them time to sit the required Fellowship exams and achieve VR registration. In addition, 80% of the A1 rate is higher than the current A2 rate, due to the lack of indexation applied to the A2 items since 1989. As a result it is unlikely that non-VR GPs will leave the profession.

5. What will be the impact of cessation of the OMS programs? Could this for instance lead to non-Vocational Recognised GP's relocating to metropolitan areas? Could this potentially result in a shortage or reduced access to GP services in specific geographic areas?

As mentioned above, the OMPs programs will not cease immediately. Transition over four years will provide non-VR GPs sufficient time to achieve VR registration. It is unlikely that those non-VR GPs affected will relocate to metropolitan areas as the changes will apply regardless of geographical location, and there are other MBS items (and various incentive programs) designed to encourage rural practice which will remain.

6. What pathways are available to non-Vocational Recognised GPs to become a Vocational Recognised GP? (timeframes/associated costs) Are there any limitations to these pathways? How many non-Vocational Recognised GP's are expected to complete these pathways?

There are a number of training pathways available to non-VR GPs. The time taken to achieve VR status varies depending on the medical practitioner's previous experience, length of time in the Hospital system, experience overseas, whether they are studying part or full time, which program they are on etc but on average it would take between 3-5 years. The list of programs below reflects those training programs that are recognised for Medicare purposes. There are a number of other pathways offered by the GP Colleges in addition to extra support with exams and so forth that are not listed here.

Australian General Practice Training Program – administered nationally and funded by the Commonwealth, program has an annual intake of 1,500.

Remote Vocational Training Scheme – a special purpose Commonwealth funded program for those practitioners requiring support to achieve Fellowship while working in rural and remote areas (often as a sole GP). Annual intake of 32 places.

Rural Locum Relief Program – administered by workforce agencies in each state and territory, Commonwealth funded. Practitioners can work on this program for up to 5 years. s47C

s47C

Approved Medical Deputising Service Program – administered by the Department, not a structured training program, however medical practitioners working towards achieving fellowship may access MBS while they work on this program in the after-hours period and progress to

Fellowship. A finite number of places is allocated to each Deputising Service, however they may apply for additional places.s47C

Special Approved Placements Program – an interim program administered by the Department designed to assist medical practitioners who, through exceptional circumstances are unable to participate in any of the programs listed above. Numbers fluctuate due to placements being issued for 12months at a times47C

ACRRM Independent Pathway – user funded practice based pathway to Fellowship. Unsure of how many placements available but the ACRRM membership is low (only a few hundred) so suspect that interest in this pathway is limited.

Each pathway has its own eligibility criteria and has been developed for a specific purpose. Re how many non-VR GPs are expected to complete these pathways, we have no way of knowing exactly as there are so many variables in place. While the Commonwealth has a role in funding/administering some of these programs, we are for the most part separated from the process and are moving towards a model where this is run by the sector – this is discussed further in question 9.

7. Will these measures have a flow on impact on other services for instance Community Health, Allied Health, Specialist or Emergency Department services?

It is not expected that the measure will have a large flow on impact for other services. The main outcome for the community is that patients will be able to see a clear price signal that shows the quality of their GP.

8. What are the current views of stakeholders on this proposal? Do they support the proposal?

As this is a Budget measure, we have only tested the idea broadly with a few select stakeholders. It is expected that the sector will view this proposal positively as the current arrangements are complex and administratively burdensome. A recent similar measure to introduce a price differential based on qualification for after hours item numbers was strongly supported.

s34(3)

I trust this information is of assistance, but suspect it will lead to more questions!

Kind regards

Kathryn

s22(1)(a)(ii)

A/g Director

Access Programs Section | Rural Access Branch

Health Workforce Division | Department of Health

s22(1)(a)(ii)

From: s22(1)(a)(ii)
Sent: Thursday, 4 January 2018 11:33 AM
To: s22(1)(a)(ii) Helpdesk-OBPR; RIS
Cc: s22(1)(a)(ii)
Subject: RE: Preliminary Assessment form for review [DLM=For-Official-Use-Only]

For Official Use Only

Good morning s22(1)(a)(ii)

RE: Signalling Quality through Medicare Benefits Schedule (MBS) Rebates

In order to assess the RIS requirements for this proposal further information is required. In particular we are seeking clarification on the following questions:

1. What are the benefits of a workforce that comprises of a higher rate of Vocational Recognised GP's? How does this achieve improved quality of GP services?
2. How will these changes impact patients including their carers? For example will this measure impact on the access to GP services (quality/amount of GP services available (waiting times)/ out of pocket costs?) Will this impact be different for patients from metropolitan, outer metropolitan or rural areas?
3. How many Vocational Recognised and Non-Vocational Recognised GP's are currently accessing A1 MBS Rebates?
4. How many non VR GP's will be affected by these measures? What would the average financial impact of the proposed measures on non-vocational recognised GP's? Is it plausible that non-Vocational Recognised GP's will leave the profession as a consequence of these measures?
5. What will be the impact of cessation of the OMS programs? Could this for instance lead to non-Vocational Recognised GP's relocating to metropolitan areas? Could this potentially result in a shortage or reduced access to GP services in specific geographic areas?
6. What pathways are available to non-Vocational Recognised GPs to become a Vocational Recognised GP? (timeframes/associated costs) Are there any limitations to these pathways? How many non-Vocational Recognised GP's are expected to complete these pathways?
7. Will these measures have a flow on impact on other services? For instance Community Health, Allied Health, Specialist or Emergency Department services?
8. What are the current views of stakeholders on this proposal? Do they support the proposal?

s34(3)

If you have any queries please call me.

Kind regards,

s22(1)(a)(ii)

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Economic Division | Department of the Prime Minister and Cabinet
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cid:image005.jpg@01D3

From: s22(1)(a)(ii)
Sent: Friday, 22 December 2017 1:12 PM
To: Helpdesk-OBPR <Helpdesk-OBPR@pmc.gov.au>
Subject: Preliminary Assessment form for review [DLM=For-Official-Use-Only]

Good afternoon,

Please find attached a preliminary assessment form for review – after Xmas!

Kind regards,

s22(1)(a)(ii)

A/g Director
Access Programs Section | Rural Access Branch
Health Workforce Division | Department of Health

☏ 02 6289 9665 | s22(1)(a)(ii)

From: RIS
To: CLARKE, Anne
Cc: s22(1)(a)(ii) RIS
Subject: FW: Preliminary Assessment form for review [DLM=For-Official-Use-Only]
Date: Friday, 12 January 2018 10:01:28
Attachments: image002.jpg
image003.png
005_Regulatory_Burden_Measurement_Framework.pdf
standard form RIS clearance and certification process.docx
Standard Form RIS.docx

HI s22(1
s34(3)

Thanks
s22(1)(a)(ii)
Policy Officer
Regulatory Reform Section - Best Practice Regulation Branch
Health Systems Policy Division - Department of Health
s22(1)(a)(ii)
Please consider the environment before printing this email.

