

Hints & Tips for Writing a Regulatory Impact Statement / Business Compliance Cost Statement (RIS/BCCS)

An RIS/BCCS is a statement that provides transparent information to Ministers and stakeholders on the key assumptions and empirical foundations upon which judgements are made about regulatory change. It provides consistency in the presentation of this information in summary form.

WHO?

The Ministry's Regulatory Impact Analysis Unit (the Unit) has a mandate to review and assess RISs with BCCSs, providing comments and advice to assist you to write an adequate RIS/BCCS. The Unit is responsible for providing an adequacy statement to be included in the Cabinet paper certifying that the RIS/BCCS meets the criteria for an adequate RIS/BCCS. See the adequacy criteria and checklist at: www.med.govt.nz/buslt/compliance/risbccs/adequacy/

It is important to contact the Unit as early as possible in the policy development process. This allows time for several successive sets of comments from the Unit and iterations from departments of an RIS/BCCS that can be required before adequacy is reached. At the very least, allow a minimum of *two weeks* for the Unit to review your RIS/BCCS before the paper is to go to your Minister.

The Unit can also provide guidance and advice on:

- RISs that do not have BCCSs
- Regulatory impact analysis in general; and
- Regulatory policy design.

WHAT?

Before you begin writing your RIS remember:

- The RIS/BCCS is a tool to assist ministerial decision-making.
- Your primary audience – Ministers. Assume no prior knowledge of the issue.
- Bear in mind that the RIS/BCCS will be a public document, as it must be published on your website with a link to the MED website. The RIS/BCCS must also accompany the press release on your policy proposal, and, if it is for primary legislation, must be included in the Explanatory Note to the Bill.
- The level of analysis should be commensurate with the likely impact of your proposal.
- During consultation it is important to ask appropriate questions (in discussion documents etc.) to address the issues in the RIS/BCCS. This ensures that your regulatory impact analysis reflects stakeholders' views of 'real-world' impacts.
- As a general rule of thumb, the length of the RIS/BCCS should be no more than 4 pages. This means that you must be clear, concise and succinct in all sections of the RIS/BCCS.

There are a number of resources available that can assist with both the policy development process and the RIS process, such as:

Cabinet Office Step-by-Step Guide – Cabinet and Cabinet Committee Processes
www.dpmc.govt.nz/cabinet/guide/

Legislation Advisory Committee (LAC) Guidelines on Process and Content of Legislation
www.justice.govt.nz/lac/

Guide to Preparing Regulatory Impact Statements
www.med.govt.nz/buslt/compliance/risbccs/regimpact/

Business Compliance Cost Statements Guidelines for Departments
www.med.govt.nz/buslt/compliance/risbccs/guidelines/

Generic Policy Development Process (GPDP)
www.med.govt.nz/buslt/compliance/policydevpt/

Code of Good Regulatory Practice
www.med.govt.nz/buslt/compliance/regprac.html

Policy Framework for Occupational Regulation
www.med.govt.nz/buslt/bus_pol/policyframework/

For further information see:
www.med.govt.nz/buslt/compliance/risbccs/

Or you can **contact:**

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Hints for Writing an RIS / BCCS

Statement of the nature and magnitude of the problem and the need for government action

- Clearly **define** the fundamental problem being addressed – don't focus only on symptoms of the problem.
- Include all relevant **background** information, so that the problem can be seen in context. Assume the reader has no prior knowledge of the issue.
- Be sure **not to pre-justify** the preferred option or solution.
- Be sure to include some measure of the **magnitude** of the problem, quantified where possible.
- Justify **why government action** is needed – e.g. market failure, regulatory failure, enforcement problems, the problem is escalating etc.

Statement of the public policy objective

- What is the government trying to **achieve** in relation to the underlying problem, in terms of goals and/or outcomes?
- Think about the **primary** (over-arching) objective + **secondary** (more specific) objective(s).
- Do **not pre-justify** or align with the preferred option.
- Where relevant, refer to any **constraints** (e.g. budget, time etc.) and/or pre-existing authority for the proposal (e.g. Cabinet decision, governmental policy etc.), or any international obligations

Statement of feasible options (regulatory and/or non-regulatory) that may constitute viable means for achieving the desired objective(s)

- **Identify**, using sub-headings, all feasible options considered during the policy development process.
- **Begin** with the **status quo** (the current regulatory environment or “do-nothing” approach), as this provides the counterfactual to all other options considered. Outline the **key features**, and include a statement as to why it is no longer appropriate to maintain the status quo.
- **Next**, identify any **non-regulatory options** that were considered. Outline the **key features** of each option, and include a statement as to why a non-regulatory option is not preferred.
- **Follow** by identifying alternative **regulatory options** that were considered. Outline the **key features** of each option, and include a statement in each option as to why it is not preferred.
- **Conclude** with the **preferred option** (clearly identified as such in the heading). Outline the **key features**, but (due to the length constraints for RISs), do not include any analysis. This is to be done in the net benefit section.

Statement of the net benefit of the proposal, including the total regulatory costs (administrative, compliance and economic costs) and benefits (including non-quantifiable benefits) of the proposal, and other feasible options

- This section sets out **who** will be affected, **how** they will be affected, and to **what** extent (costs & benefits).
- Identify the relevant benefits, costs and tradeoffs / distributional effects under headings of the **various sectors** impacted (e.g. government (including local government), industry, society).
- Sometimes it may be necessary to break a key sector (e.g. industry) into **sub-sectors** to clearly indicate the different impacts (e.g. on importers, exporters, small business etc.).
- You need to include in the analysis the relevant direct and indirect impacts; tangible and intangible impacts, administrative and compliance costs for business (refer to these in the RIS but the detail goes in the BCCS); opportunity costs; and international considerations where relevant.
- The impacts should be **quantified** as far as possible.
- The level of analysis should be **commensurate** with the likely impacts of the proposal.

Statement of consultation undertaken

- Outline the **form** of consultation. If no consultation was undertaken, indicate why not.
- Which **stakeholders** have been consulted? Were any **significant concerns** raised? How were these concerns addressed? If not, why not?
- Which **government** departments / agencies have been consulted? Were any **significant concerns** raised? How were these concerns addressed? If not, why not?

Business Compliance Cost Statement

- Identify **sources** of incremental compliance costs (i.e. “red-tape” costs) of interacting with government, incidental to the obligation itself e.g. compliance costs are NOT direct charges or fees imposed as a result of the proposal, rather:
 - ONE-OFF** compliance costs could include for example:
 - * information costs (identifying and understanding the new regulatory requirement)
 - * upgrading production processes / equipment / buildings / software etc.
 - * buying in of specialist services (e.g. accounting, IT, legal etc.)
 - * psychic costs (stress, anxiety etc.)
 - ON-GOING** compliance costs could include, for example:
 - * staff costs or time
 - * inspection fees/ enforcement, charged at an hourly rate
 - * licence application process (application form, writing letter, providing photo, running advertisements etc.)
 - * form filling /administration /paperwork (compiling necessary information, time taken etc.)
- Identify **parties** likely to be affected – by sector and size of firm
- **Estimate** compliance costs – **quantify** as far as possible, however, if this is not possible, provide qualitative estimates. Identify where costs fall differentially on different groups (e.g. small business, new businesses etc.) and set out any **assumptions** behind estimates
- Outline steps taken to **minimise** compliance costs – e.g. lead-in/transitional arrangements, communication / education / awareness strategies, use of electronic technology, advisory services etc.