Experts in Business

FSB Northern Ireland Policy Position Paper:

Regulatory Reform in Northern Ireland

About this Series

In 2015, FSB in Northern Ireland commissioned a series of Policy Position Papers on issues that are of significant concern to our Members.

The purpose of the papers is to set out those concerns, to examine and explore each issue as it affects SMEs, to gather and analyse information and to make recommendations for improvement.

We will use the papers, alongside the other activities in our research and policy development programme, to stimulate debate, raise awareness and, ultimately, advocate for our Members as a campaigning and lobbying organisation which not only communicates concerns but informs the development of practical solutions.

These papers are aimed at policy-makers and decision-takers and, as such, we will bring them to the attention of government departments, local councils and councillors, MLAs, MPs and MEPs. We welcome comments and debate, particularly from our Members - our main stakeholders.

As experts in business, we offer our members a wide range of vital business services, including advice, financial expertise, support and a powerful voice in government. Our sole aim is to help smaller businesses achieve their ambitions.

Foreword

In Northern Ireland, smaller businesses employ more people than all large businesses and the entire public sector, *combined*. That makes it essential for the Northern Ireland Executive to prioritise SMEs at the core of its economic programme and, in particular, to use the power of government to remove barriers to business.

Research conducted by the Ulster Business School for FSB indicates that 80% of micro, small and medium sized enterprises intend to grow their business over the next two years, and it also finds that they make a significant contribution to local economic and social well-being, by employing people locally and contributing to charities, sport and youth activities in their areas. That means smaller businesses are vital to Northern Ireland, so we must have the drivers in place to encourage and facilitate these growth ambitions.

FSB's Manifesto for the 2016 NI Assembly Election, ***Realising the Potential of Small Businesses***, sets out a range of measures the incoming Executive should adopt to help create the best conditions for business; but support for business does not always need to cost money. One of the most effective ways the Executive could support business is to reduce the regulatory burden; also ensuring that any new regulation is proportionate and that there is accountability, consistency and transparency in the process, and that new regulations are effectively targeted.

At present, no tally is kept of the cost of regulation on business in Northern Ireland and the assessment of its impact is often ignored or else undertaken in a haphazard manner. This is not acceptable. Quite simply, if it is not measured, it cannot be managed, so FSB is calling in this paper for processes to understand the effect and cost of regulatory burdens, and for actions to contain and reduce them. The rigour of a budget for regulation may lead to less being done, but for it to be done better.

FSB supports the principles of Better Regulation, participating in both the **Better Regulation Task Force** and the **Better Regulation Forum**; but red tape is still a significant issue for micro and small businesses, with our members telling us that it is a major barrier to their development. Reducing bureaucracy and regulation has also been identified by SME owners as the best way for government to help businesses.

Regulations come at a financial and time cost that is borne by business, with each spending an average of 37 hours per month on compliance issues. Despite continued government promises to reduce time and money spent on keeping up to speed on regulation changes, micro, small and medium-sized employers have seen their regulation bills continue to go up.

This report looks at a number of different aspects of the current regulatory process in Northern Ireland, taking account of the whole system including regulatory quality, historical regulations, the overall burden, regressive compliance costs, and the need to mainstream economic concerns. The report makes a total of 14 recommendations which, if adopted, could significantly improve the regulatory system for all small businesses in Northern Ireland, encouraging both economic and community growth.

Wilfred Mitchell OBE

FSB Policy Chair, Northern Ireland

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Implement the recommendations of the DETI ***Making Life Simpler*** report and the **Innovation Lab on Regulatory Impact Assessments**.

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Introduce a **Regulatory Budget** for Northern Ireland, published and debated in the same way as the fiscal budget.

Recommendation 3:

Commence the process of Regulatory Budgeting by incrementally offsetting new regulation, with a commitment to develop a full Regulatory Budget within a defined timescale.

Recommendation 4:

Ensure that Regulatory Budget accounting is based only on the costs to business rather than the potential wider benefits of the regulation.

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Include European and United Kingdom-wide regulation, including specific policy areas, such as taxation, within Regulatory Budgets and reviews.