From: s22(1)(a)(ii)
Sent: Friday, 12 January 2018 9:49 AM
To: s22(1)(a)(ii)
Cc: RIS
Subject: FW: Preliminary Assessment form for review [DLM=For-Official-Use-Only]

Good morning s22(1)(a)(ii)

OBPR have stated that you are required to complete a Standard For RIS "**Signalling Quality through Medicare Benefits Schedule (MBS) Rebates- 23266".**

I have attached the standard form RIS clearance process, the Regulatory Burden Measurement (RBM) framework, and the standard from RIS template.

I suggest you read the clearance process to allow sufficient time for you to have the RIS completed before you final decision dates.

Please feel free to contact us for assistance throughout this process.

Regards
s22(1)(a)
Policy Officer
Regulatory Reform Section - Best Practice Regulation Branch
Health Systems Policy Division - Department of Health
s22(1)(a)(ii)
Please consider the environment before printing this email.

From: s22(1)(a)(ii)
Sent: Friday, 12 January 2018 9:33 AM
To: s22(1)(a)(ii) Helpdesk-OBPR; RIS
Cc: s22(1)(a)(ii)
Subject: RE: Preliminary Assessment form for review [DLM=For-Official-Use-Only]

For Official Use Only

Good Morning s22(1)(a)(ii)

RE: Signalling Quality through Medicare Benefits Schedule (MBS) Rebates

Thank you for the additional information provided in relation to the above-mentioned proposal. Based on this information, the OBPR has formed the view that differentiating fees to signal a

difference in quality between Vocation Trained and Non-Vocational trained General Practitioners combined with the cessation of dedicated programs to support GP service provision in areas of need will have a more than minor impact on businesses, individuals and community organisations. As such a standard-form RIS will need to be prepared for the proposal and the threshold of regulatory costs will need to be agreed with the OBPR.

The RIS will need to answer the seven RIS questions and will need to include estimates of regulatory burden for each options. We would recommend looking at the Australian Government Guide to Regulation alongside the OBPR guidance notes and previous RISs which have been published on the OBPR RIS register (http://ris.pmc.gov.au/posts). We are also happy to have any further discussions via telephone or in person.

Should your proposal change significantly from the details provided, please contact us again to ensure that our advice remains current. Please note our reference for this proposal is OBPR ID 23266 and retain this email as a record of the OBPR's advice.

If you have any further queries please do not hesitate to contact me.

Kind regards,

s22(1)(a)(ii) Adviser
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Economic Division | Department of the Prime Minister and Cabinet
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From: s22(1)(a)(ii)
Sent: Friday, 22 December 2017 1:12 PM
To: Helpdesk-OBPR
Subject: Preliminary Assessment form for review [DLM=For-Official-Use-Only]

Good afternoon,

Please find attached a preliminary assessment form for review – after Xmas!

Kind regards,

s22(1)(a)(ii)

A/g Director
Access Programs Section|Rural Access Branch
Health Workforce Division | Department of Health
s22(1)(a)(ii)

REGULATORY BURDEN MEASUREMENT FRAMEWORK

February 2016

Introduction

The *Australian Government Guide to Regulation* discusses the importance of cutting red tape and of ensuring that all decisions being made about regulation are informed by an assessment of the impacts.

A key principle for Australian Government policy makers in the *Guide to Regulation* is that:

The cost burden of new regulation must be fully offset by reductions in existing regulatory burden.

All regulatory costs, whether arising from new regulations or changes to existing regulation, must be quantified using the Regulatory Burden Measurement framework. The framework must also be used for quantifying offsetting regulatory savings, where applicable.

This guidance note provides advice on how to calculate regulatory costs using this framework. The framework is supported by the Regulatory Burden Measure, a cost calculator tool available from the Office of Best Practice Regulation (OBPR) website.

What has changed since the previous guidance note?

There are four additions to this guidance note:

1. Introduction of materiality thresholds used to determine the Regulatory Burden Measurement costing requirements for proposals with low regulatory costs [effective December 2015].
2. Introduction of new regulatory cost offset arrangements:
    - Allowing portfolios to warrant that regulatory cost offsets will be met over time, rather than requiring these to be offset at the point of decision for each proposal [effective February 2016].
3. Documentation of a Net Present Value method for quantifying delay costs, to be used in a limited range of circumstances for large, long term projects [effective August 2014].
4. Removal of the previous mutual obligation costing arrangement and inclusion of additional guidance about the treatment of enforcement costs under the Regulatory Burden Measurement framework [effective 30 September 2015].

The Regulatory Burden Measurement framework

All new regulations or changes to existing regulations need to have the regulatory costs imposed on businesses, community organisations and individuals quantified. You need to also consider measures that offset the cost impost of the new regulations or the cost impost of changes to existing regulations. In doing this, you need to identify (in dollar terms) measures that offset the cost impost of the new regulations or changes to existing regulations.

All Regulation Impact Statements (RISs) need to be accompanied by a regulatory costing. Regulatory costings of $2 million per annum and above need to be agreed by the OBPR. Where OBPR agrees that a

proposal is likely to involve average costs of less than $2 million per annum, agencies can self-assess these costs (see the Materiality Thresholds section below).

If a portfolio brings forward a proposal with net regulatory increases and offsetting regulatory savings are not included in the RIS and agreed with the OBPR, the proposal can only proceed if the portfolio can demonstrate satisfactory progress towards its net objective. This requirement can be satisfied by the portfolio Deputy Secretary or delegate warranting in the RIS certification letter that the portfolio's net regulatory objective will be met by the end of the relevant reporting period. See the Cost Offsets section for more information on this process.

For proposals for which a RIS is not required[1], the regulatory costs and offsets still need to be calculated and reported to the Regulatory Reform Division in the Department of the Prime Minister and Cabinet via your Regulatory Reform Unit as part of the periodic self-reporting process. Where regulatory savings are exceeded by regulatory costs in a reporting period, the report will need to demonstrate in writing that your portfolio will make satisfactory progress towards its net regulatory target. For example, in cases where a RIS is not required, agencies can demonstrate satisfactory progress by including a justification in the cover sheet of the agency's periodic report. Contact your Regulatory Reform Unit for more information on this process.

The Regulatory Burden Measurement framework also needs to be used when costing the impact of the existing stock of regulation on business, community organisations and individuals.

The framework includes consideration of the following regulatory costs:

- Compliance costs:
  - administrative costs
    - costs incurred by regulated entities primarily to demonstrate compliance with the regulation (usually record keeping and reporting costs)
  - substantive compliance costs
    - costs incurred to deliver the regulated outcomes being sought (usually purchase and maintenance costs)
- Delay costs:
  - expenses and loss of income incurred by a regulated entity through:
    - an application delay
    - an approval delay.

Administrative costs

Administrative costs are costs incurred by regulated entities primarily to demonstrate compliance with the regulation.

[1] See the *User Guide to the Australian Government Guide to Regulation* for more information on when a RIS is or is not required.

Administrative costs include the time taken to demonstrate compliance with the regulation as well as the associated travel costs (for instance, the costs of travelling to a particular location to submit a form or waiting in a queue in order to comply with a requirement).

Some examples of administrative costs are:

- costs of making, keeping and providing records
- costs of notifying the government of certain activities
- costs of conducting tests
- costs of making an application
- compliance costs associated with financial costs, including the costs incurred by complying with government taxes, fees, charges and levies (excluding the actual amount paid)—for example, the time taken to pay a licence fee is a compliance cost.

Substantive compliance costs

Substantive compliance costs are costs incurred to deliver the regulated outcomes being sought. Some examples of substantive compliance costs are:

- costs of providing training to employees to meet regulatory requirements
- costs of purchasing and maintaining plant and equipment
- costs of providing information for third parties, such as providing financial statements to consumers
- costs of operation (for example, energy costs)
- costs of professional services needed to meet regulatory requirements (for example legal, tax and accounting advice)
- costs incurred in purchasing permits through non-government market mechanisms in order to meet a regulated outcome.

Government subsidies paid to assist businesses in complying with a requirement need to be subtracted from the compliance cost.

Delay costs

Delay costs are the expenses and loss of income incurred by a regulated entity through one or both of:

- an application delay—the time taken by a regulated entity to complete an administrative application requirement that prevents the party from beginning its intended operations
- an approval delay—the time taken by the regulator to communicate a decision on an administrative application that prevents the party from beginning its intended operations (this includes the time taken to assess and consider an application).

Exclusions from the Regulatory Burden Measurement framework

The following costs are excluded from the Regulatory Burden Measurement framework and are not required to be considered in a regulatory costing (however, some of them may need to be considered in the RIS, depending on the significance of that RIS):

- Opportunity costs (unless they relate to a delay)
  - Opportunity costs are the value of opportunities that cannot be realised because of the regulatory intervention. Quantifying them can be difficult because of the complexities of accurately predicting what a business would do in response to the removal or lessening of a regulation. The effort required to obtain defensible estimates may be worthwhile when measuring changes to the largest regulatory regimes. Opportunity costs can and should be considered in the context of a full cost–benefit analysis in Long Form RISs.
- Business-as-usual costs
  - Regulatory Burden Measurement framework calculations are to measure regulatory burden over and above what a normally efficient business[2] would pay in the absence of the regulation. For example, a proposal may require all airports to have a perimeter fence, but that might not result in an increase in regulatory burden if normal business practice in the absence of any regulation is to fence airports.
- Non-compliance and enforcement costs
  - This includes costs such as fines for failing to comply with a regulation and legal fees, including costs incurred in court and tribunal processes.
  - This also includes costs that arise when businesses or individuals fail to comply with government requirements and action is necessary by the business or individual/s to ensure compliance.
  - Further, this includes if policies or administrative processes are put in place by government to enforce compliance with the government's requirements, then these enforcement actions may be outside the scope of the Regulatory Burden Measurement framework. The distinction between compliance and enforcement is important when developing your RIS; further guidance has been provided at Appendix 3.
- Regulatory impacts related to the administration of courts and tribunals
  - This includes changes to the administration of courts and tribunals that are made by the court or tribunal, for example through court rules and practice directions.
- Indirect costs

  These are costs that may arise indirectly from the impacts of regulatory changes, including changes to market structure and competition impacts.

[2] A normally efficient business is defined as a regulated entity that handles its regulatory tasks no better or worse than another.

- Direct financial costs
  - These are charges attached to a regulation that are payable to government, such as administrative charges; licence and permit fees; levies; and mandatory insurance premiums (where remitted to government).
  - Taxes are also not within scope of the Regulatory Burden Measurement framework. While taxes are often perceived by business to be a burden, they are a revenue raising measure and not strictly a cost associated with regulation.
- Costs of international obligations imposed as a prerequisite for participation in international markets
  - These are the costs of, for example, airworthiness directives.
  - This exclusion applies only to the cost of performing the obligated activity. It does not exclude the demonstration of compliance to a Commonwealth regulator, such as reporting that the airworthiness activity has been completed.
- Government-to-government regulation
  - This includes all regulation imposed by the Commonwealth on Australian Government, state and territory government, local government and foreign government departments or agencies, and all of their employees where regulation is imposed on them as part of their employment. However, this exclusion does not apply to:
    - regulation imposed on Government Business Enterprises
    - regulation imposed on businesses owned by foreign governments.

Relevant population for assessing regulatory costs

The relevant population for the purposes of quantifying regulatory costs can include businesses, community organisations and individuals.

An **individual** is a person who is subject to Australian law, whose activities have an impact in Australia and who either:

- interacts with the Australian Government, or
- is affected by an Australian Government regulation.

All activities of individuals are captured, including those that are income-generating, such as meeting licensing requirements for employment, and those that do not relate to income, such as obtaining visas and passports.

See the *Individuals* guidance note for further information.

The relevant population also includes businesses or community organisations operating or seeking to operate in Australia, regardless of ownership. This includes:

- foreign businesses that do not currently have any operations in Australia but may be exporting to or investing in Australia (for example foreign businesses making foreign investment applications)

- Australian businesses or community organisations operating overseas, to the extent that Australian regulations affect their overseas operations.

Regulatory burden estimate (RBE) table

A regulatory burden estimate (RBE) table (Table 1) needs to be populated and reproduced in your RIS (or in the certification letter for an independent review or RIS-like process[3]), including for matters that are solely deregulatory. An RBE table needs to be produced for every viable option in the RIS.

Where a RIS is not required, costs (and offsets where applicable) are reported directly to the Regulatory Reform Division within the Department of the Prime Minister and Cabinet through your Regulatory Reform Unit as part of periodic reporting requirements.

Table 1: Regulatory burden estimate (RBE) table

Average annual regulatory costs (from business as usual)				
Change in costs ($ million)	Business	Community organisations	Individuals	Total change in costs
Total, by sector	$	$	$	$

Calculating annual impact

You are required to present the average annual impact of the regulatory change in all costings.

You should cost your proposal over a 10-year default duration of the regulation. A shorter period may be more appropriate if the proposed regulation is to end sooner, such as for a time-limited grant programme that ends (along with all regulatory costs) after three years or budget proposal that is only in place for a limited time (for example, 4 years). You need to have the agreement of OBPR to use timeframes in RISs shorter or longer than 10 years.

Costs and offsets are presented in real terms (also referred to as constant prices) as average annual figures in all cases. For example, the wage rate for a particular regulatory activity would be the same hourly rate used across the entire 10 years – it is not inflated to take account of inflation. Discount rates must not be applied to these figures.

- For proposals for which the cost does not vary over time, the impact of the change in the first year can be treated as the average annual impact.
- For proposals that impose varying costs over time, the total change over the duration of the proposal should be divided by that duration to calculate the average annual impact.
- For one-off and start-up costs, the cost should be divided by the duration of the proposal to calculate the average annual impact.

[3] Refer to the *Independent reviews and RIS-like processes Guidance Note* for further details on where this applies.