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Place a **statutory duty** on all public authorities operating in Northern Ireland to take account of the business impact of all of their functions, promoting and protecting the interests of smaller businesses in the exercise of their duties.

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Include sunset clauses in all new regulations, to expire within a maximum of 5 years, providing the need to review and update regulation by every new Assembly.

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Create a single online **Business Regulation Hub** for all regulators in Northern Ireland.

Recommendation 12:

Make **Regulatory Impact Assessments** compulsory, comprehensive and consistently applied through the new statutory duty.

Recommendation 13:

Introduce a new **Independent Scrutiny Unit** to review Regulatory Impact Assessments and have the authority to refuse to approve them unless there is clear evidence of compliance with all guidance and Codes of Practice developed to ensure the required level of quality and effectiveness.

Recommendation 14:

Commit to publicising new regulations and standards in Plain English and accessible formats, and make them widely available for scrutiny and comment.

1. Introduction

The recent **Costs of Doing Business in Northern Ireland** report by the Department of Enterprise, Trade and Investment (DETI) states that compliance with government regulations comes at a cost that must be borne by business, in terms of both money and time. It refers to research which found that businesses spend an average of 37 hours per month on compliance, equating to more than £3,000 per year for a small business.

The complexity of regulation and lack of adequate publicity means many small business owners are unaware of which regulations apply to them, how to comply, or where to get advice. Getting to grips with this can, in itself, be a hugely time-consuming process and leave businesses unnecessarily vulnerable.

Excessive or overly complex regulation prevents innovation, and creates unnecessary barriers to trade, investment and economic growth. Nearly 40% of Northern Ireland's small businesses view regulation as a barrier to growth, while reducing bureaucracy and regulation was identified by small business owners as the best way for the government to help businesses.

A recent study into the link between regulation and growth in OECD countries concluded that:

- countries and industries where direct and indirect regulatory burdens are lighter have generally experienced the highest GDP per capita and productivity growth rates;
- where regulatory burdens are lighter, the reallocation of resources towards the highest productivity firms is stronger; and
- inappropriate regulations have an adverse impact on productivity performance; therefore, reforming such regulations can provide a significant boost to potential growth.

The World Economic Forum publishes annual **Global Competiveness Reports,** which assess the competitiveness landscape of 144 economies, providing insight into the drivers of their productivity and prosperity. They use over 100 data results and other indicators to arrive at their conclusions. When the **Economic Advisory Group for Northern Ireland** compared the competiveness of the Northern Ireland economy to these countries using the same indicators, it was ranked 42 out of 145. One of the criteria, "burden of government regulation", ranked Northern Ireland as 88 out of 145.

Of course, a sound regulatory framework is essential to maintain a fair and competitive market place which supports business and protects consumers, employees, and the environment. However, imperative here is a need to balance the benefits that regulations are designed to achieve against the costs that compliance with them imposes on businesses and the economy.

2. Review of Business Regulation

As part of the **Economic Pact** in 2013, the Northern Ireland Executive committed to undertake a review of business regulation in Northern Ireland to find ways to reduce the unnecessary burdens currently placed on business.

In November 2014, DETI published a report on the review, ***Making Life Simpler: Improving Business Regulation in NI***, which made recommendations for improving Northern Ireland's regulatory regime to make a more effective contribution to its economic competitiveness. The review included an **Innovation Lab on Regulatory Impact Assessments** which also produced a series of recommendations for improving regulation in Northern Ireland.

Recommendation 1:

Implement the recommendations of the DETI ***Making Life Simpler*** report and the **Innovation Lab on Regulatory Impact Assessments**.

3. The Regulatory Budget
– The overall burden of regulation

The cost of regulation to small businesses

Regulation and fiscal policy can be used as interchangeable tools of government action, in that government can adopt either a tax-and-spend policy or introduce regulation to achieve many of its policy goals.

For example, increasing the minimum wage is a regulatory measure which transfers money from businesses to low paid workers; effectively it is an alternative to increasing taxes on businesses and using the money raised to increase working tax credits. The result - increasing wages – achieves the same aim. From the point of view of a business, the cost of regulatory compliance is materially indistinguishable from the cost of paying a tax - their profit would be higher without either the tax or regulation.

However, regulation represents a substantially higher cost to businesses than most taxes. In 2010, the Chamber of Commerce estimated Northern Ireland's regulatory burden at £2.34 billion. To set that in context, the 2009-10 Corporation Tax bill for Northern Ireland was £411 million, Value Added Tax was £1.96 billion, and total National Insurance contributions (including employee contributions) were £2.02 billion.

By comparison, between 2001 and 2010 UK-wide Corporation Tax receipts grew by 5%, VAT receipts by 19%, and National Insurance receipts by 58%. Regulatory burdens grew in that period of time by over 750%.

A Regulatory Budget

The only effective way to manage and prioritise the total costs of regulation, and to constrain and assess the overall amount of costs imposed, would be to introduce a system of regulatory budgets.

Regulatory budgeting would involve estimating the likely cost of all proposed regulations, irrespective of their source (EU, Westminster etc), informed by effective Regulatory Impact Assessments (RIAs). To understand the context, Regulatory Budgets might also establish the costs of removing any existing regulations that are causing concern amongst business.

By raising policy makers' awareness that regulations consume both time and money, and are not a cost-free alternative to taxation or expenditure, regulatory budgets would provide an incentive to use regulatory measures more cost-effectively to achieve their defined aims. Departments would be able to make better-informed decisions about the detail, prioritisation and timing of new policies, including assessing potential conflicts and exploiting synergies.

A regulatory budget would also enable greater control over the total costs of regulation, allowing government to look at the potential impact on the economy in a coherent and evidence based way. It would strengthen the ability to foresee the total impact of new policies. Importantly, if the Executive made a commitment to reduce the overall regulatory burden in Northern Ireland, irrespective of the source of new regulations, it could send a powerful signal to foreign investors that Northern Ireland is an excellent place in which to do business.

Transparency

One of the current difficulties associated with regulation is that there is no complete picture of the total economic impact of government regulation. A regulatory budget would provide everyone with better information to evaluate regulation and in doing so would combat some of the major issues that cause misallocation of regulatory resources.

It would permit informed comparisons across different regulatory areas and allow for the coordination of the costs and benefits of various initiatives. In so doing, it would allow policymakers to consider regulatory costs in the more realistic context of a hierarchy of competing policy interests, rather than as a series of isolated, case by case initiatives, and would better inform political judgments about how much a new regulatory measure is "worth".

Priority Setting

At present, there appears to be little to limit government's regulatory activities, or force government to prioritise among the health, safety, economic, environmental and social goals of regulation. A transparent regulatory budget would help the Executive to set priorities and enhance the economic efficiency of regulation across the entire government.

It would clearly illustrate the impact of decisions and incentivise government as a whole to establish priorities between policy areas, and individual policy makers to choose between initiatives. Additionally, in a period of financial restraint, it would encourage policy makers to try and develop innovative solutions to policy problems.

As the US Congress's Joint Economic Committee noted in 1979,

> *Even if all regulations were cost effective, the problem of balancing resources for regulatory purposes with resources for other purposes would still exist. This balance could best be accomplished through a regulatory budget.*

Cost Focus

The purpose of a regulatory budget, much like the fiscal budget, would be to manage and prioritise government's use and allocation of a finite regulatory resource. To achieve this would need a focus only on the cost side of the regulation, and so the expenditure of businesses should be taken into account as the guiding criterion.

Initial Measures

Before full budgeting could begin, regulators would first have to establish a baseline by monetising the existing inventory of regulation. As this is likely to entail a significant exercise, it may be practical to commence with an incremental budget that covers only the costs of new or modified regulations, which could then be "offset" by modifying or eliminating existing regulations; however, there must be a commitment to move towards a full regulatory budget in the future.

No exemptions from the Regulatory Budget

Two major areas that affect small businesses have largely been exempt from the UK deregulation strategies: European regulation and tax regulation.