The average annual change in regulatory costs is measured against 'business as usual' costs. Therefore, the costs should be the burden over and above what a normally efficient business would pay in costs in the absence of the regulation.

Cost offsets

All new regulations need to have (at least) a cost-neutral impact on businesses, community organisations and individuals. Therefore, the regulatory cost offsets that are reported to the Regulatory Reform Division need to be greater than or equal to the regulatory costs of the new regulation.

Cost offsets are required for proposals that increase the total regulatory burden. Deregulatory proposals do not require cost offsets.

Cost offsets need to be measurable, practical and estimated on the basis of the Regulatory Burden Measurement framework. As with regulatory costs, they should usually be calculated over a 10-year period (but presented as average annual figures). You need to have the agreement of OBPR to use timeframes in RISs shorter or longer than 10 years.

If a portfolio brings forward a proposal with net regulatory increases and offsetting regulatory savings are not included in the RIS and agreed with the OBPR, the proposal can only proceed if the portfolio can demonstrate satisfactory progress towards its net objective. This requirement can be satisfied by the portfolio Deputy Secretary or delegate warranting in the RIS certification letter that *"A regulatory offset has not been identified. However*, [insert the portfolio name] *is seeking to pursue net reductions in compliance costs and will work with affected stakeholders and across Government to identify regulatory burden reductions where appropriate."*[4] For the purposes of Short Form RISs and Interim RISs where a certification letter is not required, it will be sufficient to include in the RIS the Deputy Secretary's or delegate's statement warranting that the Department is seeking to pursue net reductions in compliance costs.

Cost offsets are not limited to reductions in the compliance costs associated with legislative and regulatory changes. Offsets can be in the form of efficiency benefits to businesses, community organisations and individuals or changes to the way regulation is administered. They are also not constrained to the agency or portfolio, but where possible they should target the same group of stakeholders as the cost impost.

For example, a new regulation that has a regulatory burden to small business of $30 million a year should aim to be offset by measures that provide $30 million in cost savings or efficiency benefits to small business over the same period.

Where offsets are sourced from another portfolio, agreement needs to be reached between the relevant ministers. Self-assessed offsets need to be reported to the Regulatory Reform Division as part of your Regulatory Reform Unit's periodic reporting.

Regulatory offsets that exceed the costs of a new regulatory proposal can be used to offset other regulatory proposals, or can be counted towards the red tape reduction target. This includes offsets identified within the target period.

[4] Offset warranting arrangements revised March 2017.

Regulatory Burden Measure

Agencies are required to use the Regulatory Burden Measure (RBM) to quantify the costs and cost offsets, unless an alternative tool or software (such as a spreadsheet) is agreed with OBPR. Any alternative needs to be consistent with the Regulatory Burden Measurement framework.

The RBM can be accessed on the OBPR website. An online manual is also available.

OBPR's assessment

Before a RIS can proceed to the decision maker for a final decision (or be circulated for coordination comments, in the case of Cabinet submissions), the quantification of regulatory costs (and regulatory cost offsets where provided) need to be agreed by OBPR, except for solely deregulatory proposals or where the regulatory costs in a proposal fall below the materiality threshold. As explained further below, if regulatory costings for solely deregulatory proposals are not agreed at the time of decision they need to be agreed within one month of the decision (see next page for further guidance on the materiality threshold and solely deregulatory proposals).

OBPR can provide comments on your costings as part of the Early Assessment and Final Assessment process[5]. In assessing whether your RIS meets best practice, OBPR examines whether costs (and offsets where provided) were agreed by the office and subject to consultation. If costs (and offsets) were not agreed by OBPR, that could lead to OBPR assessing your RIS as non-compliant with the RIS requirements.

For a Final Assessment, you need to give OBPR the details of the regulatory costs (and offsets) at least 10 business days before the RIS is to be provided to the decision maker or circulated for coordination comments. For RISs not subject to a Final Assessment, the regulatory costs (and offsets) need to be provided to OBPR at least five business days before the RIS is to be provided to the decision maker or circulated for coordination comments.

OBPR's agreement to the costing information does not constitute support for the policy or an assessment of the adequacy of the RIS. In assessing the costing information, OBPR asks:

- Are the assumptions reasonable?
- How has 'business as usual' been defined?
- How has 'a normally efficient business' been defined?
- Are the data sources referenced?
- Are there basic errors in the maths?
- Where provided, are the offsets practical?
- Have the costs (and offsets) been tested with businesses, community organisations or individuals, as appropriate?

[5] See the User Guide for more information on the Early Assessment and Final Assessment processes.

OBPR does not assess costs and offsets outside the RIS process, but is available to provide assistance. Such costs are self-assessed by portfolios using the Regulatory Burden Measurement framework and, once approved by the relevant Secretary or Deputy Secretary (or delegate), are reported to the Regulatory Reform Division within the Department of the Prime Minister and Cabinet via your Regulatory Reform Unit as part of the periodic reporting process.

For more information on OBPR assessment, see the *User Guide to the Australian Government Guide to Regulation* http://www.dpmc.gov.au/office-best-practice-regulation/publication/user-guide-australian-government-guide-regulation.

Materiality Thresholds

Regulatory costings of $2 million per annum and above need to be agreed by the OBPR.

Where the OBPR agrees that a proposal is likely to involve average annual cost of less than $2 million, agencies can self-assess these costs. Different arrangements apply to this self-assessment process where OBPR agrees that the cost is between particular thresholds. Specifically, where OBPR agrees that:

- proposals that are likely to involve less than $100,000 in average annual regulatory costs/savings, agencies need to cost these impacts, either explicitly using the RBM tool (or equivalent) or by making an estimate of what the average cost might be (e.g. $50,000, $100,000, etc.). This estimate may vary from portfolio to portfolio based on factors such as their stock of regulation or red tape target.
    - Portfolios can also apply this approach to self-assessed regulatory costings which are conducted outside of the RIS process.
- proposals that are likely to involve average annual regulatory costs/savings of $100,000 and above, but less than $2 million, agencies need to cost (self-assess) the impact using the Regulatory Burden Measurement framework but do not need to have a formal assessment to be completed by OBPR.

Solely Deregulatory

For proposals that are solely deregulatory and impose no new regulatory costs, the agency can progress to the decision maker without prior OBPR agreement on savings, subject to normal policy approval processes. However, the costings for the savings will need to be agreed within one month of the decision. For Interim, Standard and Long Form RISs these costings will be published on the OBPR website following an announcement of the decision.

Inter-jurisdictional reforms

The net impact of national reforms that result in a change to Commonwealth legislation or practices, or are a result of direct Commonwealth incentives or conditions, should be quantified and offset using the Regulatory Burden Measurement framework. This requirement applies to decisions made by Council of Australian Governments (COAG), ministerial councils and intergovernmental standard-setting bodies where there is a level of Commonwealth involvement.

Where the Commonwealth does not have 100 per cent control over the governance or regulatory arrangements, the threshold for 'level of Commonwealth involvement' is interpreted as the existence of a funding agreement or a degree of influence (such as involvement in a ministerial council). In this case, the

responsible Commonwealth portfolio is deemed to be responsible for a portion of burden created or reduced. The exact portion is determined on a case-by-case basis.