Most business are not aware of the origins of a piece of regulation and, while the majority of policy areas have been transferred to the devolved structures in Northern Ireland, some remain at Westminster and Whitehall, many of which have substantial impacts on business. These include taxation; National Insurance; trade; minimum wage; financial services; and consumer safety.

If exemptions for reviewing EU and UK regulations, or for specific policy areas, remain, there is a major risk that any deregulatory structures put in place will not have the desired impact, resulting in a growing rather than decreasing regulatory burden, especially in areas damaging to small businesses.

Recommendation 2:

Introduce a **Regulatory Budget** for Northern Ireland, published and debated in the same way as the fiscal budget.

Recommendation 3:

Commence the process of Regulatory Budgeting by incrementally offsetting new regulation, with a commitment to develop a full Regulatory Budget within a defined timescale.

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Ensure that Regulatory Budget accounting is based only on the costs to business rather than the potential wider benefits of the regulation.

Recommendation 5:

Include European and United Kingdom-wide regulation, including specific policy areas, such as taxation, within Regulatory Budgets and reviews.

Creating a Regulatory Budget trading market

A regulatory budget would have the effect not only of raising awareness and limiting the costs of regulations, but would also ensure that laws are subject to regular, comprehensive consideration and consent by policymakers, who would evaluate whether older regulations are still fit for purpose or of priority concern to government.

Additionally, to inspire a new mindset amongst regulators, the use of a regulatory budget could be extended to create a "market" within government itself, creating the innovations and efficiencies more commonly seen in the private sector. Such markets already exist within the regulatory field, for example in the use of "cap and trade" measures in relation to carbon emissions permits.

Producers who emit less pollutant than allowed by their permits may sell their excess to other producers, although total emissions, and thus the total amount of permits, cannot exceed the cap (which is typically lowered over time to achieve a national or regional emissions reduction target). The less a producer emits, the less they pay, so it is in their economic interest to pollute less. They can also earn money by trading their excess permits.

In a loose parallel, the ability to trade regulatory surplus within or between departments and public authorities would provide incentives to Ministers and civil servants to find savings by reducing current regulations, resisting the need to introduce excessively burdensome regulations, or by trading regulatory surplus for other resources, so that policy- and decision-makers could achieve more of their goals.

Recommendation 6:

Develop a system of **regulation trading**, allowing and encouraging individual departments and their policy makers to trade regulatory budgets with other departments and policy units.

A Pro-Enterprise Panel

It should also be noted that Singapore has recently established a **Pro-Enterprise Panel**, which actively encourages feedback on government rules and regulations that hinder businesses and restrict entrepreneurship.

The Panel consists of business champions from the private sector and senior civil servants, and receives suggestions to improve business efficiency, relaying them to the relevant regulatory authorities.

In the context of a regulatory budget process, where policy-makers are actively seeking regulations they can remove, to create space for new ones, the input of such a panel could be very beneficial, both to businesses and to regulators.

Recommendation 7:

Establish a **Pro-Enterprise Panel** of Business Champions.

4. A Statutory Duty
– Mainstreaming business impact

Need for mainstreaming economic interests

While Northern Ireland's economic recovery has begun, it still lags behind the rest of the UK and Ireland. We need to create a business-friendly environment in order to compete with neighbouring economies to the east and south by "mainstreaming" a pro-business mentality into the Northern Ireland public sector. This would include not only limiting the impact of regulation on business, but also looking for ways actively to help businesses and the economy in Northern Ireland. Mainstreaming this approach would promote and incorporate consideration of business impacts into all stages of policy development and could be an innovative, and potentially transformative, approach to policy making.

Mainstreaming Regulatory Impact: Statutory Duty

Effective mainstreaming is evident in the use of Section 75 of the Northern Ireland Act 1998, which has made the promotion of equality and good relations a legal requirement across all of the functions of all public authorities operating in Northern Ireland.

The Section 75 duties replaced the previously voluntary Policy Appraisal and Fair Treatment guidelines, which the Standing Advisory Committee on Human Rights found to be essentially "ineffective". By placing the need to consider the impact of policy decisions and operating methods on equality and good relations on a statutory footing, together with comprehensive guidance on how these considerations should be incorporated into the policy process, awareness of these key issues is now an integral element of the Northern Ireland decision-making process.