The costs would need to take into account the costs imposed or removed by the Commonwealth as well as those imposed or removed by states and territories.

For example, if as part of a COAG reform the Commonwealth removes regulations, resulting in a reduction of regulatory costs to business of $10 million per year, but as part of the agreed reform states and territories are required to impose additional requirements resulting in new costs to business of $2 million per year, then savings of $8 million per year would be counted towards the Commonwealth's red tape reduction target.

Additional Commonwealth regulation increasing regulatory costs by $10 million per year that results in the states and territories reducing regulatory costs by $8 million per year would require offsetting measures of $2 million per year.

Departments should contact their Regulatory Reform Unit, OBPR, or both early in the policy making process to determine RIS requirements and whether an inter-jurisdictional reform will need to be measured. OBPR can advise on how the regulatory costings of the reform should be calculated. The portfolio is responsible for the decision on the proportion of costs that should be applied to the Commonwealth target or offset. Further advice on apportioning costs to the Commonwealth target and the associated reporting requirements can be obtained from the Regulatory Reform Division.

For those proposals that may require a COAG RIS, the RIS should be supplemented by additional analysis from the lead Commonwealth department to meet the quantification and offset requirements of the Commonwealth's red tape reduction programme. The costs need to be agreed by OBPR before a decision is made by COAG, the Ministerial Council or the standard-setting body. This includes both Consultation and Decision RISs.

Are regulatory costings needed for COAG Consultation RISs[6]?

Yes. Even if the COAG Consultation RIS is not being considered by Cabinet, regulatory costings still need to be identified and agreed with the OBPR. Bear in mind, any regulatory offsets (where identified as part of the RIS or at a later stage by the relevant Commonwealth agency) would only need to be identified for that component of regulatory costs attributable to the Commonwealth.

These requirements are not intended to capture all decisions by ministerial councils and intergovernmental standard-setting bodies, especially where the Commonwealth has limited influence over the final decision. They apply to those reforms where the Commonwealth is a party to the reform or where there is a degree of Commonwealth intervention.

How to estimate changes in regulatory burden using the RBM

Before using the RBM, consider the obligations that are being placed on businesses, community organisations and individuals. Think about administrative, substantive compliance and delay costs that businesses, community organisations and individuals may be facing. For example:

[6] See the COAG RIS Guide (*Best Practice Regulation: A guide for Ministerial Councils and National Standard Setting Bodies*) for more information on COAG RIS processes.

- What activities will businesses have to undertake under the new or revised regulation?
- How will community organisations comply with the new or revised regulation?
- What equipment will businesses have to acquire?
- What changes to existing processes may be required by individuals?

To understand how stakeholders might be affected under a proposed regulation, it is important to identify how they operate in current regulatory or non-regulatory environments. This will help you to identify business-as-usual costs and to quantify changes to the regulatory burden under the proposed regulation.

It is your responsibility to consider the available data to ensure the estimates of regulatory burden are as accurate as possible. In cases where there genuinely is no data available to use in the quantification, you still need to provide estimates of burden. Assumptions would need to be used in this case, and need to be reasonable and defensible.

Broadly, there are four steps to be taken in quantifying regulatory costs and cost offsets using the RBM:

1. Consider the nature of the costs (start-up, ongoing fixed/variable).
2. Cost the relevant three classes of regulatory costs (administrative, substantive compliance and delay costs).
3. Estimate cost offsets to businesses, community organisations and individuals.
4. Where a RIS is required, summarise the costs (and cost offsets) in the RBE table for inclusion in the RIS (or certification letter for an independent review), subject to OBPR agreement. Where no RIS is required, report the costs and offsets to the Regulatory Reform Division in the Department of the Prime Minister and Cabinet via your Regulatory Reform Unit as part of the periodic reporting process.

Step 1: Nature of the costs

Determine the nature of the costs, which can have a significant impact on the final costing. You should ask:

- Are the costs start-up or ongoing costs?
- If the costs are ongoing costs, are they constant or variable?
- Will the costs apply differently based on the size of the businesses or community organisation involved? Will they apply differently based on other characteristics?

Are the costs start-up or ongoing costs?

Start-up costs are costs incurred by stakeholders in the first year of the regulation. They tend to be one-off purchase costs that need to be paid to comply with the regulation. Start-up costs are averaged over the life of the regulation in order to calculate the average annual regulatory cost.

Ongoing costs are costs incurred from year to year of the regulation, not just in the first year. The calculation of ongoing costs depends on the whether the ongoing cost is constant or variable.

Are the ongoing costs constant or variable?

Variable costs are expected to change from year to year. For example, using the default 10-year duration of a regulation, if a business incurs regulatory costs every two years into perpetuity then to calculate the average annual regulatory cost of the proposal the costs over 10 years should be summed and then divided by 10.

Do costs vary by size of business or community organisation?

Where the effect of an option on businesses or community organisations can vary significantly, consider whether you should disaggregate the sector into small, medium and large cohorts. This will provide you with important information about the regulatory burden on different groups of stakeholders.

Step 2: Costing activities

Identify each activity that is required to be costed.

The three cost categories that should be considered are administrative costs, substantive compliance costs and delay costs.

If the cost is an administrative cost, it would normally be considered a labour cost. Substantive compliance costs would normally be purchase costs.

The formula used for a **labour costs** for businesses and community organisations is:

Labour cost = Price × Quantity

= (Time required × Labour cost) × (Times performed × Number of businesses or community organisations × Number of staff)

Where:

Time required is the internal time required per staff member, in hours, for businesses or community organisations to perform a regulatory task.

Labour cost is the hourly wage rate plus any non-wage costs of employees. The hourly wage rate is the gross wage received by an employee. Non-wage costs of employees should include any on-costs associated with the wage, such as payroll tax and superannuation, as well as any overhead costs such as rent, telephone and IT equipment. Appendix 2 provides more information on labour rates, including the treatment of on-costs and overheads.

Times performed is the number of times an activity is performed per year per staff member. For example, if something is required twice a month, the value would be 24.

Number of businesses or community organisations is the number affected by a particular regulatory obligation. Consider the expected compliance rate and whether this would have an impact on the number of businesses or community organisations.

Number of staff is the number of staff members per business or community organisation who perform the activity.

The formula used for **labour costs** for individuals is:

Labour cost = Price × Quantity

= (Time required × Labour cost) × (Times performed × Number of individuals)

Where:

Labour cost is the rate per hour for individuals not in paid employment or not in the course of their employment (such as leisure time). Unless there is strong evidence to use a different rate, a default rate should be used. Appendix 2 provides more information on this default rate.

Times performed is the number of times an activity is performed per year per individual.

Number of individuals is the number affected by a particular regulatory obligation. Consider the expected compliance rate and whether this would have an impact on the number of individuals.

The formula used for **purchase costs** is:

Purchase cost = Price × Quantity

= (Purchase cost) × (Times performed × Number of businesses or community organisations)

Where:

Purchase cost is the cost of purchasing a product or purchasing external services (for example, buying a safety guard required by regulation, when the safety guard would not normally have been bought at the start-up of an operation).

Measuring **delay costs** is more complex and might not necessarily involve estimating labour costs or purchase costs. Often, once the regulation is implemented, delay costs could be considered as administrative costs, compliance costs, or both.

Delay costs should only be calculated when a business is waiting on government action to commence trading. For example, an entity may have to wait six months to obtain government approvals to sell a product on the Australian market. Where the entity is otherwise able to begin trading on the day it lodges its application, the delay costs comprise lost sales over the six-month approvals period. However, if the entity is not ready to commence trading until four months after lodging the application, the delay costs will comprise only two months of lost sales.

Delay costs are often incurred through the holding of land and capital. In these cases, you should be careful to consider what the business-as-usual case (that is, without the proposed regulation) is expected to be and whether the cost is a delay cost, a substantive compliance cost or an administrative cost. As an illustration of this distinction, consider a regulation that results in a business purchasing a machine but, as a result of an application delay, the machine sits idle for two months. The cost of the machine is not considered to be a delay cost, as the machine is needed to comply with the regulation, and would instead be a substantive compliance cost. However, the cost of the machine sitting idle is a delay cost and could be calculated as the loss of net income incurred by the business as a result of the machine not being used.

If you believe that a proposed regulation is likely to impose delay costs on businesses, community organisations and individuals, you should contact OBPR for further guidance on incorporating those costs in the RBE table in the RIS.

In some circumstances, the delay costs associated with large, long term proposals may be quantified using a Net Present Value (NPV) method.[7] For this approach to be used, the proposal needs to satisfy both of the following criteria:

- the proposed regulatory change would materially change future delay costs for individuals, businesses or community organisations, *and*
- the change in delay costs would affect business decisions that involve long investment horizons and variable costs and benefits over time.

The approach to capture the regulatory impact of delay costs on large, long term projects that are expected to commence within a 10 year period is to use:

- the discounted costs and benefits (in NPV terms) over the life of the project are to be calculated before and after the proposed regulatory change
- the difference in the NPVs before and after the proposed regulatory change are the cost of the delay.

If you believe these criteria apply to your proposal, you need to contact the Regulatory Reform Division who will confirm whether or not the criteria have been met and provide further guidance on incorporating those costs in the RBE table in the RIS.

Step 3: Cost offsets

Cost offsets to businesses, community organisations and individuals need to also be estimated using consistent assumptions. The procedures are similar to the ones discussed above. However, the cost offsets need to identify the reduction in regulatory costs to business, individuals and community organisations. As with costings of regulatory proposals, understanding the baseline and estimating the change in cost offsets will be important.

Step 4: Reporting

The RBE report needs to be completed and included in the RIS. Information on costings, such as any assumptions made, needs to be provided to OBPR for the approval process.

Where no RIS is required, costs are self-assessed by portfolios using the Regulatory Burden Measurement framework. Following approval by the relevant secretary or deputy secretary (or delegate), they are reported to the Regulatory Reform Division via your Regulatory Reform Unit as part of the periodic reporting process.

In all cases, the data needs to be derived using the Regulatory Burden Measurement framework.

[7] NPV is a method used to calculate the present value of an investment or project by summing and discounting future incoming and outgoing cash flows.

Further information

For further information, including on the use of the RBM, OBPR can be contacted on:

Email: helpdesk-OBPR@pmc.gov.au

Phone: 02 6271 6270

Appendix 1: Frequently asked questions

Is quantification of regulatory costs required for all Cabinet submissions?

Yes, although the results may be that the final regulatory burden output is zero.

When is a cost offset not required?

A cost offset is not required if the proposed policy change will result in a net reduction in regulatory costs. In the RIS, OBPR needs to agree that the proposal results in reduced costs. Outside the RIS process, reductions in regulatory costs are self-assessed by portfolios using the Regulatory Burden Measurement framework and, once approved by the relevant secretary or deputy secretary (or delegate), are reported to the Regulatory Reform Division via your Regulatory Reform Unit as part of the periodic reporting process.

If a portfolio brings forward a proposal with net regulatory increases and offsetting regulatory savings are not included in the RIS and agreed with the OBPR, the proposal can only proceed if the portfolio can demonstrate satisfactory progress towards its net objective. This requirement can be satisfied by the portfolio Deputy Secretary or delegate warranting in the RIS certification letter that the portfolio's net regulatory objective will be met by the end of the relevant reporting period. For the purposes of Short Form RISs and Interim RISs where a certification letter is not required, it will be sufficient to include in the RIS the Deputy Secretary's or delegate's statement warranting that the net objective will be met.

Is the use of the Regulatory Burden Measure mandatory?

Regulatory costs are required to be estimated using the RBM or using an equivalent method agreed by OBPR. Any alternative method needs to be consistent with the Regulatory Burden Measurement framework.

Are all costs of a regulation required to be quantified in the RBE table?

No; however, any administrative, substantive compliance and delay costs that you identify and that can be estimated practically should be included.

Other impacts, such as opportunity costs or impacts on competition, should be considered in the RIS, and are expected for Long Form RISs as part of a broader cost–benefit analysis.

Over what period does a regulation need to be costed?

The default duration for the costing of a regulation is 10 years.

What happens if the cost offset is greater than the costs associated with the proposal?

Regulatory cost offsets that exceed the costs of the new regulatory proposal can be used to offset other regulatory proposals, or can be counted towards the red tape reduction target.

For deregulatory proposals, how should the RBE table be completed?

For proposals that result in reductions in regulatory burden, the proposal should be entered as a negative in the RBE table.

For instance, if a proposal saves regulatory costs for business of $400,000 per year over 10 years and there are no identified new regulatory costs at this stage, the final RBE table would read:

Regulatory burden (RBE) estimate table

Average annual regulatory costs (from business as usual)				
Change in costs ($million)	Business	Community Organisations	Individuals	Total change in cost
Total, by sector	($0.4)	$0	$0	($0.4)

For proposals where portfolios have chosen to identify specific offsets at the point of decision, how should the RBE table be completed in the RIS?

Where a portfolio has chosen in a RIS to identify specific offsets at the point of decision the RBE table should be supplemented with offsetting regulatory savings for the new regulatory costs that have been identified.

For instance, if a proposal increases regulatory costs on businesses by $1 million per year over 10 years and is matched by an identified regulatory offset of $1 million per year over 10 years, the final RBE table would read:

Regulatory burden estimate (RBE) table

Average annual regulatory costs (from business as usual)				
Change in costs ($million)	Business	Community Organisations	Individuals	Total change in cost
Total, by sector	$1	$0	$0	$1
Cost offset ($ million)	Business	Community organisations	Individuals	Total, by source
Agency	$1	$0	$0	$1
Are all new costs offset? ☑ Yes, costs are offset ☐ No, costs are not offset ☐ Deregulatory—no offsets required				
Total (Change in costs - Cost offset) ($million) = $0				

Appendix 2: Default work-related and non-work-related labour rates[8]

The cost of a regulatory proposal that requires individuals to perform a regulatory task, whether as part of their employment in a business or community organisation or as a private citizen in their leisure time, needs to be estimated using an appropriate labour rate. It is your responsibility to consider the available data to ensure that the estimates are as accurate as possible.