The business sector now requires a similar intervention. The use of existing Regulatory Impact Assessment, which is voluntary, does not appear to be systematic nor is the quality consistent. It is particularly important to take account of the impact, or potential impact, of regulation on small and micro businesses, and so there is a need to see a more widespread consideration of smaller businesses within the Regulatory Impact Assessment process. In assessing cost to business, this should include not only actual expenditure, but also the time required to administer and implement regulations.

Recommendation 8:

Place a **statutory duty** on all public authorities operating in Northern Ireland to take account of the business impact of all of their functions, promoting and protecting the interests of smaller businesses in the exercise of their duties.

Small Business Advocate

A key component of successful mainstreaming is having an appropriate means of overseeing, monitoring and reviewing its process.

Many of the best regulatory systems exist in countries where a dedicated unit contained in the central executive is responsible for monitoring the impact of government activity. Examples include the Office of Information and Regulatory Affairs in the United States, which is located within the Office of Management and Budget, itself an agency within the Executive Office of the President; Australia's Office of Best Practice Regulation, which is based in the Department of the Prime Minister and Cabinet; and Denmark's Better Regulation unit in the Ministry of Finance. These allow the main parts of the respective executives to send signals to departments that their regulatory activity is watched closely.

FSB recommends the creation of a **Small Business Advocate** for Northern Ireland - an independent voice at government level with statutory powers to test policy against the interests of small business. The Advocate would link business and government, encouraging a sense of common purpose and inspiring a culture of enterprise in Northern Ireland by acting as a champion for small business, embedding their needs at the heart of policy-making. Most importantly, the Advocate would assist the Executive in its key aim of delivering private sector growth, with all the benefits of a stable, prosperous society and high quality, sustainable jobs which that entails.

The Advocate could also serve as the **NI Better Regulation Champion** envisioned by the Review of Business Red Tape, as well as providing the monitoring and evaluation function recommended by the Innovation Lab.

Recommendation 9:

Establish a Northern Ireland Small Business Advocate to promote and protect the interests of small business at all levels of government.

5. Sunset Clauses
– Fixing historial regulations

Once in place, the effectiveness or usefulness of regulations is rarely assessed, even if the costs and benefits are estimated with hypothetical assumptions before enactment. As a result, a stock of older regulations builds up without a process for determining which ones should be adjusted, pruned or revoked.

Regulation can often lag behind or slow down the pace of innovation. Whereas innovation moves quickly, and can happen anywhere and at anytime, policy makers are limited by slow procedures and the need to confer stability. In addition, policy makers are often confronted with complex innovations in fields of emerging technologies as well as apparently straightforward innovations that challenge existing regulatory structures (for example Uber taxis) and about which regulators know little. This "disconnect" between the introduction of a new product or service and the review of the applicable rules can delay important innovations.

It is therefore important to adopt a regulatory framework that offers a proper pacing of regulations in line with the innovation process, and which allows room for learning and the revision of regulation as more information becomes available.

Sunset Clauses

Sunset clauses describe a mechanism that terminates a regulation at a predetermined time. They can be applied to entire laws or to certain sections of a law. When the clause expires, the law may be renewed, following a review of the circumstances that led to the introduction of the law, and consideration of evidence of any continued requirement for it.

Used throughout the world, sunset clauses guarantee continual oversight of legislation, allowing for the updating or removal of obsolete, unnecessary or ineffective laws, adaptation to changing social or technological circumstances, and adjustments to evolving attitudes, perceptions, and judgments towards behaviour. They allow for the expiry of unnecessary laws that are no longer fit for purpose, thus helping to avoid over-regulating a sector or placing unnecessary burdens on industry.

Sunset clauses can therefore be used as a means to improve the effectiveness of public administration and regulation, by ensuring that policy makers continue to reassess the underlying problems and evaluate regulations after their implementation.

Recommendation 10:

All new regulations should hold **sunset clauses** to expire within a maximum of 5 years, providing the need to review and update regulation by every new Assembly.