Work-related labour costs

The labour costs associated with a regulatory task for a business or community organisation are quantified by multiplying the time taken to complete the required compliance activity by the hourly cost to the business or community organisation for the relevant staff. This is the cost of complying with the regulatory requirement. Where labour-related services are outsourced, such as accountancy or legal services, the cost of those services should be treated as a purchase cost, not a labour cost.

The default hourly cost is based on average weekly earnings, but adjusted to include income tax.[9] This provides an economy-wide value for employees of $39.31 per hour.[10] This value needs to be scaled up using a multiplier of 1.75 (or 75 per cent as it is input into the Regulatory Burden Measure) to account for the non-wage labour on-costs (for example, payroll tax and superannuation) and overhead costs (for example, rent, telephone, electricity and information technology equipment expenses). This results in a scaled up rate of $68.79 per hour ($39.31 multiplied by 1.75). This default should be used in cases where regulation cuts across a number of sectors, or where more appropriate labour rates are unknown or would add undue complexity to the costing process.

Where there is strong evidence that a different wage rate or multiplier is readily available and would be more accurate for work-related labour costs, you should discuss and agree on this with OBPR. For example, you may know the actual overhead and on-costs of the regulated entities, or you may be regulating an individual sector, such as the mining industry or medical practitioners, where a more accurate labour rate proxy for the opportunity cost to the business or community organisation is easily identifiable.

Non-work-related labour costs

Where proposals involve an impact on individuals not in the course of their employment, this leisure time is assumed to be the opportunity cost of the time spent filling in forms. It is a standard economic approach to consider the trade-off between work and leisure such that the marginal value of time spent working equals the marginal value of time spent at leisure. The marginal value of time spent working is approximated across the economy as the average hourly wage, including overtime, after tax. Therefore, the default value that

[8] Note, labour rates have been updated as at February 2017.

[9] Average weekly earnings estimates are published by the Australian Bureau of Statistics (ABS) net of income tax.

[10] Based on ABS Cat. No. 6306.0 *Employee Earnings and Hours, Australia, May 2016*. Data Cube 13 - Average weekly total cash earnings and hours paid for: full-time non-managerial employees paid at the adult rate (weekly ordinary time). Calculated using the ATO's online Simple Tax Calculator, 2015-16 tax rates.

should be used for an individual's leisure time is based on average weekly earnings and has been estimated at $31 per hour.[11]

It may not always be the case that the trade-off between work and leisure is applicable to all individuals who are affected by a regulation. This is typically the case for people not in the labour force, such as unemployed people or pensioners. Therefore, where there is strong evidence that a different rate should apply, you should discuss and agree on this with OBPR.

[11] Note that this value should only be used to value individuals' time while not in paid employment for individuals residing in Australia. A more appropriate value should be used when valuing the time of individuals residing outside Australia, depending on the average hourly rate in the country where they are living.

Appendix 3: Enforcement and compliance under the Regulatory Burden Measurement framework

This appendix is intended to provide greater clarity for agencies around mutual obligations including what should, and what should not be quantified under the Regulatory Burden Measurement framework.

In general, all compliance costs (administrative and substantial compliance) are quantifiable under the Regulatory Burden Measurement framework, whereas all enforcement costs are excluded.

Agencies' interpretations of mutual obligation vary, and are often based on how the term is applied in legislation and regulations that portfolios administer and enforce. For example, in the context of welfare assistance the term mutual obligation is based on a concept that welfare assistance provided to the unemployed should involve some return responsibilities for the recipient (demonstrating that a job seeker is actively seeking work). This, or any other, mutual obligation could conceivably involve compliance activities, enforcement action or a combination of these.

Rather than the focus being on the mutual obligation itself, the key question for the purposes of the Regulatory Burden Measurement framework is on any changes to 'red tape' as a result of a government proposal. That is, the concept of mutual obligation is not the primary consideration. In the context of the example above, the Regulatory Burden Measurement framework should consider:

- Is the requirement for a job seeker receiving welfare payments to demonstrate they are actively seeking work compliance (i.e. red tape), enforcement or a combination of the two?
- If the activity is compliance then the Regulatory Burden Measurement framework applies, and if it is considered enforcement then it is out of scope of the Regulatory Burden Measurement framework.

In considering whether a particular activity is compliance or enforcement, it is important to establish what the Government objective is with a particular policy.

The overwhelming majority of interactions by the community with the government are broadly:

- voluntary, for example unemployed persons seeking welfare assistance; applying for a grant or procurement
- administrative, for example changing personal details with Centrelink
- regulatory, for example undertaking accredited training to comply with licensing conditions.

These are generally compliance activities either expected or regulated by Government or voluntarily actioned by businesses and individuals. For these reasons, it is reasonable to assume that such activities would be categorised as compliance.

This is the default position. Therefore all regulatory costs (administrative, substantive compliance, and delay costs) arising from these activities are costed under the Regulatory Burden Measurement framework.

Individuals and businesses need to perform certain activities in order to meet regulatory obligations. As individuals, businesses and the community need to undertake these activities to comply with regulation, these costs fall within the Regulatory Burden Measurement framework. If, on the other hand, policies or administrative processes are put in place to enforce compliance with regulation, these costs may fall outside

the Regulatory Burden Measurement framework. If policies or administrative processes are put in place by government to influence or direct certain behaviour (that is, to ensure compliance with government requirements), then these enforcement actions would be outside the scope of the Regulatory Burden Measurement framework (just as non-compliance activities are excluded from the Regulatory Burden Measurement framework).

To avoid applying the default position (that all regulatory costs relate to compliance), agencies need to clearly demonstrate where their new proposals are an enforcement action. These actions are not costed under the Regulatory Burden Measurement framework.

From a practical point of view, proposals will often involve a combination of compliance and enforcement actions. In these cases, it will generally be very difficult to measure this mix. The OBPR will accept costings based on either 100 per cent compliance or 100 per cent enforcement rather than requiring a mix. The OBPR will therefore not require agencies to demonstrate that regulatory costs are 100 per cent compliance or 100 per cent enforcement to accept a 100 per cent costing.

Agencies have the discretion to estimate a split between the two if accurate data is readily available and they feel that the benefits of such estimation would outweigh the additional complexity.

Quick Guide to Clearance Process for a Standard Form RIS

A **Standard Form RIS** must contain:

- answers to all seven RIS questions
- an analysis of genuine policy options
- an analysis of the likely regulatory impacts
- evidence of appropriate public consultation
- detailed regulatory costings and offsets
- a one page RIS Executive Summary

Early Assessment - optional

An Early Assessment may be undertaken once you have completed the first four questions and planned your consultation process. When you submit your RIS for Early Assessment, it must be signed off by your **deputy secretary**.