6. The Business Regulation Hub – Small Business compliance costs

Many of the recommendations in this paper would, if implemented, have a significant impact on the costs of regulatory compliance for small businesses. By bringing hidden costs out in the open, policy makers would have a better understanding of the impact they are having when they regulate business. Additionally, a better overview of the totality of regulation, and limits on the amount of regulation that government can implement, would help to reduce the negative impact on economic growth. The impact of compliance costs on small and medium sized businesses must also be taken into account.

It has been common to focus on the impact of regulation on large firms and inward investors. However, it is also important to consider how regulation affects small and micro-enterprises, especially in Northern Ireland because of the importance of SMEs to the economy where their contribution, in terms of employment and turnover, is significantly higher than in the rest of the UK, due to a relative lack of large, high turnover companies. Small businesses usually have far fewer resources to help them comply with rules and regulations than large companies and, as a result, compliance is relatively more expensive, and therefore inhibits growth.

A study in the United States showed that the regulatory burden faced by small businesses was 36% higher than that faced by large businesses. Another study in the Netherlands found that small businesses incur almost 70% of the total administrative burdens, compared to 16% for larger businesses.

Almost two-thirds of small businesses (61%) believe that it is difficult to keep up to date with employment law, while regulations on data protection and on health and safety are cited as particularly burdensome. Regulations in these policy areas often emanate from the European Union. Additionally small businesses consider compliance with tax rules their heaviest regulatory burden, more than other areas of regulation. Tax rules have been modified so many times that SMEs often have no other option than to pay for professional advice, to the extent that small businesses in the UK spend an average of £3,600 a year on tax returns alone. These areas of policy are exempt from Westminster's One-in-Two-out policy, but a dynamic, pro-business approach in Stormont could help offset the burden by de-regulating in other areas to compensate.

Small businesses have many specific challenges that are not necessarily faced by larger firms. Many small businesses, especially the micros that are common to Northern Ireland, are managed solely by the owner of the business. They do not have human resources managers or in-house legal advisors, or the specialist and comprehensive knowledge required to adapt to complex new regulations. This puts small businesses at a significant competitive disadvantage when it comes to adapting to new measures in their operating environments. There are a number of changes that could be made to improve this.

Business Regulation Hub

As part of the Review of Business Red Tape, DETI commissioned a research project to explore the possibility of introducing a **Business Regulation Hub** in Northern Ireland. The research found that the current online provision of services by regulators varies greatly with, for example, only 63% of regulators offering downloadable forms, the most basic of online services. Business representatives attending the Innovation Lab on Business Regulation supported the development of an information-based signposting hub; in the simplest terms, it might echo the way in which all regulatory compliance requirements for vehicles have moved online, so inspectors can check the road tax, insurance and MOT status of a vehicle to ensure compliance without having to stop the vehicle and take up the driver's time.

A **Business Regulation Hub** should be an online platform that would include:

- A core database that catalogues all local, regional, national and European regulations that may apply to businesses operating in Northern Ireland, including relevant guidance notes accompanying regulations;

- A classification system allowing businesses to register, create an account, and generate a core profile;
- An interrogation process which delivers a tailored and filtered list of regulatory requirements and their accompanying guidance notes;
- A self-assessment tool whereby individual businesses can determine the required level of compliance with relevant regulations;
- A support function to provide assistance in areas of non-compliance;
- Assessments catalogued over time to provide a historical record of businesses' regulatory competence, including details of any incidences of non-compliance recorded/catalogued by a regulatory body; and
- Accessibility of information by regulators to facilitate assessment of business regulatory performance to aid risk-based management planning.

Key benefits would be:

- Reduction in the amount of time businesses have to spend checking legislation for relevance, and then understanding the legal requirements and how they apply to their activities;
- Reduction in duplication of information;
- Reduction in costs of compliance for businesses; and
- Improved efficiency of local authorities and other inspectors by targeting regulatory and inspection activity to high-risk areas, enabling more effective use of resources and less disruption to businesses.

Recommendation 11:

Create a single online **Business Regulation Hub** for all regulators in Northern Ireland.

7. Improving the Quality of Regulations

Regulation has an essential purpose in maintaining a fair and competitive market place which supports business and protects society and the environment. However, it also carries a cost to business to work towards and demonstrate compliance with the requirements it imposes. Well-drafted regulation can help foster economic growth by removing potential barriers; making it easier for businesses to adhere to the standards that are expected of them and limiting any negative impact on growth.

However, where regulation is poorly drafted and enforced, businesses have to spend more time and resources complying with it, which imposes a high cost on economic growth. This can result in a situation where the regulation simply fails to achieve the legitimate goals it set out to achieve.

Ensuring that all regulation is well made has become a major goal for most governments around the world. Many have created programmes aimed at "better" or "smart" regulation, such as the UK's Better Regulation programme in the 2000s, and the EU's **Smarter Regulation programme**.

In 2003, the **UK Better Regulation Task Force** identified the following principles of good regulation:

- Proportionality
- Accountability
- Consistency
- Transparency
- Targeting

Since then, the improvement of regulatory quality has tended to come from the improvement of the tools used to achieve it, such as the quality of Regulatory Impact Assessments, the quality of consultations, and greater transparency.

Regulatory Impact Assessments

The major rationale behind Regulatory Impact Assessments (RIAs) is the need to assess regulations on a case-by-case basis to see how and whether they contribute to their strategic policy goals. They are a tool used to inform decisions through rational policy analysis, empirical evidence and ambitious, integrated forms of appraisals.

At the moment, where RIAs are undertaken, the quality is mixed, and the potential impact of regulation is therefore not always well understood. If the RIA process itself were to be placed on a statutory footing and better administered with the use of clear guidance, consultation requirements, and approval and review measures, its effectiveness in both interrogating the quality of the legislation and in regard to the likely success of the goal of the regulation would be greatly enhanced.

As set out in relation to the proposal, above, to mainstream business and economic impact through the introduction of a statutory duty, it would be sensible to examine the tools employed to ensure the effective operation and outcome of the Section 75 duties, such as the adoption of Schemes, screening, consultation guidance etc.

Recommendation 12:

Make **Regulatory Impact Assessments** compulsory, comprehensive and consistently applied through the new statutory duty.

Independent Scrutiny of Regulatory Impact Assessments

Mechanisms of accountability and the evaluation of the results achieved by impact assessments are essential to the quality of the RIA process. Many organisations, such as the World Bank, the International Monetary Fund and the OECD, as well as many other pressure groups, hold accountability and transparency as prominent features of good governance. Currently in Northern Ireland there is little to no actual verification of regulatory impact and, without an effective mechanism, the process lacks credibility.

One of the major recommendations of the **Innovation Lab on Regulatory Impact Assessments** was the establishment of an **Independent Scrutiny Unit** to ensure a high level of quality in the assessments presented, to make sure that the estimated cost imposition on business has been validated, and that proper justification has been given if the final policy decision does not present the best overall net value.

Recommendation 13:

Introduce a new **Independent Scrutiny Unit** to review Regulatory Impact Assessments which has the authority to refuse to approve them unless there is clear evidence of compliance with all guidance and Codes of Practice developed to ensure the required level of quality and effectiveness.

Consultation

The purpose of consultation in impact assessment is to collect empirical evidence on costs and benefits, and to determine impacts on those affected by the proposed policy, particularly those impacts on businesses which may not initially be apparent to the policy-makers.

In order to ensure high-quality regulation and advance an open, transparent and democratic decision-making process, it is important that those affected by proposed new regulations are consulted at the earliest possible stage of the regulatory process; that consultation periods are reasonable and appropriate; and that the impact assessment is written in Plain English –with alternative languages and formats as required.

Some consulted parties, especially representative organisations such as FSB, need to obtain views from stakeholders, so deadlines for consultation must be sufficient for them to engage with their membership base to ensure adequate participation and a fully informed and representative response.

Recommendation 14:

Commit to regulators to publicising new regulations and standards in Plain English and accessible formats, and make them widely available for scrutiny and comment.

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