The decision maker must not have finalised any decisions about the preferred option at this point.

OBPR will comment on your partly–complete RIS with two important criteria in mind:

- Have you accurately costed the regulatory burden of your policy options and offsets?
- Do you have an appropriate plan for consulting those affected by your policy?

If the Early Assessment finds your costings inadequate or your consultation plan unsatisfactory, OBPR will advise on the areas that need to be addressed, otherwise your RIS could be found to be non-compliant at the Final Assessment stage.

OBPR may also comment on whether you have considered all of the policy options available to you.

It pays to remain in touch with OBPR throughout the development of your RIS to avoid non-compliance: remember once a RIS is formally lodged with OBPR, the Final Assessment (whether compliant or non-compliant) will be published on OBPR's website.

Final Assessment - compulsory

The Final Assessment can only be done when all seven RIS questions have been answered in full. In addition to checking your costings and consultation process, OBPR will assess your RIS against the question: *Does the analysis support an informed policy decision*?

The Final Assessment is a two pass process. For both of the two passes, your **RIS** and **one page executive summary** must be certified by your **deputy secretary** prior to lodgement with OBPR. The certification letter received with your RIS on the second pass will be published on the OBPR website when the RIS is published. Certification letter templates are available from OBPR.

First Pass

In the **first pass**, OBPR comments on whether the RIS is consistent with the Government's requirements and adequately addresses all seven RIS elements, including the quantification of regulatory costs and associated red tape reduction offsets. To do this, OBPR will need to see the **Regulatory Burden Measurement** (RBM) calculations used to provide your cost estimate.

Consultation is an important part of the RIS process. Consultation can take a number of forms, including full public or targeted consultation. Post-decision consultation is only an option in limited circumstances, for example, when open public consultation could compromise the confidentiality of Cabinet decisions, and OBPR approval must be obtained before this consultation option can be executed.

OBPR may comment on whether your RIS accurately reflects stakeholder feedback on your policy analysis and whether the options considered reflect the full suite of policy options available to you, including those suggested by stakeholders.

The OBPR will provide formal written comments within **5 working days** if improvements are required to the RIS and there is no limit on the amount of time you can take between the first pass and second pass. You can draw on OBPR's advice at this time to improve your RIS in any way. First pass comments are not published.

Second Pass

In the **second pass**, OBPR relies heavily on the certification by your deputy secretary in determining the adequacy of your RIS, provided the letter directly addresses in detail OBPR's written comments on the first pass. OBPR will respond in writing within **5 working days**. A RIS assessed as consistent will conform to all applicable processes and have all necessary inclusions, such as an appropriate consultation approach and a minimum of three policy options, one of which must be a non-regulatory option.

To be assessed as compliant with requirements, your RIS must not contain obvious errors; must have an appropriate level of detail; and the depth of analysis must be in keeping with the size of the problem and potential regulatory impact. The quantification of regulatory benefits, costs and offsets must also be assessed as accurate.

Portfolios must ensure each RIS gives genuine consideration to options put forward by stakeholders through the consultation process. Your analysis must treat these options as serious policy alternatives and ensure they are assessed equally against your original policy options. If stakeholder proposals are not adopted, your analysis must offer a thorough and transparent rationale.

OBPR can find your RIS non-compliant with RIS requirements if any of your analysis is unsatisfactory, your costings inaccurate or your consultation process inadequate.

Decision

Once OBPR assesses your RIS as compliant, you can proceed to the decision maker for a final decision. You can also proceed to the decision maker if your RIS is found non-compliant, but be aware: OBPR will publish your RIS and its assessment on the OBPR website (and you will be obliged to also publish it on yours). A non-compliant RIS is likely to attract unfavourable scrutiny.

Australian Government

Department of Health

Standard Form Regulation Impact Statement (RIS)

March 2016

Name of proposal:

Office of Best Practice Regulation (OBPR) ID number:

Background

Half a page that briefly describes the context of the proposal. Someone with no understanding of the subject should be able to read this and understand the context.

Problem Definition

This section should be no more than one page that clearly identifies between two to eight problems to business, community organisations or individuals. Each problem should be separately identified. A clear problem definition leads to a strong RIS.

Objective of Government Action

This section should be no more than half a page and using separate dot points describe the government's objective.

Policy Options

Describe three or more options to address the problems described. One option must be maintaining the status quo which is the base case.(A RIS needs to have at least three options unless the agency certifies in the RIS that the policy problem and circumstances are such that fewer than three options are feasible for consideration.)

Option 1 (Status Quo – Do Nothing)

Option Overview

Provide an overview of the proposed option

Impacted Parties

Describe the potentially impacted parties such as business, community organisations or individuals.

Impact Analysis

Describe the impact of each option on each of the impacted parties identified above, impacts could be direct or indirect. The Regulatory Burden Estimate (RBE) Table at Appendix 1 is required to be included in this section if there are regulatory costs associated with this option. Provide evidence to support costing information such as referencing and sources.

Option 2

Option Overview
Provide an overview of the proposed option

Impacted Parties
Describe the potentially impacted parties such as business, community organisations or individuals.

Impact Analysis
Describe the impact of each option on each of the impacted parties identified above, impacts could be direct or indirect. The Regulatory Burden Estimate (RBE) Table at Appendix 1 is required to be included in this section if there are regulatory costs associated with this option. Provide evidence to support costing information such as referencing and sources.

Option 3

Option Overview
Provide an overview of the proposed option

Impacted Parties
Describe the potentially impacted parties such as business, community organisations or individuals.

Impact Analysis
Describe the impact of each option on each of the impacted parties identified above, impacts could be direct or indirect. The Regulatory Burden Estimate (RBE) Table at Appendix 1 is required to be included in this section if there are regulatory costs associated with this option. Provide evidence to support costing information such as referencing and sources.

Consultation

In this section provide a description about the type of consultation that was undertaken and then provide a description of the results or outcome of the consultation.

Nature of consultation
Provide an overview of the consultation that was undertaken.

Impacted parties
Provide an overview of the results and outcomes of the consultation.

Preferred Option

Clearly state the preferred option and why the conclusion must be supported by the preceding analysis.

Implementation

Consider how the option will be implemented and enforced, consider practical implementation issues such as, legislative timeframes, administrative issues such as accountability, risks and mitigations, transitional arrangements and enforcement issues.

Australian Government

Department of Health

Appendix 1

Regulatory Burden Estimate (RBE) Table

Average Annual Regulatory Costs (from business as usual)				
Change in Costs ($m)	**Business**	**Community Organisations**	**Individuals**	**Total change in cost**
Total by Sector	$	$	$	$

Please also consider the offsets for the regulatory costs associated with the proposal. If no offset has been identified, has the Deputy Secretary or delegate warranted that the net regulatory target will be met by the end of the relevant reporting period?

Are all new costs offset?

❑ Yes, costs are offset, ***please provide information below***

❑ Deregulatory, no offsets required

Total (Change in costs - cost offset) ($ million): $

What are the offsets for increases in regulatory costs associated with this proposal?